

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93 – 28

June 7, 1993

RE: Employee asks whether serving as a consultant for an out-of-state agency presents conflict

This letter is in response to your May 20, 1993 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 7, 1993 meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. A racing commission from another state has asked you to provide consulting work. You have never advertised your services as a consultant but are capable of providing the service. You have your supervisor's approval to consult for the agency provided your situation does not conflict with the Executive Branch Code of Ethics. You plan to use leave time and your regular day off, to provide the work for which you will be compensated.

KRS 11A.040(5) provides:

No public servant shall knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

From the information provided it appears to the Commission that serving as a consultant to the out-of-state agency is not part of your official state duty. Although you may be consulting on the same type of matters you are concerned with in your state job, your consulting is for another state, is on your own time, and thus, not performance of your "official duty".

The Commission also takes note that you have not advertised your services as a consultant. A public servant is prohibited from certain conduct as stated below.

KRS 11A.020(1)(c) provides:

(1) No public servant, by himself or through others, shall knowingly:

...

(c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or

The Commission believes you have not used your official position to obtain benefits because you did not advertise yourself as a "specialist" in your state job.