

ADVISORY OPINION 97-14

May 13, 1997

RE: May Property Valuation Administrators have option to choose between compliance with the local code of ethics their county has adopted or the Executive Branch Code of Ethics?

DECISION: No.

This opinion is in response to your April 9, 1997, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 13, 1997, meeting of the Commission, and the following opinion is issued.

You provide the following relevant information. Property Valuation Administrators (PVAs) are elected by the voters of a county, serve only in the county where elected, and are housed in local county courthouses as provided in KRS 132.410. Although PVAs are under the direction of the Revenue Cabinet, you state that all local government officials receive direction and guidance from various state agencies. Thus, you believe that PVAs are a part of the local governments.

You request that PVAs be given the option of choosing to comply with either the local ethics code in the county where they serve or the Executive Branch Code of Ethics provided in KRS Chapter 11A. You state that PVAs are currently given the option of choosing to comply with either state or local regulations concerning procurement and travel.

During the 1994 General Assembly, the legislature passed a law requiring the governing body of each city and county to adopt a code of ethics for city and county officials and employees. This legislation, codified as KRS 65.003, states that "the elected officials of a city or county to which a code of ethics shall apply include the mayor, county judge/executive, members of the governing body, county clerk, county attorney, sheriff, jailer, coroner, surveyor and constable, but do not include members of any school board." The PVAs were not specifically listed as elected officials to which a code of ethics adopted by the local governing body would apply.

In Advisory Opinion 92-10, the Commission stated that PVAs and their deputies are covered by the Executive Branch Code of Ethics. This opinion was based on KRS 132.370 which states that "property valuation administrators shall be state officials and all deputies and assistants of their offices shall be unclassified state employees." As state employees, PVAs are under the direction, instruction and supervision of the Revenue Cabinet pursuant to KRS 132.420. Since KRS 11A.010(9) makes the Code of Ethics applicable to all state officials and employees in the executive branch, it follows that PVAs must comply with KRS 11A and not be given the option to choose to comply with an ethics code adopted by a local governing body instead.

Furthermore, it appears that, although procurement with locally accrued funds by PVAs

is governed by the procurement procedures which are adopted by the fiscal court in the county administrative code, which may or may not be the state procurement code, such direction is provided by KRS 132.601(3). No statutory option to comply with a local ethics code rather than the state ethics code is provided for a PVA.

Thus, the Commission believes that, unless PVAs are exempted from KRS Chapter 11A through statutory revision, they remain subject to all provisions of the Executive Branch Code of Ethics.