

6.744 Prohibitions against influencing state agency and appearing as a paid expert witness before state agency -- Restriction of representation of clients before state agency or in court -- Penalties.

- (1) A legislator, by himself or through others, shall not use or attempt to use any means to influence a state agency in direct contravention of the public interest at large.
 - (a) Absent an express threat of legislative reprisal, nothing in this subsection shall prevent a legislator from contacting a state agency on behalf of a person or constituent, to make a legislative inquiry, or to obtain information relating to a person or constituent who has requested legislative assistance and given written or verbal consent for a member to make an inquiry on his or her behalf.
 - (b) Violation of this subsection is ethical misconduct.
- (2) A legislator shall not, for compensation, appear before a state agency as an expert witness. A violation of this subsection is ethical misconduct.
- (3) A legislator who is properly licensed may, for compensation, represent a client before a state agency in:
 - (a) A ministerial function which does not require discretion on the part of the agency, including, but not limited to:
 1. Filing corporation charters, reports, and other papers;
 2. Filing tax returns;
 3. Filing reports required by a state agency;
 4. Filing an application to participate in a state or state-administered federal program, generally available to similar classes of persons or business entities.
 - (b) An adversarial proceeding and negotiations related thereto;
 - (c) Workers' compensation and special fund proceedings;
 - (d) Unemployment compensation proceedings; and
 - (e) All other matters, unless the representation is prohibited by subsections (5) to (7) of this section or the code of professional conduct observed by the profession being practiced.
- (4) A legislator who is properly licensed may, for compensation, represent a client before a court or trial commissioner in any proceeding not prohibited by the Kentucky Rules of Professional Conduct or by subsections (5) to (7) of this section.
- (5) Other than for a ministerial function provided for under subsection (3) of this section, even though properly licensed, a legislator may not, for compensation, represent or engage in negotiations on behalf of a client before or with a state agency in proceedings related to the following matters:
 - (a) Contracting for the purchase, sale, rental, or lease of real property, goods, or services from a state agency;
 - (b) Any proceeding relating to ratemaking;
 - (c) Adoption, amendment, or repeal of any administrative regulation;

- (d) Obtaining grants of money or loans;
 - (e) Licensing or permitting, but not including matters related to driver licensing;
or
 - (f) Any proceeding before the Public Service Commission.
- (6) A legislator who is licensed in any profession shall not, for compensation, represent the Commonwealth or any state agency.
- (7) A legislator who is an attorney shall not for compensation maintain an action for the purpose of receiving money damages against the Commonwealth in which the Commonwealth is the principal defendant or against a state agency in which the agency is the principal defendant. This subsection shall not apply to:
- (a) An appeal of an action by the state against the client;
 - (b) Cases before the Workers' Compensation Board, including cases in which the special fund is a party; and
 - (c) Unemployment compensation cases.
- (8) A legislator who is properly licensed who has a partner who is also properly licensed and whose partner practices cases which the legislator is precluded from handling under the provisions of this section shall report to the commission in the report required under KRS 6.787, the names of the agencies before which the partners practiced and the names of the clients represented by the partners.
- (9) A legislator shall not receive or enter into any express or implied agreement to receive compensation for services to be rendered in relation to any case, proceeding, application, or other matter before any state agency, in which his compensation is to be dependent or contingent upon any action by the agency. Violation of this subsection is ethical misconduct.
- (10) If a legislator considers entering into an agreement for compensation for representing any person in any transaction involving the state, he shall consider the following factors:
- (a) Whether the matter is being brought to him in an attempt to obtain improper influence over the state agency;
 - (b) Whether there is a reasonable possibility that the action of the state agency will be unduly influenced because of his participation; or
 - (c) The effect of his participation on public confidence in the integrity of the Legislature.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 211, sec. 5, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 479, sec. 6, effective July 15, 1994. -- Amended 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 10, effective September 16, 1993. -- Amended 1980 Ky. Acts ch. 188, sec. 1, effective July 15, 1980. -- Created 1976 Ky. Acts ch. 262, sec. 10.

Formerly codified as KRS 6.795.