

EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 94 - 30

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May 17, 1994

RE:                May Credit Union president resign classified position and immediately be employed directly by Credit Union?

DECISION:        Yes

This opinion is in response to your April 21, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 17, 1994, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. The Kentucky Employees Credit Union ("Credit Union") is a private corporation located in the Cabinet for Human Resources' building, whose membership is limited to state employees and their immediate families. The Credit Union is governed by a board of directors who serve without compensation.

Prior to 1992, all employees of the Credit Union were state merit employees within the Cabinet for Human Resources. The Credit Union reimburses the Cabinet for all salaries and benefits paid to these employees. Since that time, due to potential management conflicts, all new credit union employees have been hired directly by the credit union and are not state employees.

The current manager and president of the credit union is employed under the state merit system. The Credit Union's board of directors believes the position of president and general manager should be supervised directly by the board without intervention from any state agency.

With his agreement, the Credit Union has requested that the president and general manager, resign from his state merit position to be directly employed by the Credit Union.

You are concerned whether this proposed employment would violate KRS 11A.040(6) or any other provisions of the Executive Branch Code of Ethics. The Credit Union's only business with the Cabinet for Human Resources is the payment of the quarterly statement for reimbursement of employee salaries, benefits, and other miscellaneous expenses.

KRS 11A.040(6) provides:

No present or former public servant shall, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, provided that, for a period of six (6) months, he personally refrains from working on any matter in which he was directly involved in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers.

The Commission concludes this provision does not prohibit the president and general manager of the Credit Union from immediately accepting employment directly with the Credit Union upon his resignation from

his merit system position. The president and general manager, although paid by the Commonwealth, has in substance, been employed by the Credit Union.

The president and general manager will be working in the same job for the same ultimate employer. In substance, he will not be accepting a new job and we believe the above statute does not apply to this unusual set of circumstances.