

# The Ethics Reporter

APRIL 2024

KENTUCKY LEGISLATIVE ETHICS COMMISSION  
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KLEC.KY.GOV

Did you know?



## Legislative Ethics Code changes to go into effect July 15, 2024

The next filing deadline for employers' and lobbyists' spending disclosures is **Wednesday, May 15, 2024.**

The easiest and quickest way to file is to visit the Commission's website <http://klec.ky.gov> and click "file forms online."

Due to a data loss in our system, if forms were filed online after March 18, for the April 15 filing deadline, those will need to be refiled with our office. Filers have until April 30th to refile. Please check with us if you have any questions, or see the notice on our website.

The 2024 General Assembly passed House Bill 517, which made several changes to the Code of Legislative Ethics. The law will go into effect July 15, 2024. HB 517 amends the Code in the following ways:

Formal Advisory opinions - KRS 6.681(2) will require the Commission provide a draft of its proposed response to an advisory opinion request, or notice of intention to not issue an advisory opinion, to the requester and each Commissioner not less than five (5) days prior to the meeting in which the Commission will consider the request and opinion. In addition, the requester may personally appear before the Commission in closed session, with or without counsel, and provide comment on the proposed response prior to the Commission's vote.

Complaint procedure – Preliminary investigations – KRS 6.686(1)(d) will require the Commission to make a "reason to believe" finding by the affirmative vote of at least five (5) members of the Commission prior to initiating a preliminary inquiry into an alleged violation of the Code. The reason to believe finding shall be made at the Commission's next regularly scheduled meeting or at a teleconference meeting called by the chair after the Respondent has filed a response or the time period for filing a response has expired.

Definitions – lobbying - KRS 6.611(27) will specifically exempt from the definition of "lobbying" the action of a natural person whose official responsibilities do not include lobbying, who is not compensated specifically for the purpose of lobbying, who is an officer, manager, or other employee with specialized knowledge of a business or other organization or group acting in concert which has a direct interest in legislation, and who participates in meetings or conversations while accompanying a legislative agent engaged by the employer or organization to lobby on the particular issue.

Restrictions on legislators' representation of clients before state agencies - KRS 6.744(5) will allow a legislator to represent clients in ministerial functions relating to licensing and permitting, and in adversarial matters related to a previously-issued license or permit.

A copy of the bill is available on the Legislative Research Commission website at:  
<https://apps.legislature.ky.gov/record/24rs/hb517.html>

The Commission will update its educational and informational materials in response to the new law. If you have any questions, please feel free to contact us.

## Record spending in the first 3 months of a legislative session

Kentucky lobbying spending for the first three months of 2024 hit an record of \$9.719 million. The previous record for the same period was \$9.343 million, set last year. 933 businesses and organizations registered to lobby in Kentucky, spending \$9.427 million. 727 lobbyists were paid \$8.289 million in compensation, and also reported \$291,942 in expenses.

The top 20 spenders for the first three months of the year were: **KY Chamber of Commerce (\$151,010.08)**; **American Civil Liberties Union of KY (ACLU) (\$139,599.32)**; **KY Assn. of Electric Cooperatives, Inc. (\$118,885.32)**; **LG&E and KU Energy LLC (\$106,117.63)**; **Pharmaceutical Care Management Assn. (PCMA) (\$94,693.64)**; **Duke Energy (\$86,576.89)**; **KY Hospital Association (\$85,834.66)**; **KY League of Cities, Inc. (\$85,109.44)**; **Greater Louisville, Inc. (\$82,100.00)**; **East KY Power Cooperative Inc. (\$79,507.60)**; **Kentuckians for the Commonwealth (\$76,430.84)**; **Altria Client Services LLC (\$73,309.20)**; **Frankfort Plant Board (\$68,595.00)**; **KY Justice Association (\$64,305.24)**; **KY Retail Federation, Inc. (\$64,127.66)**; **KY Education Association (\$63,043.91)**; **Americans for Prosperity (\$60,698.18)**; **Elevance Health and Affiliates DBA Anthem, Inc. (\$59,946.38)**; **KY Medical Association (\$54,050.85)**; and **KY Primary Care Association (\$49,416.00)**.

## California bill would ban NDAs for legislative negotiations: ‘This should not happen again’

CALIFORNIA— by Nicole Nixon, The Sacramento Bee —April 22, 2024

Nondisclosure agreements would be banned from future discussions or negotiations on legislation in California under a new bill, slated to get its first hearing this week at the state Capitol. Assemblyman Vince Fong authored the legislation. Nondisclosure agreements are legally binding contracts that prevent information-sharing with unauthorized parties. They are typically used to protect proprietary information, financial data or other sensitive information.

The introduction of the bill was prompted by the use of NDAs during negotiations between fast food industry and labor groups over a landmark deal to raise California’s minimum wage for fast food workers to \$20 per hour.

“It’s unacceptable,” Fong said in an interview. “Transparency is the foundation of our democracy. We need transparency to build trust and confidence in how laws are being made.”

Fong pointed to questions around which food establishments the new law, which took effect April 1, applies to.

A complicated carveout regarding bread “produced” and baked onsite led to reports that the law would not apply to Panera franchises, including those owned by a billionaire Newsom donor. The governor’s legal team later said Panera is not exempted from the law because its bread is not produced, or mixed, on-site.

Fong said the use of NDAs left many of those

questions unanswered in the first place.

“Who asked for that carveout? How did it transpire? This should not happen again,” Fong said in an interview with The Sacramento Bee. “If there’s legislation crafted that’s going to impact every single Californian, we need to ensure it’s transparent and NDAs are not used to shield important information.”

He said that during his more than two decades of work on public policy at the state and federal levels, he had “never heard of the use of NDAs until now.”

His bill would invalidate future legislation that is crafted using signed non-disclosure agreements.

As an amendment to the state’s Political Reform Act, the bill needs support from two-thirds of lawmakers and the governor to become law.

Asked whether he believes the proposal can reach that level of support, Fong said it’s “a question for legislative Democrats and the governor. Do they value transparency? Do they endorse the use of NDAs to shield information from the public and the legislature?”

Assembly Speaker Robert Rivas did not respond to a request for comment.

A spokesperson for Gov. Gavin Newsom said the bill “wouldn’t change anything for our office.”

“The Governor’s office doesn’t sign NDAs,

for legislation or anything else,” Newsom spokesman Alex Stack wrote in an email. “Having said that, we typically don’t weigh in on hypothetical or pending legislation.”

The California Chamber of Commerce has already coming out against the bill. In a letter to Fong Friday, the business group said California law already “ensures transparency” and that NDAs are “critical to allowing frank discussions around complicated issues.”

The bill will force state lawmakers to decide whether nondisclosure agreements have a place in future legislative negotiations.

“NDAs have a role in litigation [and are used] to protect financial or proprietary data and trade secrets in corporate disputes,” said Chris Micheli, an adjunct professor at the McGeorge School of Law at University of the Pacific and a longtime Sacramento lobbyist. “The question raised here is: is it inappropriate to use them in the lawmaking process?”

Micheli, like Assemblyman Fong, added that he had never heard of NDAs being used in legislative negotiations during his roughly 30 years of lobbying.

Fong’s bill will be heard in the Assembly Elections Committee on Thursday.

## Judge Anthony Wilhoit to retire from the Ethics Commission

Judge Anthony Wilhoit will step down as a Legislative Ethics Commission member, at the end of April, after twenty-seven years of distinguished service on behalf of the Commission, including eighteen years as Executive Director, nine years as a Commission member, and two as Commission Chair. An honorable veteran of the United States Army who served his country with great valor during the Cuban Missile Crisis, Judge Wilhoit earned a bachelor's degree from Thomas More College, a juris doctor degree from the University of Kentucky, and a master's degree from the University of Virginia. He joined the Kentucky Court of Appeals in 1976 and would serve there with great distinction until ultimately retiring as Chief Judge in 1997. Over the course of his distinguished law career, he also served as a police judge, Versailles City Attorney, Kentucky state public defender, and Deputy Secretary of the Justice Cabinet.

He served as Executive Director of the Legislative Ethics Commission from November 1997 until his retirement in July 2015. He was later appointed to serve as a member of the Commission by the Speaker of the House in 2016 and served as its Chair from 2018 until 2020. In honor of his years of distinguished service, he has been the recipient of numerous awards and accolades over the course of his career, including being the first recipient of the Legislative Research Commission’s Vic Hellard Award in 1997 and receiving the COGEL Award, the highest international award given to a person working in the fields of ethics, campaign finance, and election law.

Judge Wilhoit’s brilliant mind, keen sense of justice and fairness, good humor, and self-effacing humility will be missed on the Commission. We know that he will continue to revel in the company of his extensive and loving family and continue his many civic activities in his beloved hometown, Versailles.

## Audit says Arkansas governor's office potentially violated laws with \$19,000 lectern purchase

ARKANSAS— Associated Press — by Andrew DeMillo—April 15, 2024

Arkansas Gov. Sarah Huckabee Sanders' office potentially violated state laws on purchasing, state property and government records when it purchased a \$19,000 lectern for the governor that's prompted nationwide attention, an audit requested by lawmakers said Monday.

Legislative auditors referred the findings in the long-awaited audit of the lectern to local prosecutors and the attorney general, and lawmakers planned to hold a hearing Tuesday on the report. The report cited several potential legal violations, including paying for the lectern before it was delivered and the handling of records regarding the purchase.

Sanders' office, which has dismissed questions about the lectern, called the audit's findings "deeply flawed" and a "waste of taxpayer resources and time." "No laws were broken," her office said in a response filed with the report. "No fraud was committed."

Arkansas lawmakers last year approved the request to review the purchase of the lectern, which had been the focus of nationwide scrutiny, including over its cost. The blue and wood paneled lectern was bought in June with a state credit card for \$19,029.25 from an events company in Virginia. Sanders' state party reimbursed the state for the purchase on Sept. 14, and Sanders' office has called the use of the state credit card an accounting error. Sanders' office said it received the lectern in August.

The item has not been seen at Sanders' public events. Sanders posted a video on the social platform X featuring the lectern and the words "Come and Take It" shortly after the audit's release late Monday afternoon.

Prosecutor Will Jones' office said it had received the audit and would review it. Auditors said in the report they were unable to determine whether the lectern's cost was reasonable. The report said the three out-of-state vendors involved in its purchase did not respond to numerous requests by auditors.

Sanders' office and auditors disputed whether the governor and other constitutional officers are subject to the purchasing and property rules she's accused of violating. The audit said the governor's office did not follow the steps laid out in state law for

agencies to dispose of state property. "(Arkansas legislative audit) maintains that the podium and road case remain state property," the audit said. Sanders' office said in its response that the laws on purchasing and property cited only apply to state agencies, not constitutional officers. A nonbinding legal opinion issued by Attorney General Tim Griffin requested by Sanders made the same argument.

"I am perplexed to see that a significant portion of Legislative Audit's analysis rests on the mistaken conclusion that the governor's office is a 'state agency' for the purposes of certain statutes," Griffin said. The lectern's purchase emerged last year just as Sanders was urging lawmakers to broadly limit the public's access to records about her administration. Sanders ultimately signed a measure blocking release of her travel and security records after broader exemptions faced backlash from media groups and some conservatives.

The purchase was initially uncovered by Matt Campbell, a lawyer and blogger who has a long history of open records requests that have uncovered questionable spending and other misdeeds by elected officials.

The audit said Sanders' office potentially illegally tampered with public records when the words "to be reimbursed" were added to the original invoice for the lectern only after the state party paid for it in September. Sanders' office disputed that finding, calling handwritten notes on invoices "a common bookkeeping practice."

The audit also said the office potentially violated the law when a shipping document related to the lectern was shredded by a member of Sanders' staff. Sanders' office said the "bill of lading," was inadvertently misplaced and that a replacement was provided to auditors when that was discovered.

The lectern was purchased from Beckett Events LLC, a Virginia-based company run by political consultant and lobbyist Virginia Beckett. According to a breakdown from Beckett Events that was included in the audit, the total cost included \$11,575 for the lectern, \$2,500 for a "consulting fee," and \$2,200 for the road case. The cost also included shipping, delivery and a credit card

processing fee. Similar models are listed online for \$7,500 or less. Sanders has said the one purchased by the state had additional features that contributed to its cost, including a custom height. The audit said the lectern included a light but not a microphone or any electronic components. Auditors saw and measured the lectern at the state party headquarters, the report said.

House Minority Leader Tippi McCullough, who sits on the audit committee, said she wants more answers from the governor's office on the findings. "We need to get to the bottom of it, and we need to make sure that people are held accountable and things are right going forward," McCullough said.

Senate President Bart Hester said he wasn't concerned about the audit's findings, and said the legislative audit was wrong in applying the purchasing and property laws to the governor's office. Hester said "there could have been a cleaner process" on handling records. "More importantly, it shows there wasn't some bombshell," Hester said.

The report had drawn unusually intense attention to the Division of Legislative Audit, which issues more than 1,000 audits of state and local government each year. Hours before the report was released, lawmakers on the audit committee were allowed to view it in a room at the Capitol but could not take notes or copies of it. Hours before the report was released, lawmakers on the audit committee were allowed to view it in a room at the Capitol but could not take notes or copies of it. Sen. Jimmy Hickey, who had sought the audit, declined to comment. The audit is the first of two that Hickey requested that lawmakers approved last year. The audit committee also approved another audit looking at the travel and security records that Sanders retroactively shielded from public release under the changes to the state's open records law.

MEMBERS OF THE  
LEGISLATIVE ETHICS  
COMMISSION

David Nicholas, Chair  
Tanya Pullin, Vice Chair  
Ernie Harris  
Marie Rader  
Katherine Gail Russell  
Sal Santoro  
Michael Shull  
Arnold Simpson  
Anthony M. Wilhoit

NEXT MEETING OF THE  
COMMISSION

The Kentucky Legislative Ethics Commission's next regular meeting is scheduled for Tuesday, May 14, 2024 at 10:00 a.m. Capitol Annex, Room 171 in Frankfort, Kentucky.

To watch the meeting online, click on:  
[KY LRC Meetings - YouTube](#)

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## Training/Overview of the Code

Our lobbyist training video, which gives an overview of the Code and walks through the registration and online filing process step by step, is available on [klec.ky.gov](http://klec.ky.gov), and also on the LRC Capitol Connection page at <https://www.youtube.com/watch?v=nrqWW7sJDK4>

We also are happy to set up a training on request.

Our PowerPoint overview of the Legislative Ethics Code is available for reference on [klec.ky.gov](http://klec.ky.gov) and also on the LRC Capitol Connection page at <https://www.youtube.com/watch?v=I4FjvhrSoao>

### Legislators' & Candidates' Financial Disclosures

Kentucky legislators' and legislative candidates' required financial disclosures are available on the KLEC website at <https://klec.ky.gov/Reports/Pages/Legislators-and-Candidates.aspx>

To register as a lobbyist or employer, please email the scanned paperwork to Donnita Crittenden or Lori Smither or fax to (502) 573-2929. Blank forms may be found here:  
<https://klec.ky.gov/Forms/Pages/Get-Blank-Forms.aspx>

Please contact us with any questions or concerns!

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## New and terminated employer registrations

Several newly registered lobbying employers are: **Actors Theatre of Louisville; American Wood Council; Amplify Education, Inc.; Ascend Elements; BusPatrol; CBD American Shaman; Chipps, Caffrey and Dubilier, PSC; City of Mayfield, KY; Compass Municipal Advisors, LLC; CooperSurgical; DailyPay, Inc.; Electronic Transaction Consultants, LLC; Financial Services Institute, Inc.; Flock Safety; Free Speech Coalition; Glenview Trust Co. (The); GoodRx; Graves Co. Fiscal Court; ITG Brands; KY Medical Services Foundation, Inc. (KMSF); KY Properties II, LLC; Kids Read Now, Inc.; Kinder Morgan; Mayfield Electric & Water Systems; National Utility Contractor Assn of KY; New Classrooms Innovation Partners; Nola Education; Organon LLC; Owl's Head Alloys, Inc.; Real Alloy Recycling, LLC; Recording Industry Assn. of America, Inc. (RIAA); ROBLOX; Satoshi Action Fund; Sellers, Dorsey & Associates, LLC; Shirley's Way; Smart Transportation Division/KY; Sportsmens Alliance; Trans Safe Action Fund, Inc.; Unite US; U.S. Chamber of Commerce; and Vapor Technology Assn.**

4 Five organizations terminated lobbying recently: **ALEC Action; KY Lions Eye Bank; KY Society of Clinical Oncology, Inc.; National Center For Missing & Exploited Children; and Sandoz Inc.**