

James
Crosbie
Myers
Gray
Blues
Beard
Henson
Feigel
Lawless
Martin

INTER-GOVERNMENTAL COMMITTEE

June 9, 2009
1:00 P.M.

A G E N D A

1. **Review Boards & Commissions – Myers** (1-6)
2. **Boards/Commissions Reporting – Myers**
Administration will Make a Formal Presentation at September 15 IG Meeting
3. **Ethics Act Financial Disclosure for Boards/Commissions – Myers**
Administration will Make a Formal Presentation at September 15 IG Meeting
4. **Oath for Boards & Commissions - Beard** (7-15)
5. **Update on Committee Items** (16)

“Inter-Governmental Committee, to which should be referred matters relating to wages and classification, personnel, government organization, employee relations, government buildings and property maintenance.”

Council Rules & Procedures, Section 2.102(2)

James
Crosbie
Myers
Gray
Blues
Beard
Henson
Feigel
Lawless
Martin

INTER-GOVERNMENTAL COMMITTEE

June 9, 2009
1:00 P.M.

A G E N D A

1. **Review Boards & Commissions – Myers** (1-6)
2. **Boards/Commissions Reporting – Myers**
Administration will Make a Formal Presentation at September 15 IG Meeting
3. **Ethics Act Financial Disclosure for Boards/Commissions – Myers**
Administration will Make a Formal Presentation at September 15 IG Meeting
4. **Oath for Boards & Commissions - Beard** (7-15)
5. **Update on Committee Items** ()

"Inter-Governmental Committee, to which should be referred matters relating to wages and classification, personnel, government organization, employee relations, government buildings and property maintenance."

Council Rules & Procedures, Section 2.102(2)



Mayor Jim Newberry

TO: URBAN COUNTY COUNCIL
INTERGOVERNMENTAL COMMITTEE

FROM: ANNA HARTJE BUTCHER
MAYOR'S OFFICE

DATE: March 6, 2008

SUBJECT: BOARDS AND COMMISSIONS

Please find the listing of Boards, Commissions, or Committees previously presented to Council for consideration for elimination or consolidation. At this time, we have researched each entity and have the following recommendations for review.

Council action already taken and no further action required:

Examining Board of Electricians: Repealed by Ordinance No. 187-2003. No further action required.

Appeal Board of Electricians: Repealed by Ordinance No. 187-2003. No further action required.

Water District Board: Known as the Lexington-South Elkhorn Water District Board. Lexington was removed from the district by Resolution No. 121-89. No further action required.

BOCA Board of Appeals: has been replaced by Administrative Hearing Board in Ch. 12 of Code of Ordinances. No further action required.

Lexington Economic Development Commission: Repealed by Ordinance No. 227-89. No further action required.

Refuse Collection Appeals Board: Disbanded and replaced by Environmental Hearing Board. See the Code of Ordinances, Sec. 16.15.1. No action required. Please note this is an addition to the previously supplied information.

June 2, 2009

● Page 2

Dissolution by Resolution: The following group represents those entities which were created by Resolution or for which no formal creation could be found. We recommend that this group be eliminated by Resolution to create a record of the action taken.

Downtown Events Commission: an offspring of the Special Events Commission. This is a duplication of efforts/work being performed by the Special Events Commission. May be dissolved by Resolution.

Airport Task Force: Task Force created by Resolution No. 638-96 and amended by Resolution No. 8-98. Work has been completed – may be dissolved by Resolution.

Advisory Board of Electricians: no longer necessary per Ordinance No. 187-2003. Dissolution by Resolution.

Water Quality Review Commission: not formally created – may be dissolved by Resolution.

Youth Services Commission: no longer needed as this was from the mid 90's and resulted in Partners For Youth. Resolution No. 524-94 created this Commission and it may be dissolved by Resolution.

African Cemetery Number Two Committee: African Cemetery Number Two, Inc. is an independent corporation, separate from LFUCG. The Corporation board should be asked to amend its by-laws to remove the requirement of a Mayoral appointment to the board. The African Cemetery Number Two Committee is a UCG creation and may be dissolved by Resolution. This action will not affect the African Cemetery Number Two Board.

Lexington United Steering Committee: No information found within the Clerks Index and Code of Ord. May be dissolved by Resolution.

Task Force on Homelessness: group that served the purpose and resulted in the creation of The Hope Center and the building of the shelters in Lexington. The task force is no longer needed and was not formally created. May be dissolved by Resolution.

Downtown Planning Committee: small part of the Comp. Plan. No information found in Clerks Index or Code of Ordinances. Dissolution by Resolution recommended.

Downtown Historic Buildings Committee: no information found in Clerks Index or Code of Ordinances. Dissolution by Resolution recommended.

Commission to review Revenue Policy and Tax Structure: created as an ad-hoc in early 90's to review imbalance between payroll and property taxes and other rev. streams. Work was completed. Not formally created. Dissolve by Resolution recommended.

Cultural Center Committee: No information found in Clerks Index or Code of Ordinances. Dissolve by Resolution recommended.

Pavement Design Committee: No information in Clerks Index or Code of Ordinances. Dissolve by Resolution recommended.

Shakespeare Festival Commission: No information in Clerks Index or Code of Ordinances. Dissolve by Resolution recommended

Dissolution by Ordinance:

BOCA Review Commission: No longer needed as a result of state building codes. Repeal Sec. 12-1.1 to dissolve.

EquiFestival of Kentucky Board of Directors: created in Art. XXXIII of Code of Ordinances. KY Secretary of State business filings records indicates that EquiFestival of Kentucky, Inc. is an inactive corporation and in bad standing. Repeal Art. XXXIII to eliminate.

Enterprise Zone Commission: inactive since 1993. Repeal Art. XXI of Code of Ordinances to eliminate.

Referral to Department of Law for additional research:

Urban Renewal and Comm. Development Board and Urban County Comm. Development Corp. Existed prior to merger –Dept. of Law will research further.

**Stone Wall Appeals Board: hears appeals from denial of permit by Historic Preservation to remove a stone wall fence. Recommend referral to Department of Law to amend Sec. 14-83 to direct appeals to BOAR.

Maintain:

Vacant Property Review Commission: inactive as of May 2004 – not funded to operate. Retain until role in the Land Bank Trust matter is determined.

Awaiting information:

Hazardous Materials – Technical Adv. Committee: this is the advisory group required by Chapter 16A in the Code of Ordinances. Has not been active since 2000 when this transferred from DEEM to Division of Fire. Chief Hendricks is reviewing to reactivate this group.

RESOLUTION NO. 281 - 2008

A RESOLUTION ABOLISHING THE COMMISSION TO REVIEW REVENUE POLICY AND TAX STRUCTURE, DOWNTOWN EVENTS COMMISSION, SHAKESPEARE FESTIVAL COMMISSION, WATER QUALITY REVIEW COMMISSION, YOUTH SERVICES COMMISSION, ADVISORY BOARD OF ELECTRICIANS, AFRICAN AMERICAN CEMETERY NUMBER TWO COMMITTEE, CULTURAL CENTER COMMITTEE, DOWNTOWN HISTORIC BUILDING COMMITTEE, DOWNTOWN PLANNING COMMITTEE, LEXINGTON UNITED STEERING COMMITTEE, PAVEMENT DESIGN COMMITTEE, AIRPORT TASK FORCE AND TASK FORCE ON HOMELESSNESS.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the following commissions be and hereby are abolished:

Commission to Review Revenue Policy and Tax Structure
Downtown Events Commission
Shakespeare Festival Commission
Water Quality Review Commission
Youth Services Commission (Created by Resolution No. 524-94)

Section 2 - That the following board be and hereby is abolished:

Advisory Board of Electricians

Section 3 - That the following committees be and hereby are abolished:

African Cemetery Number Two Committee
Cultural Center Committee
Downtown Historic Building Committee
Downtown Planning Committee
Lexington United Steering Committee
Pavement Design Committee

Section 4 - That the following task forces be and hereby are abolished:

Airport Task Force (Created by Resolution No. 638-96)
Task Force on Homelessness

Section 5 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: May 22, 2008

MAYOR

ATTEST:

Susan Kimb
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: May 28, 2008-1c

X:\Cases\MAYOR\08-LE0038\LEG\00163267.DOC

ORDINANCE NO. 107 - 2008

AN ORDINANCE REPEALING CODE OF ORDINANCES SECTION 12-1.1, 12-1.2 AND 12-1.3 RELATING TO THE BOCA REVIEW COMMISSION; REPEALING CODE OF ORDINANCES ARTICLE XXI, SECTIONS 2-267, 2-268, 2-269, 2-270, 2-271, 2-272 AND 2-273, RELATING TO ENTERPRISE ZONE COMMISSION, AND REPEALING CODE OF ORDINANCES ARTICLE XXXIII, SECTION 2-377 RELATING TO THE EQUIFESTIVAL OF KENTUCKY BOARD OF DIRECTORS.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE
URBAN COUNTY GOVERNMENT:

Section 1 - That the following code sections be and hereby are repealed:

Sections 12-1.1, 12 - 1.2 and 12 - 1.3, relating to the
BOCA Review Commission.

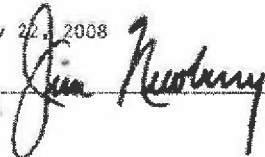
Sections 2-267, 2-268, 2-269, 2-270, 2-271, 2-272
and 2-273, relating to Enterprise Zone Commission.

Article XXXIII, Section 2-377, relating to Equifestival
of Kentucky Board of Directors.

Section 2 - That this Ordinance shall become effective on the date of its
passage.

PASSED URBAN COUNTY COUNCIL: May 27, 2008

MAYOR



ATTEST:


CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: May 28, 2008-1c

X:\Cases\MAYOR\08-LE0038\LEG\00163736.DOC

Paul Schoninger

From: Anna Hartje
Sent: Tuesday, June 02, 2009 5:20 PM
To: Paul Schoninger
Cc: Shaye Rabold
Subject: IG
Attachments: 2008 IG.pdf

Paul,

In response to your email regarding the Boards and Commissions presentation made by the administration, I have attached three documents for your files that may be beneficial. The first attachment is the March 6, 2008 memo in which I outlined recommended action on 28 boards. 24 of the 28 were eliminated as a result of the discussions with the Intergovernmental Committee. We requested that one be maintained; Vacant Property Review Commission has been retained although inactive.

Six of the boards did not require any additional action by the Council as noted in the memo of March 6, 2008.

The next recommendation requested fourteen (14) boards/commissions/task force/committees be dissolved by resolution. As a result of that recommendation, the Urban County Council passed Resolution 281-2008 to abolish and I have attached it for your review.

In the March 6, 2008 memo, we further recommended three (3) commissions/boards be dissolved by ordinance. Ordinance 107-2008 was passed by Urban County Council to repeal sections of the Code of Ordinances thus dissolving the commission or board, which is also attached for your review.

The Urban Renewal and Comm. Development board / Urban County Comm. Dev. Corp. and the Stone Wall Appeals Board were referred to the Dept. of Law for additional research and review. As a result, we are prepared to bring a proposed ordinance relating to the Stone Walls Appeals Board forward for Council consideration through the bluesheet process.

Please feel free to contact me with any additional questions.

Sincerely,
Anna

06/04/2009



Mayor Jim Newberry

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Department of Law

TO: Members, Intergovernmental Committee
FROM: Department of Law
DATE: April 10, 2009
RE: Oath for Board/Commission Members

Pursuant to our discussion at the last Intergovernmental Committee meeting, I write to advise concerning the proposed requirement that Board and Commission members take an oath of office.

If the Council wants to require board and commission members to take an oath, certain boards and commissions would be exempt. We have reviewed the current list of board and commissions and believe that they may be classified into five categories: (1) special districts governed by state law; (2) boards and commissions created by LFUCG and are separate corporations; (3) boards and commissions created and governed by LFUCG; (4) boards and commissions created by state statute and are agencies of the state, but not special districts; and (5) boards and commissions created by state statute and LFUCG has operational or supervisory control.

SPECIAL DISTRICTS GOVERNED BY STATE LAW

Several boards and commissions are created by state law and are considered special districts, which are defined as:

[A]ny agency, authority, or political subdivision of the state which exercises less than statewide jurisdiction and which is organized for the purpose of performing governmental or other prescribed functions within limited boundaries. It includes political subdivisions of the state except a city, a county, or a school district.

KRS 65.005. Examples of boards and commissions which constitute special districts include, but are not limited to, the following:

Agricultural Extension District Board (KRS Chapter 164)

HORSE CAPITAL OF THE WORLD

**P.O. Box 34028

Lexington, KY 40588

(859) 258-3500

Fax: (859) 258-3538

www.lfucg.com

****Please note new mailing address**

April 10, 2009

Page 2 of 4

Airport Board	(KRS Chapter 183)
Board of Health	(KRS 612.626 <i>et seq.</i>)
Human Rights Commission	(KRS 344.300 <i>et seq.</i>)
Parking Authority Board	(KRS 67A.910 <i>et seq.</i>)
Transit Authority Board	(KRS Chapter 96A)
Housing Authority Board	(KRS 80.020 <i>et seq.</i>)
Library Board of Trustees	(KRS Chapter 173)

Of these, only Library Trustees and Agricultural Extension Board members are required to take an oath mandated by the State. KRS 173.340(3); KRS 164.650(5).

The Kentucky Court of Appeals has held that the Louisville/Jefferson County Metro Ethics Code does not apply to the Louisville/Jefferson County Metropolitan Sewer District because it is an "independent body politic charged with the administration of designated affairs" and was created "by the sovereign power of the state as 'a public body corporate, and political subdivision'." Louisville/Jefferson County Metro Ethics Commission v. Schadein, 259 S.W.3d 510, 512 (Ky. App. 2008).

The enabling statutes for the board and commissions identified above state that each is an "independent body politic" as in the Schadein case. Each of these boards and commissions are creatures of state law over which LFUCG has virtually no operational control. In Cason v. Louisville Water Company, 103 S.W.3d 46, 51 (Ky. 2003), the Supreme Court held that the statutory requirement that board appointments were made by the mayor was insufficient to create an agency relationship between the board and the local government. Moreover, the subject board was also financially independent and the city was not liable for its debts. Id.

The Attorney General has opined that local governments may not impose term limits on boards which are governed by state statute. OAG 85-116. In the opinion, the Attorney General specifically mentions the airport board, library board, board of health and planning commission. The basis for the decision is that local government authority is granted by statute. In these cases, the state statutes govern.

It is our opinion that boards and commissions categorized as special districts are exempt from any oath requirements that may be imposed by the urban county council because they are creatures of the state.

BOARDS AND COMMISSIONS CREATED BY STATE STATUTE WHICH ARE NOT SPECIAL DISTRICTS

There are several boards and commissions which are created pursuant to state statute, but do not fall within the definition of a "special district" as discussed above. Although created by state statute, these boards and commissions are not considered "special districts" because they were not created as independent body politics. Examples of these types of boards and commissions include, but are not limited to, the following:

April 10, 2009
Page 3 of 4

**Convention & Visitors Bureau
Civil Service Commission**

Because the state statute authorizing the creation of these types of boards and commissions does not include an oath requirement, it is the opinion of this Department that these boards and commissions would be exempt from any legislation passed by the Council.

**BOARDS AND COMMISSIONS CREATED BY LFUCG AND ARE
SEPARATE CORPORATIONS**

The boards and commissions which LFUCG created solely by ordinance and authorized to incorporate as legal entities separate and apart from LFUCG include, but are not limited to, the following:

Bluegrass Crimestoppers, Inc.
Henry Clay Memorial Foundation
Lexington History Museum, Inc.
Carnegie Literacy Center, Inc.

Explorium of Lexington
Hope Center, Inc.
One Parent Family Facility Corp.

Because these boards and commissions function as corporations, their general duties and responsibilities as board members are covered by state statutes relating to non-profit corporations. A copy of those statutory duties is attached. Being created solely by LFUCG, we believe that an oath may be required of these board members, which does not conflict with state law.

BOARDS AND COMMISSIONS CREATED AND GOVERNED BY LFUCG

As to the boards and commissions that are purely creatures of LFUCG, legislation may be passed requiring members to take an oath of office provided that the requirement does not conflict with state law. Examples of these types of boards and commissions include, but are not limited to:

Address Enforcement Hearing Board
Animal Care and Control Oversight Board
Horse Patrol Commission

Arboretum Advisory Committee
Downtown Events Committee
Internal Audit Board

**BOARDS AND COMMISSIONS CREATED BY STATE STATUTE AND LFUCG HAS
OPERATIONAL OR SUPERVISORY CONTROL**

There are also boards and commissions which are created by state statute, which specifically grants supervisory or organizational control to local government. Examples of these types of boards and commissions include, but are not limited to:

Lexington Downtown Development Authority, Inc.

April 10, 2009
Page 4 of 4

Lexington Center Corporation

Because the statute grants LFUCG supervisory and/or organizational control over these types of boards, we are of the opinion that an oath may be required.

Please note that in the absence of state law, board and commission members are removed from office by a majority vote of the council. Charter, Section 7.02. We assume that the penalty for violating an oath would be removal from office.

The constitutional oath taken by all public officials is:

I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of this Commonwealth, and be faithful and true to the Commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of..... according to law; and I do further solemnly swear (or affirm) that since the adoption of the present Constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State, nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, nor aided or assisted any person thus offending, so help me God.

Kentucky Constitution, Section 228. All LFUCG elected officials, members of the Planning Commission, and Board of Adjustment and, and members of the Agricultural Extension Board are required to take this oath. KRS 100.151; KRS 100.217(6); KRS 164.650(5).

If the intent of the oath is to ensure that appointees are performing their duties in a manner in which the public has confidence in their integrity, this can be accomplished by providing a board member orientation rather than an oath. The orientation would include duties and responsibilities of board members and might be a more effective way of ensuring ethical conduct.

As you know, the number of boards and commissions in which the members are appointed by the mayor is quite extensive. We are in the process of reviewing the list of boards and commissions and researching the creation of each to determine the appropriate category for each. We will provide you with regular updates concerning our progress in this area.

If you have any questions or need additional assistance, please let me know.



Logan Askew, Commissioner of Law

273.215 General standards for directors.

- (1) A director of a nonprofit corporation subject to the provisions of KRS 273.161 to 273.387 shall discharge his duties as a director, including his duties as a member of a committee:
 - (a) In good faith;
 - (b) On an informed basis; and
 - (c) In a manner he honestly believes to be in the best interests of the corporation.
- (2) Such director shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporations, or into a particular action to be taken or decision to be made.
- (3) In discharging his duties such director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
 - (a) One (1) or more officers or employees of the corporation whom the director honestly believes to be reliable and competent in the matters presented;
 - (b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or
 - (c) A committee of the board of directors of which he is not a member if the director honestly believes the committee merits confidence.
- (4) A director of a nonprofit corporation shall not be considered to act in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.
- (5) In addition to any other limitation on such director's liability for monetary damages contained in any provision of the corporation's articles of incorporation adopted in accordance with the provisions of KRS 273.248, any action taken as a director, or any failure to take any action as a director, shall not be the basis for monetary damages or injunctive relief unless:
 - (a) The director has breached or failed to perform the duties of the director's office in compliance with this section; and
 - (b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.
- (6) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (5)(a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of the damages suffered.
- (7) Nothing in this section shall eliminate or limit the liability of any director for any act or omission occurring prior to July 15, 1988.

Effective: July 15, 1988

History: Amended 1988 Ky. Acts ch. 224, sec. 12, effective July 15, 1988. -- Created 1988 Ky. Acts ch. 23, sec. 245, effective January 1, 1989.

PUBLIC OFFICERS, OATHS OF.

901

3. That such company shall have power to elect annually six or more directors or trustees, a secretary, treasurer, and such other officers and assistants as they shall deem necessary, take from them such security as they may deem expedient, by bond or otherwise, be able and capable in law to prosecute the same to effect, and generally to sue and be sued, defend and be defended, in all courts of judicature, and have and use a common seal for sealing all deeds, contracts, and other writings touching such corporation.

Election of directors and officers.

4. That the capital stock of such corporation, not to exceed two thousand dollars, shall be used and applied in defraying the expenses incident to the pursuit and detection of thieves of horses, mules, cattle, or other property, and for securing and advancing the aforesaid object, in such mode as to said company, or its directors or managers, shall seem most effectual.

Capital stock, for what to be used.

5. That any company, already formed or incorporated for the objects specified in this act, or any of them, may avail itself of the benefits of this act, by complying with the provisions of the first and second sections thereof.

Companies already formed may have benefit of act.

Public Officers, Oaths of.

1. Oath of allegiance, form of.
2. Who to take it.
3. Official oath of governor.
4. Of judges of errors and appeals.
- “ Chancellor, and judges of other courts.
5. Clerks and register.
6. Counsellors, attorneys, etc.
7. General form of oath.
8. Who to administer to governor.
9. Legislators.
10. Chancellor, judges, etc.
11. Judges of pleas and others.
12. Names enrolled and filed.
13. By whom administered, if clerk absent.
14. Oath of clerk of pleas.
15. Penalty on clerk for neglect.

16. Duty of courts.
17. Who to administer oath of allegiance.
18. And so, though official not required.
19. Penalty on jurors for refusal.
20. Officers to qualify in two months.
21. So of justices of the peace.
22. Swearing with uplifted hand.
23. Such oath good.
24. What oaths thus taken.
25. And if false, declared perjury.
26. Affirmations and declarations.
27. Who may administer.
28. Allowed, in what cases.
29. If false, declared perjury.
30. Oath of governor, who to administer and when.
31. Repealer.

An act prescribing certain oaths.

Approved April 17, 1846. Rev. 429, 440.

1. That every person who is or shall be required by law to give assurance of fidelity and attachment to the government of this state, shall take the following oath:

P. L. 1845, p. 220.
R. S. 866.

I, ———, do sincerely profess and swear, that I do and will bear true faith and allegiance to the government established in this state, under the authority of the people. So help me God.

Oath of allegiance.

2. That the governor for the time being of this state, and every person who shall be appointed or elected to any office, legislative, executive or judicial, under the authority of this state, or to any office in the militia thereof, and every counsellor, solicitor and attorney at law, shall, before he enters upon the execution of his trust, office or duty, take and subscribe the foregoing oath of allegiance.

Who to take it.

3. That every person who shall be elected governor of this state, or who shall at any time administer the government thereof, shall, before he enters upon the execution of his said office, take and subscribe the following oath, to wit:

Official oaths of.

I, ———, elected governor of the state of New Jersey, do solemnly promise and swear, that I will diligently, faithfully and to the best of my knowledge, execute the said office in conformity with the powers delegated to me; and that I will to the utmost of my skill and ability, promote the peace and prosperity, and maintain the lawful rights of the said state. So help me God.

Governor.

- Judges, etc. 4. That the members of the court of errors and appeals in the last resort in all causes, the chancellor, the judges of the supreme court, and the judges of the inferior court of common pleas, and orphans' court, shall, before they enter upon the execution of their respective offices, take and subscribe the following oath, to wit:
- I, ———, do solemnly promise and swear, that I will administer justice without respect to persons, and faithfully and impartially perform all the duties incumbent on me as ——— according to the best of my abilities and understanding, agreeably to the constitution and laws of the state of New Jersey. So help me God.^(a)
- Clerks, etc. 5. That every person who shall be chosen or appointed to the office of register or clerk of any judicial court of this state, shall, before he enters upon the execution of his office, take and subscribe the following oath, to wit:
- I, ———, being appointed register (or clerk, as the case may be), of the ——— do solemnly promise and swear, that I will truly and faithfully enter and record all the orders, decrees, judgments and proceedings of the said court; that I will justly and honestly keep the records, parchments, papers, writings and books to me committed, and to be committed, by virtue of my said office; and that I will faithfully and impartially perform all the duties of the said office, according to the best of my abilities and understanding. So help me God.
- Counsellors, etc. 6. That every counsellor, solicitor or attorney at law, shall, before he be permitted to practice in any court of this state, take and subscribe in open court, the following oath, to wit:
- I, ———, do solemnly promise and swear, that I will faithfully and honestly demean myself in the practice of an attorney (or of a counsellor or solicitor, as the case may be), and will execute my office according to the best of my abilities and understanding. So help me God.
- General form. 7. That where the form of an official oath is not or shall not be specially prescribed, then one shall be taken in the following words, to wit:
- I, ———, do solemnly promise and swear, that I will faithfully, impartially and justly perform all the duties of the office of ——— according to the best of abilities and understanding. So help me God.
- Who to administer to governor. 8. That any member of the senate shall be and hereby is authorized to administer the oaths of office and allegiance to the person who shall be elected governor of this state; which oaths shall be administered in senate, if the legislature be in session. *Infra*, § 30.
- Legislators. 9. That any member of the senate or of the general assembly shall be and hereby is empowered to administer the oath of allegiance to his fellow members of the same house.
- Chancellor and others. 10. That the supreme court and each judge thereof, shall be and hereby is authorized to administer the oath of office and of allegiance to any person who shall be appointed to the office of chancellor, or secretary, or attorney general of the state, or judge or clerk of the said supreme court.
- Judges of pleas and others. 11. That it shall be the duty of the clerk for the time being, of the inferior court of common pleas of each county in this state, and of none other, to administer the oaths of office and allegiance to every person who shall be chosen or appointed a judge of the said court, or elected a justice of the peace, sheriff or coroner in and for the said county.
- Names enrolled and filed. 12. That it shall be the duty of the said clerk to enroll the name of every person to whom he shall administer the said oaths, together with the time of administering the same, on paper or parchment, to be by him for that purpose kept and filed in his office, and to transmit, within twenty days after administering said oath, the name of such person so sworn in, and the time when, to the secretary of state, to be by him filed in his office.
- When judges of pleas to administer certain oaths. 13. That if the clerk of the court of common pleas be absent, removed or dead, then it shall and may be lawful for any judge of the said court to administer the oaths of office and allegiance to the persons, or any of them, required to take the same in and by the eleventh section of this act; and the said judge shall report the name of the person to whom the said oaths were administered, and the date thereof, to the said clerk or his successor, who shall enroll the same and transmit a copy of such enrollment to the secretary of state, as is directed by the section next preceding.

(a) See *State v. Parkhurst*, 4 Hal. 427, 445.

PUBLIC OFFICERS, OATHS OF.

903

14. That any judge of the inferior court of common pleas shall be and hereby is authorized to administer the oaths of office and allegiance to the person who shall be elected or appointed clerk of the said court; and it shall thereupon be the duty of the said clerk to enroll his own name and the time of his being sworn into office, and transmit, as aforesaid, a copy of such enrollment to the secretary of state, for the purpose above mentioned.

To administer
oaths to clerk.

15. That if the clerk of any inferior court of common pleas shall neglect or refuse to perform, in due time, any service or duty enjoined on him by this act, he shall, for every such offence, forfeit thirty dollars, to be recovered by action of debt, with costs, by any person who will sue for the same.

Penalty for
neglect of clerk.

16. That it shall be the duty of any court of judicature of this state to administer the oath of allegiance to such person as shall be by law required to take the same in the said court.

Duty of courts.

17. That it shall be lawful for every court, body corporate, judge, justice of the peace or other person or persons, before whom it is or shall be incumbent for any person, who shall be elected or appointed to office, to take his official oath, to administer at the same time the oath of allegiance to such person, if he is or shall be by law required to take the same.

Who to adminis-
ter oath of
allegiance.

18. That where the oath of allegiance is or shall be required by law, without any official or other oath, then it shall be lawful for any judge of the inferior court of common pleas, or any justice of the peace, in and for his proper county, to administer the same, unless it is or shall be otherwise directed by this or any other act: *and further*, the said judge and justice are hereby respectively empowered and required to administer the oath of allegiance to any person who shall apply to take the same.

And so where no
official oath
required.

19. That if any grand or petit juror, who hath not already taken and subscribed the oath of allegiance to this state, shall refuse, if required by the court, to take and subscribe the oath of allegiance prescribed by this act, in any court to which he shall be summoned, he shall, for every such offence, be fined by the said court in any sum not less than eight, nor more than thirty dollars; and the clerk of the said court shall deliver a certified list of the name of the juror and the fine awarded, to the sheriff of the county, who shall thereupon levy and make the same, by distress and sale of such juror's goods, with costs.

Jurors fined for
refusing to take
oath of allegi-
ance.

20. That if any person, who shall be elected to any office by the senate and assembly in joint meeting, shall neglect or refuse to qualify into such office, for and during the space of two months after being informed of his election by any member of the senate or assembly for the county in which he resides, or by the clerk of the court of common pleas of such county, his said election shall thenceforth be void.

What officers
must qualify in
two months.

21. That if any justice of the peace, elected or to be elected under the present constitution, shall neglect or refuse to qualify into office for the period of two months after the date of his commission, his said election shall thenceforth be void.

When justice of
the peace must
be sworn.

22. That every person who shall be permitted or required to take an oath in any case, where by law an oath is allowed or required, may take the same with the ceremony of lifting up the hand and swearing by the ever living God, instead of that of touching and kissing the book of the gospels; and every person who is or shall be empowered and required to tender and administer an oath in the usual form, shall be and hereby is empowered and required, on request of the party to be sworn, to administer the same in the manner herein before prescribed.

Swearing with
uplifted hand.

23. That an oath, which shall be administered and taken agreeably to the mode prescribed in the preceding section of this act, shall be as good and effectual as if the same had been administered and taken in the usual form of laying the hand on and kissing the gospels.

Declared good.

24. That in all cases where, by any act of the legislature of this state now in force or hereafter to be made, an oath is or shall be allowed or required, the same shall, on the request of the party to be sworn, be taken with the ceremony of holding up the hand and swearing by the ever living God, instead of that of touching and kissing the book of the gospels, although no provision for that purpose is or shall be made in such act.

What oaths may
be thus taken.

PUBLIC SHOWS.

- And if false,
declared perjury. 25. That if the person, who shall take such oath and swear as aforesaid with the uplifted hand and by the ever living God, shall falsely, wilfully, and corruptly swear or depose any matter or thing which, if the same had been sworn or deposed in the usual form, would have amounted to wilful and corrupt perjury, then such person, so offending, shall be deemed and adjudged to be guilty of wilful and corrupt perjury, and, on conviction thereof, shall be punished accordingly.
- Affirmation and
declaration
legalized. 26. That every person, who shall be permitted or required to take an oath in any case, where by law an oath is allowed or required, and who shall allege that he or she is conscientiously scrupulous^(a) of taking an oath, shall, instead of the form of an oath, be permitted to make his or her solemn affirmation or declaration; and if such person shall choose to affirm, it shall be in words following, to wit:
- Affirmation. I, ———, do solemnly, sincerely, and truly declare and affirm:
But if such person shall choose to declare, it shall be in the words following, to wit:
- Declaration. I, ———, do declare, in the presence of Almighty God, the witness of the truth of what I say:
Either of which forms shall be as good and effectual in law, as an oath taken in the usual form, in which affirmation or declaration, the words "So help me God," at the close of the usual oath, shall be omitted.
- Who may
administer. 27. That every person, who is or shall be empowered and required to tender and administer an oath in the usual form, shall be and hereby is empowered and required to tender and administer the affirmation or declaration aforesaid, when requested to that purpose by any such scrupulous person as aforesaid.
- And allowed in
all cases of
conscience. 28. That in all cases where, by any act of the legislature of this state now in force, or hereafter to be made, an oath is or shall be allowed or required, the affirmation or declaration, in the form above prescribed, of any such scrupulous person as aforesaid, shall be allowed and taken instead of an oath in the usual form, although no provision for that purpose is or shall be made in such act.
- False affirmation,
etc., perjury. 29. That if any person, who shall make such affirmation or declaration, shall falsely, wilfully, and corruptly affirm or declare any matter or thing which, if the same had been sworn or deposed in the usual form, would have amounted to wilful and corrupt perjury, then such person, so offending, shall be deemed and adjudged to be guilty of wilful and corrupt perjury, and, on being convicted thereof, shall be punished accordingly.^(b)

Supplement.

Approved January 14, 1869.

P. L. 1869, p. 3.

Who may
administer oath
of office to
governor, and
where.

Repealer.

30. SEC. 1. That the chief justice, chancellor, or any member of the senate, shall be and is hereby authorized to administer the oaths of office and allegiance to the person who shall be elected governor of this state, or who shall be constitutionally eligible to take the oath of office, which oaths, if the legislature be in session, shall be administered in the presence of the senate and house of assembly at such place as they may designate.

31. SEC. 2. That all acts and parts of acts inconsistent herewith, be and the same are hereby, to the extent that they are so inconsistent, repealed, and this act shall take effect immediately.

(a) Every person must be sworn unless he alleges that he is conscientiously scrupulous, &c., *Williamson v. Carroll*, 1 Harr. 217. See *State v. Putnam*, Coze 260. *Anonymous*, Pen.

*330. *State v. Harris*, 2 Hal. 361. *State v. Fox*, 4 Hal. 244. *Coze v. Field*, 1 Gr. 215. *Clark v. Collins*, 3 Gr. 473.
(b) See ante, p. 228, § 17, note (a).

Public Shows.

1. Menageries, &c., must be licensed.
2. How and by whom.
3. Sum to be paid.

4. Penalty for violation.
5. Money to whom paid.
6. Penalty how collected.

An act for regulating public shows.

R. S. 561.

Revision—Approved March 29, 1874.

Menageries, etc., must be licensed. 1. That it shall not be lawful for any person or persons to exhibit or show within this state, for any price, gain or reward, any menagerie, or

Intergovernmental Committee Items-Pending

<u>Item</u>	<u>Referred By</u>	<u>Date Referred</u>	<u>Status</u>
Oath for Boards/Commissions	Beard	3-3-08	Sub Committee/Working Group
Grievance Procedures	James	4-8-08	Sub Committee
Citizens' Advocate Office Draft Policy & Procedures Manual	Myers/ Ellinger	2-5-08	Sub Committee Meeting Pending
Boards & Commissions That Adhere to Ethics Act Financial Disclosure	Myers	8-14-07	Sept Meeting
Review Current Boards & Commissions	Myers	6-12-07	June Meeting
Boards/Commissions Reporting	Myers	8-14-07	Sept Meeting
Council Standing Committees	Myers	1/16/07	COW Discussion
High Risk Pay Supplement	Gorton	2/14/06	Unknown
Proposed New Compensation System	Gorton	1/15/05	Delayed-Finance & HR

PAS 04.29.2009