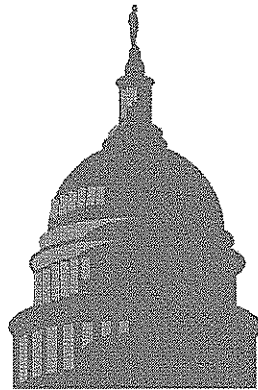
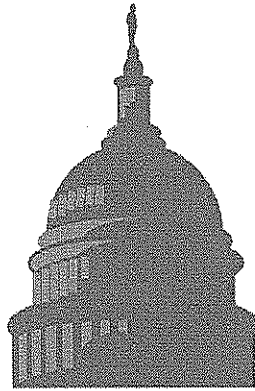


Kentucky Legislative Ethics Commission

ANNUAL REPORT



FY 2003-2004



Kentucky Legislative Ethics

Commission Members

George C. Troutman, Chair
Rebecca P. Tomblinson, Vice Chair

Bob Fulkerson
Ann B. Henn
Judge Charles B. Lester
Dr. Douglas D. Moseley

Judge Paul Gudgel
Joe Lane Travis
Lloyd E. Clapp

Commission Staff

Anthony M. Wilhoit, Executive Director

John Schaaf, Counsel
Donnita B. Crittenden, Principal Assistant
Connie Y. Evans, Staff Assistant
Lee W. Rowland, Enforcement Counsel

22 Mill Creek Park
Frankfort, Kentucky 40601
Telephone: (502) 573-2863
Fax: (502) 573-2929
Web Address: <http://lrc.ky.gov/ethics/ethics.htm>

FOREWORD

On behalf of the Kentucky Legislative Ethics Commission and its staff, I am pleased to submit our eleventh Annual Report to the members of the Legislative Research Commission.

This past year has proved once again that the overwhelming majority of those covered by the Code of Legislative Ethics are quite willing to abide by it.

While our Code has been proclaimed one of the strongest in the nation, after more than a decade of experience, it is evident that some improvements can be made. We will be making suggestions to the General Assembly in the next year for just that.

The level of trust between the Commission and the General Assembly and others covered by the Code of Ethics has never been better. We will continue to build on that relationship while at the same time continuing to enforce the Code of Ethics as the people of Kentucky have a right to expect.

We respectfully submit this report of activities of the Legislative Ethics Commission as required by KRS 6.666(16).


George C. Troutman, Chair

Legislative Ethics Commission Member Profile

George C. Troutman - Mr. Troutman is the Chairman of the Commission. The Speaker of the House appointed him to the Commission in 1994. Mr. Troutman graduated from St. Xavier High School and Bellarmine University where he majored in accounting. He is currently self-employed as a Certified Public Accountant, a member of the American and Kentucky Society of CPAs and the American Board of Forensic Accounting. Mr. Troutman served on the Registry of Election Finance from 1992 to April of 1994. He and his wife reside in Louisville, Kentucky.

Rebecca Parker Tomblinson - Mrs. Tomblinson is the Vice-Chairman of the Commission. The Speaker of the House appointed her in 1996. Mrs. Tomblinson graduated from Madisonville High School and attended Western KY University. She is a former member and Chairman of the Board of the Bowling Green City Schools. She works with her husband, Ben, in a privately owned business. They reside in Bowling Green, Kentucky.

Lloyd Clapp - Mr. Clapp was appointed to the Commission by the Legislative Research Commission in 1995. Mr. Clapp serves as the Commissioner who monitors personnel activities. He is a former member of the House of Representatives, having served one term as Speaker Pro Tem. He also served as Legislative Liaison for Governor Brereton Jones. He and his wife, Mary, are retired and live in Wingo, Kentucky.

Judge Charles B. Lester - The Speaker of the House appointed him to the Commission in 1996. Judge Lester served as Chairman of this Commission for five years. Judge Lester retired from the KY Court of Appeals where he served for 20 years, the last five and one-half of which he was Chief Judge. Judge Lester earned an A.B. and B.C.L. degree at the College of William and Mary, Williamsburg, Virginia and continued his legal and judicial education at Harvard Law School and University of Edinburgh, Scotland, and Oxford University, The United Kingdom. He is member of the KY and Virginia Bar Associations, as well as the National Council of Chief Judges. He and his wife, Jackie, reside in Cold Springs, Kentucky.

Ann B. Henn - Mrs. Henn was appointed to the Commission by the President of the Senate in May 1997. Mrs. Henn was an attorney for the Court of Appeals for nine years. She received a B.S. from Northern Kentucky University and graduated from the University of Kentucky College of Law. She is licensed to practice law in Kentucky and Ohio and is a member of the state and local bar associations. She and her husband, Bob, reside in Edgewood, Kentucky.

Pat Freibert - Mrs. Freibert was appointed to the Commission by President of the Senate in 2000. She is a former member of the House of Representatives. Mrs. Freibert has a long record of involvement in political, civic, educational, and charitable affairs for which she has received local, state and national recognition. She lives in Lexington with her husband and is a free lance writer for several publications. Mrs. Freibert resigned from the Commission in May 2004 to accept an appointment by Governor Ernie Fletcher to the Commission on Women. She and her husband, David, reside in Lexington, Kentucky.

Bob Fulkerson – Mr. Fulkerson was appointed to the Commission by the President of the Senate in June 2004. He is a graduate of Owensboro Senior High School and Southwestern College, Dallas TX. He is a retired manager from General Electric Appliance Park in Louisville. Currently, he now devotes his time to community service and religious activities. In the past, he has been an active participant in his political party both as a candidate for elected office and party official. He and his wife, Edna, reside in Louisville, Kentucky.

Dr. Douglas D. Moseley - Dr. Moseley was appointed to the Commission by the President of the Senate in November 2001. Dr. Moseley is a United Methodist Minister. He attended Western KY University and graduated with a BA from KY Wesleyan College. He received a Master of Divinity from Emory University. He was awarded an honorary Doctor of Divinity from Union College. Dr. Moseley served as State Senator from 1974 to 1987. He was a Professor at Lindsey Wilson College from 1960-70 and Chairman of the Department of Religion. He has also served on the KY State Personnel Board and the KY State Parole and Probation Board. He and his wife Betty Jean are retired and reside in Bowling Green, Kentucky.

Judge Paul D. Gudgel – Judge Gudgel was appointed by the Speaker of the House in November 2001. Judge Gudgel received both his BA and LLB degrees from the University of Kentucky. After practicing law in Lexington, he entered judicial service in 1970 serving as a trial commissioner in the municipal and quarterly courts, as Fayette County Judge, and as Chief District Judge. In 1979, he was appointed to the Court of Appeals and served on that court until 2002 including five years as Chief Judge. He retired from the Court in November 2002. Judge Gudgel earned a Master of Laws degree from the University of Virginia and also served as a member of the Judicial Conduct Commission for twenty-two years. He and his wife, Katherine, reside in Lexington, Kentucky.

Joe Lane Travis – Mr. Travis was appointed by the President of the Senate in May 2003. Born in Barren County, Mr. Travis graduated from Tompkinsville High School, Western Kentucky University and the University of Kentucky Law School. He served as a Judge Advocate for the US Army, as Glasgow City Attorney, and is currently practicing law in Glasgow. He represented the 9th Senatorial District from 1981-1988. He and his wife, Mary Lou, reside in Glasgow, Kentucky.


Legislative Ethics Commission

FY 2003-2004

This past year has been a busy one for the Commission as well as a year of transition.

Commission member Pat Freibert resigned from the Commission to accept an appointment by Governor Ernie Fletcher to the Commission on Women. The President of the Senate appointed an able replacement for her, Mr. Bob Fulkerson, of Louisville, Ky., who joined the Commission in June 2004. Also during the year, Peggy Williams, who had served on the Commission staff since its inception, resigned to take a position in the House Majority Leader's Office. John Schaaf left his position as General Counsel to LRC to become Counsel to the Commission in June of this year.

In conjunction with the Commission, its' staff has embarked on a program to improve the efficiency of our operation. In the coming year we expect to see the fruit of these efforts.


Anthony M. Wilhoit, Executive Director

Legislative Ethics Commission Staff Profile

Anthony M. Wilhoit - Executive Director. Judge Wilhoit joined the Legislative Ethics Commission on November 17, 1997. Joining the Court of Appeals in 1976, he was appointed to the position of Chief Judge in 1996. His other employment experience includes police judge, city attorney, county attorney, state public defender, and deputy justice secretary. He received an AB from Thomas More College, a law degree from the University of Kentucky, and an LLM from the University of Virginia.

John Schaaf – Counsel. Mr. Schaaf joined the Legislative Ethics Commission in June 2004. He was the General Counsel and staff attorney for the Legislative Research Commission since November 1988. His other employment experience includes trial attorney for Gittleman and Barber in Louisville, and Editor in Chief at the Breckinridge Herald-News. He received a journalism degree from the University of Kentucky and a J.D. from the University of Louisville School of Law.

Donnita B. Crittenden- Mrs. Crittenden is the Principal Assistant in the Commission office. She is a graduate of Franklin County High School, and has a BA in Public Administration from Kentucky State University. Mrs. Crittenden joined the Commission in August 1993. Her previous experience includes a three-year internship with the Kentucky Department of Education specifically assigned to the State Board of Education.

Connie Y. Evans - Mrs. Evans is the Staff Assistant in the Commission office. She is a graduate of Lebanon High School, Lebanon, Kentucky. Her previous experience includes legal secretary for 15 years, elementary school secretary for 11 years, and judicial secretary for 3 1/2 years in the Court of Appeals. She joined the Commission in January 1998.

Lee Rowland - Mr. Roland is the Enforcement Counsel for the Commission. He is a partner in the law firm, Baldani, Rowland and Richardson in Lexington, Kentucky. Mr. Rowland graduated from the University of KY School of Law.

Complaints and Administrative Actions

FY 2003-2004

Complaints:

One complaint was filed against a legislative agent that resulted in an administrative fine.

Administrative Fines Levied by the Commission:

Legislative Agents	\$3,800
Employers	\$5,850
Total Fines Assessed	\$9,650

These fines were assessed due to failure to file updated registration statements and initial registration statements by the designated filing deadlines. The Commission cautions filers that chronic late filing of forms could result in additional penalties and possible action.

Education and Training
FY 2003-2004

- 9/21-24/03 Two staff and two Commission members attended Council on Governmental Ethics Laws Conference in Austin, TX. Staff participated in Lobbying Update Panel and collected information from all the states, Canada and Great Britain.
- 10/03 Provided private in-house training as requested to a legislative agent and new employer.
- 1/6-7/04 Current Issues Seminar
Karen Caldwell, United States District Judge (E.D. Ky.)
Training by LEC Staff
- 2/12/04 Addressed the Northern KY Chamber of Commerce Leadership Group.
- 6/24/04 Judge Anthony Wilhoit, Executive Director
Presenter at an Ethical Seminar for the
Kentucky Bar Association Annual Meeting.

During the fiscal year, we provided various in-house training as requested, mailed out two newsletters to all General Assembly members, legislative agents and employers and conducted two field audits.

Commission staff has been very busy with formal and informal opinion requests. During this time period we have issued three formal and thirty-seven informal opinions. This number does not reflect the number of verbal opinions we have given over the telephone and in person.



KENTUCKY LEGISLATIVE ETHICS COMMISSION

**GEORGE TROUTMAN, CHAIR
REBECCA TOMBLINSON, VICE CHAIR**

Joe Lane Travis
Ann B. Henn
Doug Moseley

Lloyd E. Clapp
Paul D. Gudel
Charles B. Lester
Pat Freibert

ANTHONY M. WILHOIT, EXECUTIVE DIRECTOR

OPINION

(OLEC 03-01)

July 8, 2003

QUESTION PRESENTED

Does the \$100.00 yearly spending limit placed on a legislative agent and his or her employer for food and beverages consumed on the premises by a legislator apply to food and beverages furnished in connection with out-of-state travel by a legislator which is approved by the Legislative Research Commission?

DISCUSSION

KRS 6.811(7)(a) and (b) place a limitation of \$100.00 on the amount that a legislative agent or his or her employer may spend annually for food and beverages to be consumed on the premises by a particular legislator and his or her immediate family. KRS 6.747(2), however, provides that a legislator may accept prepaid transportation, food and lodging or be reimbursed for actual expenses for out-of-state travel "associated with the performance of his duties as a legislator if he obtains prior approval of the travel from a majority of the Legislative Research Commission." As can be seen, this latter statute places no limit on the amount that can be spent for food for a legislator for out-of-state travel provided the legislator obtains prior approval of the travel.

In 1996 the Commission held in OLEC 96-5 that the provisions of KRS 6.747(2) which deal specifically with out-of-state travel govern what a legislator may accept in conjunction with such rather than certain other statutory provisions which are silent as to



OLEC 03-01

July 8, 2003

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their out-of-state applicability. The Commission concluded that, so long as KRS 6.647(2) was complied with, a legislative agent or his or her employer could pay for out-of-state travel by an individual legislator. It noted, however, that “[s]uch travel funded by employers or legislative agents is subject to the detailed reporting requirements of the Code.”

In that opinion, the Commission did not directly consider the statutory limit of \$100.00 on food and beverages contained in KRS 6.811(7)(a) and (b) or any application KRS 6.621 might have with respect to a limitation on those funding the travel. It is clear, nevertheless, that the Commission believed that the “out-of-state travel statute” governed both what could be spent by those funding the travel and what the legislator could receive.

This mirrors the statutory scheme with respect to travel by an individual legislator to an in-state event with the approval of the Legislative Research Commission. The \$100.00 limitation does not apply in that circumstance but the reporting requirements do. See KRS 6.611(2)(b)(8)(e) and 6.821(2) and (5)(b).

OPINION

The \$100.00 limitation on food and beverages furnished to a legislator or his immediate family set out in KRS 6.811(7)(a) and (b) does not apply to food and beverages furnished to a legislator in connection with out-of-state travel which has been approved by the Legislative Research Commission in accordance with KRS 6.747(2). The recipient of food and other travel expenses must report the amount spent and by whom to the Legislative Research Commission. If the travel, etc. is paid for by a legislative agent or the employer of a legislative agent, the amount spent on the individual legislator, including the name of the legislator, must be reported on the appropriate updated registration statement filed by the agent or employer in accordance with the requirements of KRS 6.821.



KENTUCKY LEGISLATIVE ETHICS COMMISSION

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Paul D. Gudge
Charles B. Lester
Pat Freibert

ANTHONY M. WILHOIT, EXECUTIVE DIRECTOR

OPINION

(OLEC 04-01)

January 7, 2004

QUESTIONS PRESENTED

1. Is it a conflict of interest under the Code of Legislative Ethics for a member of the General Assembly who is employed by a state supported institution of higher learning to participate in legislative discussions of and vote on appropriations for that institution?
2. May such a legislator also be a member of or serve in a leadership position on a legislative appropriations committee before which the budget and appropriations for the institution would be reviewed and recommendations made as to the budget and appropriations for the institution of higher learning?

DISCUSSION

The Code of Legislative Ethics specifically provides in KRS 6.764(3) that "a legislator may serve on the faculty or staff of any of the state universities or community colleges . . . without resigning his membership in the General Assembly." KRS 6.761 does forbid a legislator from participating in the discussion of a question in committee or on the floor of the General Assembly or from voting or making any decision in his legislative capacity on any matter in which he, a member of his family, or his "business associate" will derive a direct monetary gain or suffer a direct monetary loss as a result of his vote or decision. As used in the Code, however, "business associate" includes a private employer but not a public one. See KRS 6.611(5).

As to the legislator's personal gain or loss, subsection (3) of KRS 6.761 goes on to state:

The right of legislators to represent their constituencies, however, is of such major importance that legislators



should be barred from voting on matters of direct personal interest only in clear cases and if the matter is particularly personal.

This provision appears to codify the opinion of Kentucky's highest court rendered in Stovall v. Gatrell, Ky., 332 SW2d 256 (1960). In that case, the Court considered the proper construction to be given to Section 57 of the Kentucky Constitution. This section restricts a legislator who has "a personal or private interest in any measure or bill" from voting on the measure or bill. The Court opined that the restriction applied only to those situations in which a legislator would receive a personal or private benefit which other members of the class affected by the legislation would not. It noted that all tax legislation affects the interests of every legislator and that any legislation affecting a legislator's profession affects the legislator but no differently from other taxpayers in similar circumstances or other members of his profession. In support of its construction against a more restrictive one, the Court noted that "under almost any act of the legislature, each member of the General Assembly would stand to benefit or suffer a detriment, depending upon whether or not he fell within the class of those persons affected."

In a previous opinion, OLEC 93-61, this Commission held that the effect of Section 6.761(3) of the Code is to limit conflicts of interest "to what amounts to private legislation passed solely for the benefit of an individual legislator." Whether the "benefit" of the legislator might include the sole benefit of his close family members or business associate was not discussed in that opinion.

OPINION

1. The Code of Legislative Ethics does not provide that it is a conflict of interest for a legislator who is employed by a state-supported institution of higher learning to participate in legislative discussions of and votes on appropriations for that institution unless the appropriation, etc. under discussion or to be voted on would somehow cause direct personal benefit or detriment to the legislator, a member of his family or a business associate apart from any other member of the class affected by the legislation.

2. The Code of Legislative Ethics does not bar a legislator from fully participating as a member of a legislative committee or actively serving in a leadership position in a committee before which appropriations for a state-supported institution of higher learning are pending if the legislator is an employee of that institution unless the matter pending before the committee is one in which the legislator has a direct personal interest because it would be of direct personal benefit or detriment to the legislator, a member of his family or a business associate apart from any other member of the class that might be affected by the appropriation.



KENTUCKY LEGISLATIVE ETHICS COMMISSION

George Troutman, Chair
Rebecca Tomblinson, Vice Chair

Lloyd Clapp
Joe Lane Travis
Charles Lester
Doug Moseley

Anthony M. Wilhoit, Executive Director

Paul Gudgel
Ann Henn
Bob Fulkerson

OPINION

(OLEC 04-02)

May 11, 2004

QUESTION PRESENTED

May a state institution of higher education which employs a legislative agent give a legislator tickets to an out-of-state ballgame in which one of the institution's athletic teams is a participant?

DISCUSSION

KRS 6.811(4) prohibits a legislative agent or the employer of a legislative agent from giving anything of value to a legislator. However, KRS 6.611(2)(b)(8)(d) excludes from the definition of "anything of value" the cost of attendance at events which are sponsored or coordinated by a state institution of higher education. Out-of-state games are coordinated between the Kentucky institution of higher education and out-of-state institutions whose teams are to be played there.

In OLEC 96-5, however, the Commission ruled that whenever a legislator is invited to attend an out-of-state event because of his or her position as a legislator, the provisions of KRS 6.747(2) govern. That statute permits a legislator to accept prepayment of or be reimbursed for the actual expenses incurred in out-of-state travel, but only with the prior permission of a majority of the Legislative Research Commission. The cost of admittance to an out-of-state event is clearly an expense associated with attendance at the event.

OPINION

A legislator may accept tickets to an out-of-state ballgame from a state institution of higher education which employs a legislative agent provided the ballgame is sponsored or coordinated by the state institution and the legislator receives prior approval from a majority of the Legislative Research Commission to attend the event.

**Legislative Ethics Commission
Registration of Lobbyists and Employers**

FY 2003-2004

Current Registration:

Employers: 541

Legislative Agents: 632

In January 2004, the Legislative Ethics Commission staff processed over 1800 Initial Registration Statements. After registration is completed, employers and legislative agents are required to file an updated registration statement with the Commission. Commission staff reviews the statements for compliance; notifies persons regarding failure to file or deficiencies in filing; and retains and computerizes the statements for easy public accessibility. The Updated Registration Statement deadlines are as follows:

<u>Reporting Period:</u>	<u>Due:</u>
January 1 - 31	February 15 th
February 1 - 28	March 15 th
March 1 - 31	April 15 th
April 1 - 30	May 15 th
May 1 - August 31	September 15 th
Sept. 1 - December 31	January 15 th

Reports filed with this office may be viewed on the Legislative Ethics Commission web site at <http://lrc.ky.gov/ethics/ethics.htm> or at the Commission office, which is located at 22 Mill Creek Park in Frankfort.

Donnita Crittenden has been working with the Governor's Office of Technology to create a new database system to enter these reports. Upon completion of the new system, we will be able to compile a report listing individual lobbyist and their compensation received during a particular time frame. We are also planning to update our web site to include these new additions. The new database system is scheduled to be up and running sometime in January 2005.

EMPLOYER'S LOBBYING EXPENSES AS REPORTED 1994 - 2004

YEAR	EMP. FB	EMP. RME	EMP EXP	LA FB	LA RME	LA EXP	LA COMP	TOTAL
2004	\$342+	\$200,216+	\$709,571+	\$0+	\$10,003+	0.00*	\$9,058,479+	\$9,978,611+
2003	\$542	\$193,663	\$848,670	\$0	\$4639	0.00*	\$8,141,073	\$9,188,587
2002	\$262	\$188,446	\$1,008,768	\$20	\$8,248	0.00*	\$9,088,595	\$10,294,339
2001	\$160	\$136,819	\$608,853	\$73	\$4,201	0.00*	\$6,132,887	\$6,882,993
2000	\$95	\$136,032	\$857,075	0.00	\$13,424	0.00*	\$8,295,998	\$9,302,624
1999	\$248	\$30,082	\$411,981	0.00.	\$1,562	0.00*	\$3,989,617	\$4,433,490
1998	\$20	\$82,741	\$939,643	\$10	\$4,500	0.00*	\$7,086,054	\$8,112,968
1997	\$14	\$22,072	\$420,529	0.00	\$4,019	0.00*	\$3,137,175	\$3,583,809
1996	\$589	\$40,822	\$880,518	\$301	\$3,939	\$341,893	\$6,037,002	\$7,305,064
1995	\$177	\$15,692	\$318,105	\$107	\$534	\$144,098	\$2,254,114	\$2,732,827
1994	\$852	\$34,117	\$1,356,719	\$350	\$2,305	\$514,701	\$4,557,014	\$6,466,058
TOTALS	\$3,301	\$1,080,702	\$8,360,432	\$861	\$57,374	\$1,000,692	\$67,778,008	\$78,281,370

Guide to Abbreviations:

EMP.FB (Employer Food and Beverage)

EMP.RME (Employer Reception, Meals & Events)

EMP.EXP (Employer Expenses)

LA.FB (Legislative Agent Food and Beverage)

LA. RME (Legislative Agent Reception, Meals & Events)

LA. EXP (Legislative Agent Expenses)

LA. COMP (Legislative Agent Compensation)

* Employer forms were amended to delete section dealing with reimbursed expenses to legislative agents. Staff discovered that employers were listing amounts reimbursed to legislative agents for expenses and legislative agents were reporting these figures during the same period. Double reporting resulted.

+Figures for 2004 include January 1 through August 31, 2004.

++Numbers have been rounded up to next dollar for convenience.

Kentucky Legislative Ethics Commission

22 Mill Creek Park
Frankfort, Kentucky 40601
Telephone: (502) 573-2863
Fax: (502) 573-2929

Updated November 1, 2004

[Authority](#) · [Members](#) · [Staff](#) · [KRS](#) · [Regulations](#) · [Advisory Opinions](#) · [Forms](#)

Guide to the Code of Ethics - Lobbyists & Employers of Lobbyists	Guide to the Code of Ethics - Legislators, Legislative Candidates & Legislative Employees
Employer Expense Report: January - April 2004	Reporting Forms Reporting Deadlines
Summary of Advisory Opinions - 1993-2004 MOST RECENT OPINION	Map to Commission Office
Complaint Process and Complaint Form	BLANK FINANCIAL DISCLOSURE FORM
List of Legislative Agents (updated daily)	List of Employers of Legislative Agents (updated daily)

Searchable Register

You may now search our entire database including expense records for employers and their legislative agents. Records are updated at 12:00 noon and 5:00 p.m. daily. If you have questions about our searchable register, please contact Donnita Crittenden at donnita.crittenden@lrc.ky.gov.

Authority

The Kentucky Legislative Ethics Commission (KLEC) is an independent authority established in 1993 to administer and enforce the Kentucky Code of Legislative Ethics.

- [Kentucky Revised Statutes 6.601 to 6.849](#) authorize KLEC and provide the Code of Legislative Ethics.
- [Kentucky Administrative Regulations 2 KAR 2:010 to 2:040](#) specify forms for registration and financial reporting required by the Code.

KLEC has jurisdiction over:

- "legislative agents" (lobbyists),
- "employers" (individuals or entities who engage legislative lobbyists), and
- members of the General Assembly.

The legislative ethics law covers four broad subject matters:

- Registration of legislative agents and employers;
- Statements by legislative agents and employers of:
 - lobbying expenditures and expenses, and

- financial transactions;
- Conduct of members of the General Assembly; and
- Financial disclosure statements of the General Assembly, legislative candidates, and key legislative staff.

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Forms

Legislators, certain legislative staff and candidates for legislative office are required to file:

- a *Statement of Financial Interests* with the Commission annually.
 - For further information see the Guide to the Code of Ethics - [Legislators, Legislative Candidates & Legislative Employees](#).

Lobbyists and Employers of Lobbyists are required to file:

- an *Initial Registration Statement*, and
- at specified times, an *Updated Registration Statement*, which includes a *Statement of Expenditures*.
 - An *Updated Registration Statement - Short Form* may be filed for the reporting of no expenditures.
- a *Notice of Termination of Engagement* at the time of termination.
 - For further information see the Guide to the Code of Ethics - [Lobbyists & Employers of Lobbyists](#)

Forms - [download or print](#).

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Advisory Opinions

Go to summaries of [Advisory Opinions issued 1993-2004](#)

Go to the index of [Advisory Opinions issued 1993-2004](#)

Advisory Opinions are issued by the Commission upon request. They may be requested by:

- Persons covered by the Code of Ethics;
- Any person personally or directly involved; or
- The Commission on its own initiative.

The Code of Legislative Ethics requires a request for an advisory opinion:

- to be submitted to the Commission in writing;
- to state relevant facts; and
- to ask specific questions.

Confidentiality of requests for an advisory opinion

- The Commission is required to promulgate administrative regulations establishing criteria under

Kentucky Legislative Ethics Commission

which it may issue confidential advisory opinions.

- A request remains confidential unless confidentiality is waived:
 - in writing by the requestor;
 - by majority vote of the Commission, if the person makes public the substance or portion of an advisory opinion requested.

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The Kentucky Legislative Ethics Commission meets on the second Tuesday of every month.

Meeting Minutes:

August 31, 2004

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Members

George C. Troutman, Chair
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Judge Charles Bruce Lester
Lloyd E. Clapp
Judge Paul D. Gudgel
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Bob Fulkerson
Joe Lane Travis

Staff

Judge Anthony Wilhoit
Executive Director
E-mail: tony.wilhoit@lrc.ky.gov

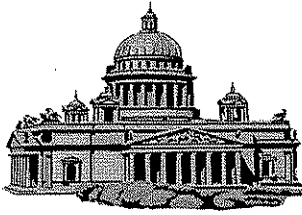
Donnita Crittenden
Staff Assistant
E-mail: donnita.crittenden@lrc.ky.gov

Connie Evans
Administrative Assistant
E-mail: connie.evans@lrc.ky.gov

Lee W. Rowland
Enforcement Counsel

John Schaaf
Legal Counsel
E-mail: john.schaaf@lrc.ky.gov

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THE ETHICS REPORTER

Kentucky Legislative Ethics Commission

April 2004

Donnita Crittenden, Editor

WHAT IS LEGISLATIVE LOBBYING?

A Refresher

Legislative Lobbying:

Is promoting, advocating, or opposing the passage, modification, defeat, or executive approval or veto of any legislation by direct communication with:

- ◆ Members of the General Assembly or their staffs
- ◆ The Governor, Cabinet Secretaries or their staffs

Legislative Lobbying does not include:

- ◆ Appearances before public meetings of the committees, subcommittees, task forces, and interim committees of the General Assembly;

- ◆ News, editorial, and advertising statements published in newspapers, journals, or magazines, or broadcast over radio or television;
- ◆ The action of any person not engaged by an employer who has a direct interest in legislation, if, acting under Section 1 of the Kentucky Constitution, assembles together with other persons for their common good, petitions any official for the redress of grievances or other proper purposes.

INITIAL REGISTRATION STATEMENTS

In January 2004, all employers and legislative agents were required to re-register with the Ethics Commission. We are happy to report this process went smoothly. We want to thank everyone for their patience and help in getting everyone registered. We currently have 543 employers and 667 legislative agents. For future reference, here are some tips for getting this statement to us correctly and in a timely manner:

- ◆ Make sure all sections of this statement are filled out and legible.
- ◆ Both the legislative agent and employer signatures are required on every initial registration form submitted. If you are an agent for the company and also the employer for the company you are required to complete both sections and sign both signature lines.
- ◆ A check made payable to the Kentucky State Treasurer in the amount of \$250 must accompany the statement. Only one fee is required for each employer. You can register as many agents as you like with this fee.
- ◆ You have seven (7) days from the date of engagement to submit the statement to our office. Failure to do so could result in an administrative penalty.



LEC Web Site

The Legislative Ethics Commission web site has some new features. By using our searchable register, you can access any information we have in our database compiled since 1993. This register will allow you to search by employer or legislative agent. You may also want to view the list of registered employers or list of registered legislative agents. These lists will give you the addresses and phone numbers of all employers and their legislative agents.

We have added a new tab called "reporting periods." If you have any questions about when forms are due in our office you can click this tab and it will give you a list of date ranges and due dates.

A complaint procedures and complaint forms tab has been added to the LEC home page. If you wish to file a complaint with the Legislative Ethics Commission, you can download or print a complaint form from our web site.

Our web site may be accessed from the LRC home page under "Other Web Sites" or by visiting www.lrc.state.ky.us/otherweb/Ethics/ethics.htm.

CUSTOMARY COURTESY vs. THE LAW



Over the past year we received a number of inquiries about whether a legislative agent or the employer of an agent can send flowers or food to a legislator friend who is ill or who has suffered a death in his or her family.

The problem - KRS 6.811(4) prohibits a legislative agent or employer from knowingly giving "anything of value to a legislator, his spouse or a child." The statutory definition of anything of value includes "a gift or tangible good." So the flowers would be a no-no.

The food would be okay because food and beverages to be consumed on the premises are exempt from the definition of anything of value up to \$100 per year. But the gift of food would have to be reported to the Commission just like any food or beverages bought for a legislator and his or her immediate family.

The solution - send a note or a card!



ADMINISTRATIVE PENALTIES

In 2003, the Commission assessed administrative penalties in the amount of \$11,950 for late filings of employer and legislative agent updated registration statements. In January of 2004 a total of \$1900 was paid in administrative penalties. Please be sure to complete and submit your forms in a timely manner. The reporting periods and due dates are as follows:

<u>Reporting Period:</u>	<u>Due:</u>
January 1 - 31	February 15 th
February 1 - 28	March 15 th
March 1 - 31	April 15 th
April 1 - 30	May 15 th
May 1 - August 31	September 15 th
Sept. 1 - December 31	January 15 th

For the purpose of assessing administrative penalties, the Commission considers updated registration statements timely if postmarked or faxed by the due date listed on the form. The Commission is permitted to grant a reasonable extension of time, for good cause shown, for filing the updated registration statement. (KRS 6.807) If you would like to fax your report, our fax number is (502) 573-2929. Please do not mail if you fax the form.

OPINION UPDATE

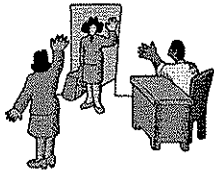
OLEC 03-01 - The \$100 limitation on food and beverages furnished to a legislator or his immediate family set out in KRS 6.811(7)(a) and (b) does not apply to food and beverages furnished to a legislator in connection with out-of-state travel which has been approved by the Legislative Research Commission in accordance with KRS 6.747(2).

OLEC 04-01 - The Code of Legislative Ethics does not provide that it is a conflict of interest for a legislator who is employed by a state-supported institution of higher learning to participate in legislative discussions of and votes on appropriations for that institution unless the appropriation, etc. under discussion or to be voted on would somehow cause direct personal benefit or detriment to the legislator, a member of his family or a business associate apart from any other member of the class affected by the legislation.

The Code of Legislative Ethics does not bar a legislator from fully participating as a member of a legislative committee or actively serving in a leadership position in a committee before which appropriations for a state-supported institution of higher learning are pending if the legislator is an employee of that institution unless the matter pending before the committee is one in which the legislator has a direct personal interest because it would be of direct personal benefit or detriment to the legislator, a member of his family or a business associate apart from any other member of the class that might be affected by the appropriation.

OPINION OLEC 02-04

Many of you have asked whether the spouse of a sitting legislator can register to lobby in the State of Kentucky. The Commission has addressed this issue in OLEC 02-04. OLEC 02-04 states "the spouse of a legislator may be employed as a legislative agent. Both the legislator and spouse must pay close attention to the Code of Legislative Ethics as it applies to them and should not only abide by its provisions but also be careful to avoid any appearance to the contrary." If you have any questions regarding this issue, or would like a copy of the entire opinion, you may visit our web site at www.lrc.state.ky.us/otherweb/ethics/ethics.htm or call 502-573-2863 and speak with Anthony Wilhoit, Executive Director.



COMINGS & GOINGS AT THE COMMISSION OFFICE:

New Commission Appointment: In May 2003, Joe Lane Travis was appointed to the Commission by Senator David Williams. Mr. Travis is a graduate of Western Kentucky University and the University of Kentucky Law School. He served as a Judge Advocate for the US Army, as Glasgow City Attorney, and is currently practicing law in Glasgow. He represented the 9th Senatorial District from 1981-1988.

Resignation: Principal Assistant, Peggy Williams, resigned from the Commission to accept a position with Representative Rocky Adkins, House Majority Floor Leader. Congratulations Peggy!!

Commissioner Pat Freibert has accepted an appointment by Governor Ernie Fletcher to be co-chairman of the Commission on Women. Senate President Williams will appoint a new Commissioner in May. Best wishes, Pat, in your new endeavor! Our loss is the Commission on Women's gain.