

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 99-46

October 22, 1999

RE: May former administrator lobby legislators if he is not compensated in any way?

DECISION: Yes.

This opinion is in response to your October 14, 1999, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the October 22, 1999, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Administrator to the Commission on Fire Protection Personnel Standards and Education plans to retire from state service on December 31, 1999. A bill to reorganize the Commission on Fire Protection Personnel Standards and Education may be introduced in the 2000 General Assembly. You ask whether the former Administrator may lobby legislators if he is not being compensated in any way. You also ask if the current Chairman of the Commission on Fire Protection Personnel Standards and Education who also is currently the President of the Kentucky Firefighters may lobby the legislature regarding this same bill if he is not compensated by either organization on which he serves.

KRS 11A.040(8) provides:

(8) A former public servant shall not act as a lobbyist or lobbyist's principal in matters in which he was directly involved during the last thirty-six (36) months of his tenure for a period of one (1) year after the latter of:

- (a) The date of leaving office or termination of employment; or
- (b) The date the term of office expires to which the public servant was elected.

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Additionally, "lobbyist" is defined by KRS 11A.010(11) as follows:

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

Although the Administrator would be prohibited for one year from acting as a lobbyist regarding matters in which he was directly involved as a part of his official duty, he would not be prohibited from lobbying legislators on his own behalf. Because the Administrator will not be employed or compensated, he would not be considered a legislative agent or an executive agency lobbyist, and thus would not be a lobbyist as defined above. Thus, the Administrator would not be prohibited from attempting to influence legislation on his own behalf during the 2000 legislative session.

According to Advisory Opinion 93-53 (a copy of which is enclosed) issued by the Commission, the Chairman of the Commission on Fire Protection Personnel Standards and Education is not subject to the Executive Branch Code of Ethics. Thus, he is not prohibited from lobbying the legislature during the 2000 session. Additionally, an officer or employee of a state agency is not considered an executive agency lobbyist or a legislative agent when acting on behalf of his state agency.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

By Chair: Bertie Oldham Salyer, M.A., A.M.E.

Enclosure: Advisory Opinion 93-53

October 25, 1999

Bob Burch, Administrator
Commission on Fire Protection Personnel Standards and Education
1049 U. S. 127 South, Suite 35
Frankfort, Kentucky 40601-4337

Reference: 121099.1

Dear Mr. Burch:

At its October 22, 1999, meeting, the Executive Branch Ethics Commission took up your request, dated October 14, 1999, in which you ask whether a former administrator may lobby legislators if he is not compensated in any way.

The enclosed Advisory Opinion 99–46 is issued in response to your inquiry.

Sincerely,

Jill LeMaster, Executive Director

Enclosure: AO 99-46

Visit our website: www.state.ky.us/agencies/ethics/ETHICS/HTM