

# The Ethics Reporter

FEBRUARY 2023

KENTUCKY LEGISLATIVE ETHICS COMMISSION  
22 MILL CREEK PARK  
FRANKFORT KY 40601 (502) 573-2863  
KLEC.KY.GOV

## January 2023 brings record lobbying spending

Did you know?



The next filing date for employers' and legislative agents' spending disclosures is **Wednesday, March 15, 2023**.

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



*If an unpaid volunteer speaks with legislators about legislation, must they register as a lobbyist?*

*Answer on page 4*

Kentucky lobbying spending for January, 2023 hit an all-time high of \$2.66 million for any January, including those in longer even-year sessions. The previous record for the month of January was \$2.62 million in 2020.

Also, a record breaking 850 lobbying businesses and organizations registered to lobby in Kentucky, spending \$2.595 million. 695 lobbyists were paid \$2.2 million in compensation, and also reported \$69,542 of their own expenses.

The top lobbying spender for the month was **Kentuckians Against Illegal Gambling**, which spent \$174,500. All but \$500 of this total was spent by the organization on statewide television and digital advertising against "gray machine" potential gambling legislation.

The second highest spender, **Kentucky Merchants and Amusement Coalition, Inc.**, paid \$146,275, the entire amount of its lobbying expenditures, on advertising in favor of "skill games", including \$5,295 in direct mailings to operators and locations, \$51,580 for television ads in Louisville and Lexington, and \$89,400 on radio ads in the same market.

January's advertising spending by just these 2 groups nearly matched the overall advertising spending for all employers for the entire year of 2022, which was \$330,594.

In 2014, the Kentucky General Assembly amended the Legislative Ethics Code to require

disclosure of the cost of advertising supporting or opposing legislation paid for by lobbying organizations which appears during a legislative session. This lets the public know how much was spent by registered lobbying entities to influence legislative and public opinion regarding legislation.

The rest of the top 10 spenders were: **Kentucky Chamber of Commerce** (\$41,774); **American Civil Liberties Union of KY (ACLU)** (\$29,432); and **Kentucky Medical Association** (\$29,397); **Pace-O-Matic of Kentucky** (\$26,500); **Greater Louisville, Inc.** (\$25,000); **Altria Client Services LLC** (\$23,342); **Kentucky Hospital Association** (\$19,744); and **Elevance Health and Affiliates DBA Anthem, Inc.** (\$16,500).

Rounding out the top 20 are: **Kentucky Retail Federation, Inc.** (\$14,130); **Kentucky Bankers Association** (\$13,945); **Keeneland Association** (\$13,705); **Kentucky Distillers' Association** (\$13,297); **LG&E and KU Energy LLC** (\$12,985); **Academic Partnerships, LLC** (\$12,800); **Kentucky Primary Care Association** (\$12,743); **Kentucky Association of Counties** (\$12,246); **HCA Healthcare, Inc.** (\$12,200); and **Kentucky Telecom Association** (\$10,286).

## New and terminated lobbying employers

Several newly registered lobbying employers are: **Alliance for American Manufacturing**; **American Assn. of International Healthcare Recruitment**; **Association of American Publishers, Inc.**; **Asurion LLC**; **Bellewood & Brooklawn**; **Breeders' Cup Ltd.**; **CareSource Mission**; **Carewise Health Holdings**; **Codell Construction**; **Consumer Reports, Inc.**; **DoorDash, Inc.**; **Dow Chemical**; **Grant Ready KY**; **Heritage Bank**; **Insights Assn.**; **Kentucky Rural Health Assn., Inc.**; **Muhlenberg Alliance for Progress**; **National Assn. of Public Insurance Adjusters**; **National Association of Social Workers Kentucky Chapter (NASW-KY)**; **Opticians Assn. of KY**; and **USA Cares**.

Employers terminating registration include: **Baptist Life Communities**; **Core Scientific**; **Hinkle Contracting, LLC**; **Justice Action Network**; **Self Storage Assn.**; **Wireless Infrastructure Assn.**; and **Zillow**.

## Norfolk Southern plied Ohio politicians with campaign cash, extensive lobbying. OHIO— WYSX ABC 6 Columbus — by Darrel Rowland —Feb. 20, 2023

Almost exactly a month before a Norfolk Southern train derailed and spewed hazardous materials in eastern Ohio, the company gave the maximum \$10,000 to help bankroll Gov. Mike DeWine's inaugural festivities. A 6 On Your Side examination of state records shows this contribution, which is part of \$29,000 the Virginia-based corporation has contributed to DeWine's political funds since he first ran for governor in 2018, is merely one piece of an extensive, ongoing effort to influence statewide officials and Ohio lawmakers.

In all, the railway company has contributed about \$98,000 during the past six years to Ohio statewide and legislative candidates, according to data from the secretary of state. Norfolk Southern hedged its support for DeWine in 2018 with a \$3,000 check to gubernatorial candidate Richard Cordray. In addition, the company filed more than 200 state-required quarterly reports disclosing lobbying of state officials or legislators in the same period. Most of the disclosed attempts to influence Ohio leaders came on generic rail or transportation issues. Some efforts, however, were devoted to defeating legislation that would have established tougher safety standards for rail yards and train operations.

Getting special attention from Norfolk Southern was a bipartisan measure introduced in two consecutive legislative sessions which would have required a minimum of two-person crews on freight trains — pushed by advocates as a safety measure.

While the size of the crew has not publicly emerged as a factor in the derailment, the ardent opposition of Norfolk Southern to that provision and other proposed rail safety measures underscores the company's strong efforts to avoid additional regulation.

In early 2021, lobbyists made their case to the office of Ohio Attorney General Dave Yost against the two-person crew mandate. The bill would

have required the attorney general, at the request of the Public Utilities Commission, to bring a civil action against railroads that violated the law. There was no indication Yost did anything, and he is now threatening to sue the railroad over the East Palestine derailment.

In the end, however, the lobbying effort was a success. While neither measure passed, the later version got five hearings in 2021. Co-sponsor Brett Hillyer of Uhrichsville had said at the time that the bill contained "railroad safety measures that are long overdue and critical not only for industry safety, but for the communities impacted by the railroads."

"Railroads are a very important part of commerce, but if you start thinking about what's carried in a rail car, what kind of havoc that could wreak on your districts and your communities," Hillyer said, "I think it is a common-sense solution to require a two-man train crew."

Co-sponsor Michael Sheehy of suburban Toledo, who spent 40 years in the rail industry, said the proposal would provide needed rules to protect Ohioans and assure safety for both the public and railroad worker alike. He left office at the end of 2022.

But Randy Noe, assistant vice president of regulatory affairs for Norfolk Southern, told the House committee that Federal Railroad Administration data "does not establish that one-person operations are less safe than multi-person train crews." Besides, he added, Ohio lawmakers have no right to take up safety issues preempted by federal law.

Both CSX and the Ohio Chamber of Commerce joined Norfolk Southern in opposing the minimum-crew mandate. "Ohio's business climate would be negatively impacted by legislation such as HB 186 because the added regulations would increase the cost of doing business in the Buckeye State and would interfere with the employment relationship between employers and their em-

ployees," Kevin Shimp, the chamber's director of labor and legal affairs said.

A spokesman for Gov. DeWine says campaign contributions have no effect on his decisions. The governor indicated last week the state likely would sue if Norfolk Southern does not uphold its commitment to pay for damages and the clean-up effort.

The company also disclosed on its website that it spent \$4.36 million on lobbying nationwide in 2021.

Lawmakers are now scrambling to make sure the railroad is held accountable. In Washington, Senate Commerce Committee Chairman Maria Cantwell is seeking detailed information about Norfolk Southern. Railroad safety was the centerpiece of a letter Thursday from U.S. Sens. Sherrod Brown and J.D. Vance of Ohio, plus both of Pennsylvania's senators, to Jennifer L. Homendy, chair of the National Transportation Safety Board.

The bipartisan quartet wanted to know how to reclassify trains "that are clearly dangerous, like those which derailed in East Palestine," into a higher federal category so that notice goes to states through which they travel.

Union members, who vocally supported past legislative attempts to increase rail safety, are especially outspoken after the derailment.

The nonprofit ProgressOhio, pointing to Norfolk Southern's extensive record of trying to influence state decision-makers, drew a parallel between those completely legal efforts and the illegal activities testified about in an ongoing federal corruption case:

"As the trial of former Ohio House Speaker Larry Householder and FirstEnergy has shown us," the organization said in a statement, "corporate giving to campaigns occasionally comes with a clear expectation of favorable policy outcomes. And in Ohio, Norfolk Southern got what it wanted."

*"The spirit of liberty is the spirit which is not too sure that it is right; the spirit of liberty is the spirit which seeks to understand the mind of other men and women; the spirit of liberty is the spirit which weighs their interests alongside its own without bias. "*

**-Judge Learned Hand**

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**New landlord for Michigan lawmakers surfaces, raising questions about secret deals***MICHIGAN— Detroit News— by Craig Mauger—February 17, 2023*

A Michigan lobbyist has rented a home across the street from the state Capitol to six lawmakers, according to redacted disclosures, weeks after The Detroit News revealed a special interest group quietly rented to former House Speaker Lee Chatfield. In less than 3 months, two separate rental deals involving lobbyists and seven lawmakers have been uncovered in Lansing, raising questions about compliance with state lobbying requirements and the possibility of other deals between attorneys and politicians.

Chris Thomas, who has been Michigan's director of elections for 36 years, said disclosing the agreements is meant to avoid conflicts of interest and help the public understand whether lawmakers are receiving special benefits that could qualify as illegal gifts. "If you don't report, you don't know any of this," Thomas said of the disclosure policy.

Michigan's lobbying law, which dates back to the 1970s, is under new scrutiny amid two criminal investigations involving former officials and lobbyists: one against Chatfield, and the other against Rick Johnson, a lobbyist and former chairman of the marijuana Licensing Board.

In 2015, non-profit Center for Public Integrity ranked Michigan 50<sup>th</sup> out of 50 states for systems to prevent corruption. On lobbying disclosure, Michigan was ranked 43rd.

Last month, Scott Everett, a lobbyist with Fraser Consulting, who represents a small group of clients, filed an amended report for 2021 and 2022, showing that six lawmakers rented rooms in his downtown Lansing home.

On Friday, the Michigan Bureau of Elections sent Everett four letters about his amended reports and asked Everett for more information about his dealings with lawmakers. The bureau wanted Everett to detail whether the rent payments were made monthly or in one lump sum, as his redacted reports indicated.

In December, The News revealed that Chatfield had been leasing an apartment in Lansing for 6 years from the Michigan Automobile Dealers Association through a business entity affiliated with the association. The time period spans 2 years when Chatfield was Speaker of the House in

2019 and 2020 and had the ability to set the House's agenda. In December 2020, the House approved a proposal sponsored by auto dealers that would have sought to prevent some electric vehicle manufacturers, such as Rivian and Lucid, from bypassing the dealer network and selling vehicles directly to customers.

Terry Burns, executive vice president of the Automobile Dealers Association, said Chatfield paid fair market rent and the deal should not be reported because it is through a business entity affiliated with the association, Walnut Tree Properties, and not the association itself. Burns is listed in state business filings as the resident agent for Treehouse Properties, which used the same address as the auto dealer association. Car dealers have not changed their disclosures to reflect lease transactions. Burns did not respond to a request for comment about the Everett documents.

Everett confirmed that he recently amended his previous disclosure to disclose his lease deals with six legislators in 2021 and 2022. Like the Auto Dealers Association, Everett leased through a commercial entity, Capitol LLC House. Everett said he and the company's lawyers reviewed the law and determined they had to change their previous reports to reflect the lease agreements.

His amended statements showed that Reps. Timothy Besson, Ken Borton, Brad Puckett, John Roth, Kurt VanderWall, and Sen. John Demouse have rented space in the home for 2 years. Borton paid \$450 a month for his rent, which amounted to \$5,400 a year.

Some experts argue that Michigan's lobbying law requires lobbyists to disclose rental agreements, even if the individual's monthly payments are less than the \$1,450 reporting threshold. This is because the law broadly describes a reporting transaction as any "transfer or exchange of money, goods, other property, or services for value."

Many legislators who live within driving distance of Lansing rent apartments in the city to use during the weeks when the legislature is in session. Puckett said there are few places for rent near the

Capitol, and he didn't know what Everett's capacity was when he started renting a room in the house. Puckett added that he disclosed payments to Capitol LLC for "Lansing Housing Rentals" in his campaign committee reports.

Puckett's report showed \$2,700 in election committee expenses for rent in 2021. Everett documents show Puckett paid \$8,200 in rent from January 2021 to July 2022. Puckett has previously called for ethics reform in Michigan government, saying it's possible other lawmakers will have to deal with the issue. "I've lived in the gray areas of Lansing and I want to make sure that I can make the necessary effort to make things healthier," he said.

In Michigan, lobbyist disclosure is governed by the Secretary of State's office. State law allows late fees to be assessed from \$10 to \$1000. Jake Rollo, a spokesman for Secretary of State Jocelyn Benson, said the office is reviewing Everett's amended disclosure.

As for Chatfield's relationship with car dealers, that may be the subject of further investigation. "The Bureau of Elections is reviewing potential campaign finance violations by the former president and will share information with attorney general investigators upon request," Rollo said. "Due to the ongoing investigation, we will not be commenting."

Beginning in January 2022, Attorney General Dana Nessel's office will investigate Chatfield's actions. Court records obtained by The News in October showed that state investigators are looking into Chatfield's allegations of a "criminal enterprise" that may have involved embezzlement, bribery, campaign finance violations and controlled substances. Chatfield has denied wrongdoing.

Meanwhile, federal authorities are investigating Johnson, a lobbyist and former speaker of the House. The News reported on February 1 that FBI agents and a federal grand jury are investigating whether Johnson and others received bribes in exchange for state licenses to operate medical marijuana facilities. The investigation led to calls for lobbying reform.

Thomas, a former state elections director, said Michigan's current lobbying law was "cobbled together" in the 1970s. The law is widely seen as difficult to enforce, vague and full of loopholes that allow connections between lobbyists and lawmakers to remain hidden.

"This is an example of how not to draft a bill," Thomas said.

**MEMBERS OF THE  
LEGISLATIVE ETHICS  
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**NEXT MEETING OF THE  
COMMISSION**

The Kentucky Legislative Ethics Commission's next regular meeting is scheduled for Monday, March 13, 2023 at 9:30 a.m. Capitol Annex, Room 171 in Frankfort, Kentucky.

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

**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](https://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](https://klec.ky.gov) and also on the LRC Capitol Connection page at <https://www.youtube.com/watch?v=I4FJvhrSoao>

**Legislators' Financial Disclosures**

Kentucky legislators' required financial disclosures are now available on the KLEC website at <https://klec.ky.gov/Reports/Pages/Legislators-and-Candidates.aspx> Legislators must file their financial disclosures by February 15th, for the previous calendar year. We are pleased to report that all legislators filed timely.

Candidates for the General Assembly are also required to file a financial disclosure, and these are also at the same link.

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!

*Laura Hendrix*  
Executive Director  
[Laura.Hendrix@lrc.ky.gov](mailto:Laura.Hendrix@lrc.ky.gov)  
(502) 573-2910

*Donnita Crittenden*  
Executive Assistant  
[Donnita.Crittenden@lrc.ky.gov](mailto:Donnita.Crittenden@lrc.ky.gov)  
(502) 573-2863

*Emily Dennis*  
Counsel  
[Emily.Dennis@lrc.ky.gov](mailto:Emily.Dennis@lrc.ky.gov)  
(502) 573-2911

*Lori Smither*  
Staff Assistant  
[Lori.Smither@lrc.ky.gov](mailto:Lori.Smither@lrc.ky.gov)  
(502) 564-9076

**KENTUCKY LEGISLATIVE  
ETHICS COMMISSION**

22 Mill Creek Park  
Frankfort, Kentucky 40601

Phone: 502-573-2863  
Fax: 502-573-2929  
Website: [klec.ky.gov](https://klec.ky.gov)

**Trivia Answer**

**No. A person who is not  
compensated for lobbying does not  
have to register as a legislative  
agent in Kentucky.**