

# The Ethics Reporter

JANUARY 2023

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

## Record spending on legislative lobbying in 2022

Did you know?



The next filing date for employers' and legislative agents' spending disclosures is **Wednesday, February 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."



*May a legislator be a public school or university/community college faculty or staff member?*

*Answer on page 4*

Kentucky lobbying spending hit an all-time high of \$25 million last year, eclipsing the previous high of \$23.1 million set in 2018. Lower spending, occasioned by the pandemic in 2020 and 2021, was \$20.9 and \$21.3 million, respectively.

In 2022, 834 lobbying businesses and organizations registered to lobby in Kentucky, and spent \$24.3 million. 665 lobbyists were paid \$23 million in compensation, and also had \$635,854 of their own expenses.

The top lobbying spender for 2022 was **Kentucky Chamber of Commerce**, which spent \$408,301, and was #1 in lobbyist compensation, paying \$371,877 for 16 lobbyists' services. The Chamber also spent the most on receptions, meals, and events for legislators and staff, at \$21,682.

The rest of the top five spenders include: **Kentucky Hospital Association** (\$304,707) which was also the #2 spender on lobbyist compensation (\$279,511); **Altria Client Services LLC** (\$269,685), #3 spender on lobbyist compensation (\$240,199); **American Civil Liberties Union of KY (ACLU)** (\$195,488), #4 spender on lobbyist compensation (\$158,706); and **Kentucky Medical Association** (\$157,416).

Others in the top 10 were: **Kentucky League of Cities** (\$151,308); **HCA Healthcare Inc.** (\$146,548), all of which was spent on its fifth-place lobbyist compensation; **Pharmaceutical Care Management Assn. (PCMA)** (\$142,256); **Kentucky Retail Federation, Inc.** (\$142,237); and **Pace-O-Matic of Kentucky** (\$136,415).

The rest of the top 20 spenders are: **Kentucky Distillers' Assn.** (\$135,624); **Health Care Distribution Alliance** (\$128,578); **Academic Partnerships, LLC** (\$127,500); **LG&E and KU Energy LLC** (\$121,668); **Greater Louisville, Inc.** (\$117,512); **Elevance Health and Affiliates DBA Anthem, Inc.** (\$115,971); **LifePoint Health** (\$110,002); **AT&T** (\$109,618); **Houchens Industries** (\$107,769); and **KY Petroleum Marketers Association** (\$106,161).

Lobbying organizations spent \$316,260 on receptions, meals, and events for legislators and staff in 2022, and the rest of the top 5 in this category are: **Northern Kentucky Chamber** (\$17,016); **Cincinnati/Northern Kentucky International Airport** (\$12,900); **Kentucky Equine Education Alliance (KEEP)** (\$12,242); and **Kentucky Association of Counties** (\$9,713).

Advertising which appears during a legislative session supporting or opposing legislation is required to be reported by registered entities, and \$330,594 was spent in this category in 2022. The top 5 spenders are: **Pharmaceutical Care Management Assn. (PCMA)** (\$52,633); **Kentucky Retired Teachers Association** (\$45,004); **Secure Democracy** (\$40,814); **Kentucky Petroleum Marketers Association** (\$32,342); and **Kentucky Center for Economic Policy** (\$23,062).

## Financial disclosures for legislators and major management personnel due February 15, 2023

The Legislative Ethics Code requires that legislators, candidates and major management personnel of the Legislative Branch file financial disclosures with the Ethics Commission by **February 15, 2023**. The content of the disclosures is found in KRS 6.787. The filed disclosures are a matter of public record, and are posted on the Commission's website. Commission staff sent an email with the forms required to legislators and staff in January. Former legislators are also required to file their disclosures upon leaving office.

## Ethics and Lobbying News from the U.S.

### Lobbying gold rush may persist despite divided Congress DC-The Hill— by Karl Evers-Hillstrom-Jan.23, 2023

Lobbying giants expect a historic earnings boom to continue, even as a divided Congress threatens to slow legislation to a crawl.

The top Washington, D.C. lobbying firms on Friday reported massive earnings for the final three months of 2022, capping off a record-breaking year for K Street.

The strong fourth-quarter performance, which defied election season norms, boosted hopes that corporations will continue to spend big on D.C. lobbyists in the new year. Lobbyists said that clients are particularly interested in must-pass spending bills, the tenuous debt ceiling battle and investigations that will implicate major companies.

“People making the assumption nothing is going to happen over the next two years might be making a mistake,” said former Speaker John Boehner a senior adviser at Squire Patton Boggs, pointing to investigations and proposals impacting the energy and tech

industries.

Gridlock is bad for business. Lobbying spending hit record levels in recent years amid bipartisan bills to combat COVID-19 and control of D.C., which introduced trillions of dollars in new government spending.

Demand for lobbyists typically plummets when legislation stalls, but K Street is eyeing a host of bipartisan legislation.

“Contrary to predictions of partisan doom and gloom, we expect significant activity around the debt limit, cryptocurrency, the farm bill, FAA and Defense reauthorizations, expiring TCJA [Tax Cuts and Jobs Act] tax provisions, and issues regarding China,” said Brian Pomper, a partner at Akin Gump Strauss Hauer & Feld and former Senate aide.

Lobbying firms expect the spending boom to continue through the early part of the year, when clients aim to introduce themselves to new lawmakers and

committee chairs and help them navigate an unpredictable Congress.

“Right now, the focus is on: Who do we need to know? Who do we need to meet? How do we need to position ourselves going forward on some of these issues?” said Nadeam Elshami, co-chair of government relations at Brownstein Hyatt Farber Schreck and former chief of staff to former Speaker Nancy Pelosi.

In many cases, lobbying efforts have already moved beyond Congress.

Major bills from last Congress like the Inflation Reduction Act and the CHIPS and Science Act are the gift that keeps on giving for K Street. Corporate clients that lobbied the bills when they were being drafted are now lobbying agencies that write the new rules and dole out lucrative contracts.

*“Through our scientific and technological genius we've made of this world a neighborhood. And now through our moral and ethical commitment we must make of it a brotherhood. We must all learn to live together as brothers—or we will all perish together as fools.”*  
-Dr. Martin Luther King, Jr.

### New and terminated lobbying employers

Several newly registered lobbying employers are: **ADF Action; After Innocence; Allegis, Redwood, Maxim, Public Affairs, LLC; American Advertising Federation-Louisville; Benchmark Family Services, Inc.; CEOc; Champ Realty; Cincinnati Children’s Hospital Medical Center; CMCH Paducah, LLC; Community Based Coordination Solutions, LLC; Fortinet; Geographic Solutions Inc.; Human Rights Campaign; Inseparable Action, Inc.; KY Assn. of Independent Recovery Organizations(KAIROS); KY High School Athletics Assn.; KY Merchants and Amusement Coalition, Inc.; KY Unitarian Universalist Justice Action Network; Leukemia & Lymphoma Society (LLS); Logan Aluminum, Inc; The Louisville Numismatic Exchange, Inc.; National Insurance Crime Bureau; Owl's Head Alloys, Inc.; Target Corporation; Textile Rental Services Assn (TRSA); Trans-Care Ambulance; and Wheeler Emergency Management Consulting, LLC.**

These employers recently terminated lobbying efforts in Kentucky: **American Industrial Hygiene Assn.; American Staffing Assn.; Appriss Insights; Avail; Coalition for Genetic Data Protection;Diamond Game Enterprises; DIRECTV, LLC; EdChoice, Inc.; Ellis Park Racing and Gaming; KY Billboard Coalition; KY Committee to End Executions; KY Conservation Officers Association; KY Fire Fighters Association; KY Habitat for Humanity, Inc.; KY LECET; Louisville Project Management, LLC; Masonic Homes of Kentucky; Nantero; National Heritage Academies; New Towne Consultants (NTC); Pegasus Institute; Transit Authority of River City; Underwriters Safety & Claims, Inc.; U.S. Chamber of Commerce; and Wiley Edu, LLC.**



## New Kentucky sales tax on lobbying services does not change the legislative ethics reporting requirements, per Commission informal staff opinion.

Questions have been raised to Kentucky Legislative Ethics Commission (KLEC) staff about the reporting of Kentucky sales and use tax on lobbying services, on required disclosures under the Code of Legislative Ethics, KRS Chapter 6.601 to 6.849, and whether the 2022 change in the sales and use tax law resulted in amending the Code's reporting requirements for amounts reported by legislative agents or employers to KLEC.

The interpretation, calculation, and enforcement of sales tax on "lobbying services" and the reporting of taxes, as defined by the Kentucky Revenue Department (Revenue) under KRS Chapter 139, is a matter reserved to Revenue. Adoption of the new tax on "lobbying services" in KRS 139.200 did **not** change, reduce, or expand the requirements for registration or change reporting of compensation, expenses, or expenditures under the Ethics Code to KLEC.

Employers and legislative agents should continue to report compensation and expenses to KLEC as required as they have in the past, under the specific requirements of the Ethics Code.

It is possible that the compensation amount reportable to Revenue will differ from the

amount reported to KLEC, as Revenue has adopted a definition of "lobbying services" that is different from that in the Ethics Code. See <https://taxanswers.ky.gov/Sales-and-Excise-Taxes/Pages/Lobbying-Services.aspx>

Compensation paid to legislative agents, as reported by employers to KLEC, should be reported in the same manner as has previously been reported prior to imposition of the sales tax, meaning that compensation for purposes of ethics reporting includes payments made to a legislative agent for services integral to the lobbying effort, including professional services in drafting bills or resolutions, preparing arguments on these bills or resolutions, or in advising clients and rendering opinions as to the construction and the effect of proposed or pending legislation. See KRS 6.611 (27)(b)5. and KRS 6.821(4)(a) 4.

Similarly, legislative agents and employers should continue to report expenses and expenditures to KLEC as required by the Code. In OLEC 94-5, the Commission stated that, for purposes of the Legislative Ethics Code, "it is necessary to report all expenses and expenditures involved in planning, developing, coordinating, or implementing the [legislative] agenda." KRS 6.821 requires

legislative agents and their employers to report expenses and expenditures "directly related" to lobbying activities during a reporting period, and lists specific requirements for reporting by legislative agents and employers.

As there is no provision in the Ethics Code requiring disclosure of confidential tax information as reported to Revenue, KLEC will **not** require reporting of sales tax paid for "lobbying services" as defined by Revenue.

All questions regarding the Revenue Cabinet's interpretation of the definition of "lobbying services" for tax purposes should be addressed to the Kentucky Department of Revenue, Division of Sales and Use Tax, phone (502) 564-5170, fax (502) 564-2041. See <https://revenue.ky.gov/Business/Sales-Use-Tax/Pages/default.aspx> and <https://taxanswers.ky.gov/Sales-and-Excise-Taxes/Pages/Lobbying-Services.aspx> for details.

*This informal advisory opinion by the staff of the Legislative Ethics Commission has not been approved by a majority vote of the Commission, and is not binding on the Commission in any subsequent proceeding.*

MEMBERS OF THE  
LEGISLATIVE ETHICS  
COMMISSION

David Nicholas, Chair  
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Ernie Harris  
Katherine Gail Russell  
Sal Santoro  
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Anthony M. Wilhoit

NEXT MEETING OF THE  
COMMISSION

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

To watch the meeting, 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](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>

Feel free to watch!

To register as a lobbyist or employer, please email the required 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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Trivia Answer

**Yes, although a legislator cannot work for the executive branch or a special purpose entity that has the power to tax or set rates, he or she may serve on the faculty/staff of a state university, community college or public school.**