

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 06-28
December 15, 2006

RE: May a member of the Parole Board serve as director of 911 communications for local county?

DECISION: Yes within limitations.

This opinion is issued in response to your November 14, 2006, request for an Advisory Opinion from the Executive Branch Ethics Commission (“Commission”). This matter was reviewed at the December 15, 2006, meeting of the Commission and the following opinion is issued.

You ask the following: May a member of the Kentucky Parole Board also serve as a part-time director of 911 communications in a local county, either as an employee of the county or as a self-employed contractor? You state that the director of the 911 communications would be responsible for securing federal grants for communication equipment for the county.

Members of the Parole Board are considered officers, pursuant to KRS 11A.010(7), and thus are subject to the Executive Branch Code of Ethics in KRS Chapter 11A.

KRS 11A.020(1) provides:

- (1) No public servant, by himself or through others, shall knowingly:
 - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
 - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
 - (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or
 - (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

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Also, KRS 11A.040(10) provides, in part:

(10) Without the approval of his appointing authority, a public servant shall not accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.

Advisory Opinion 02-60 (a copy of which is enclosed) states that political subdivisions, such as local counties, are not considered persons or businesses as defined by KRS Chapter 11A, and thus if a Parole Board member wishes to be employed by a local county, he would not be required to obtain approval for such. However, he would need to make sure that no conflict of interest exists between his service on the Parole Board and his duties as a 911 communications director, whether he is employed directly or hired through a contract.

In both cases, the board member would need to refrain from any matters that come before the Parole Board that could affect the county for which he would be providing services. See Advisory Opinion 06-09 enclosed. In order to avoid any potential for conflict, the Commission advises the board member to refrain from reviewing parole matters of any inmates of whom he is aware are housed in the jail of that county. Such abstention should be documented in writing pursuant to KRS 11A.020(3) below:

(3) When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party.

Further, if his service will be as an employee of the county, the Commission advises you to seek guidance from the Office of the Attorney General as to whether such service as a Parole Board member is incompatible with county employment, pursuant to KRS 61.080.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: John A. Webb

Enclosures: Advisory Opinion 02-60
Advisory Opinion 06-9