

11A.201 Definitions for KRS 11A.201 to 11A.246 and KRS 11A.990. (Effective April 1, 2021)

As used in KRS 11A.201 to 11A.246 and KRS 11A.990:

- (1) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (2) (a) "Expenditure" means any of the following that is made to, or for the benefit of an elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or a member of the staff of any of the officials listed in this paragraph:
 1. A payment, distribution, loan, advance, deposit, reimbursement, or gift of money, real estate, or anything of value, including, but not limited to, food and beverages, entertainment, lodging, transportation, or honoraria;
 2. A contract, promise, or agreement to make an expenditure; or
 3. The purchase, sale, or gift of services or any other thing of value.
- (b) "Expenditure" does not include a contribution, gift, or grant to a foundation or other charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not include the purchase, sale, or gift of services or any other thing of value that is available to the general public on the same terms as it is available to the persons listed in this subsection. "Expenditure" does not include a payment, contribution, gift, purchase, or any other thing of value that is made to or on behalf of any elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of the officials listed in this paragraph who works for a state agency for which the executive agency lobbyist is not registered to influence;
- (3) "Employer" means any person who engages an executive agency lobbyist;
- (4) "Engage" means to make any arrangement, and "engagement" means arrangement, whereby an individual is employed or retained for compensation to act for or on behalf of an employer to influence executive agency decisions or to conduct any executive agency lobbying activity;
- (5) "Financial impact" means to have an effect on the financial position of the employer of the executive agency lobbyist or the real party in interest whether or not the impact is positive or negative;
- (6) (a) "Financial transaction" means a transaction or activity that is conducted or undertaken for profit and arises from the joint ownership, or the ownership, or part ownership in common of any real or personal property or any commercial or business enterprise of whatever form or nature between the following:
 1. An executive agency lobbyist, his or her employer, a real party in interest, or a member of the immediate family of the executive agency lobbyist, his or her employer, or a real party in interest; and
 2. Any elected executive official, the secretary of a cabinet listed in KRS

12.250, an executive agency official, or any member of the staff of any of the officials listed in this subparagraph.

- (b) "Financial transaction" does not include any transaction or activity described in paragraph (a) of this subsection if it is available to the general public on the same terms;
- (7) "Executive agency" means the office of an elected executive official, a cabinet listed in KRS 12.250, or any other state agency, department, board, or commission controlled or directed by an elected executive official or otherwise subject to his or her authority. "Executive agency" does not include any court or the General Assembly;
- (8) "Executive agency decision" means a decision of an executive agency regarding the expenditure of funds of the state or of an executive agency with respect to the award of a contract, grant, lease, or other financial arrangement under which those funds are distributed or allocated. This shall also include decisions made concerning:
- (a) The parameters of requests for information, and requests for proposals, and other forms of solicitation in KRS Chapter 45A or 176;
 - (b) Drafting, adopting, or implementing a budget provision;
 - (c) Administrative regulations or rules;
 - (d) An executive order; or
 - (e) Legislation or amendments thereto;
- (9) (a) "Executive agency lobbyist" means any person engaged to influence executive agency decisions or to conduct executive agency lobbying activity as one (1) of his or her main purposes regarding a substantial issue, including associations, coalitions, or public interest entities formed for the purpose of promoting or otherwise influencing executive agency decisions. The term "executive agency lobbyist" shall also include placement agents and unregulated placement agents.
- (b) "Executive agency lobbyist" does not include an elected or appointed officer or employee of a federal or state agency, state college, state university, or political subdivision who attempts to influence or affect executive agency decisions in his or her fiduciary capacity as a representative of his or her agency, college, university, or political subdivision;
- (10) (a) "Executive agency lobbying activity" means contacts made to promote, advocate, or oppose the passage, modification, defeat, or executive approval or veto of any legislation or otherwise influence the outcome of an executive agency decision by direct communication with an elected executive official, the secretary of any cabinet listed in KRS 12.250, any executive agency official whether in the classified service or not, or a member of the staff of any one (1) of the officials listed in this paragraph.
- (b) "Executive agency lobbying activity" does not include any of the following:
- 1. The action of any person having a direct interest in executive agency decisions, if the person acting under Section 1 of the Kentucky Constitution, assembles together with other persons for their common

good, petitions any person listed in paragraph (a) of this subsection for the redress of grievances or other proper purposes;

2. Contacts made for the sole purpose of gathering information contained in a public record;
 3. Appearances before public meetings of executive agencies;
 4. News, editorial, and advertising statements published in newspapers, journals, or magazines, or broadcast over radio or television;
 5. The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media described in subparagraph 4. of this paragraph;
 6. Publications primarily designed for, and distributed to, members of bona fide associations or charitable or fraternal nonprofit corporations;
 7. Professional services in preparing executive agency decisions, preparing arguments regarding executive agency decisions, or in advising clients and rendering opinions regarding proposed or pending executive agency decisions, if the services are not otherwise connected to lobbying; or
 8. Public comments submitted to an executive agency during the public comment period on administrative regulations or rules;
- (11) "Executive agency official" means an officer or employee of an executive agency whose principal duties are to formulate policy or to participate directly or indirectly in the preparation, review, or award of contracts, grants, leases, or other financial arrangements with an executive agency;
- (12) "Aggrieved party" means a party entitled to resort to a remedy;
- (13) "Elected executive official" means the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, and Commissioner of Agriculture;
- (14) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert;
- (15) "Staff" means any employee of the office of the Governor, or a cabinet listed in KRS 12.250, whose official duties are to formulate policy and who exercises administrative or supervisory authority, or who authorizes the expenditure of state funds;
- (16) "Real party in interest" means the person or entity on whose behalf an executive agency lobbyist is acting, if that person or entity is not the employer of the executive agency lobbyist;
- (17) "Substantial issue" means contacts which are intended to influence a decision that involves one or more disbursements of state funds in an amount of at least five thousand dollars (\$5,000) per year, or any budget provision, administrative regulation or rule, or legislative matter that financially impacts the executive agency lobbyist or his or her employer;

- (18) "Placement agent" means an individual or firm who is compensated or hired by an employer or other real party in interest for the purpose of influencing an executive agency decision regarding the investment of the Kentucky Retirement Systems, the County Employees Retirement System, or the Kentucky Teachers' Retirement System assets; and
- (19) "Unregulated placement agent" means a placement agent who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.

Effective: April 1, 2021

History: Amended 2020 Ky. Acts ch. 79, sec. 12, effective April 1, 2021; and ch. 127, sec. 8, effective July 15, 2020. -- Amended 2019 Ky. Acts ch. 74, sec. 5, effective June 27, 2019. -- Amended 2013 Ky. Acts ch. 106, sec. 2, effective June 25, 2013. -- Amended 2012 Ky. Acts ch. 75, sec. 2, effective April 11, 2012. -- Amended 2000 Ky. Acts ch. 417, sec. 6, effective December 1, 2000. -- Amended 1996 Ky. Acts ch. 172, sec. 1, effective July 15, 1996. -- Created 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 45, effective September 16, 1993.

Legislative Research Commission Note (4/1/2021). This statute was amended by 2020 Ky. Acts chs. 79 and 127, which do not appear to be in conflict and have been codified together.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of this statute set by 2000 Ky. Acts ch. 417, sec. 18, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.