

EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 94 - 16

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March 22, 1994

RE: May Transportation Cabinet employee serve on the Fish and Wildlife Resources Commission?

DECISION: Yes

This opinion is in response to your February 28, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the March 22, 1994, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You are a merit system employee in the Transportation Cabinet. You are interested in representing your district on the Fish and Wildlife Resources Commission. An election is held every four years to select five nominees for the position of commissioner to represent your district, and these nominees are submitted to the Governor. The Governor appoints a commissioner to represent the district from the names submitted. The commissioner's post is an uncompensated position. You ask whether it would present a conflict of interest for you to be nominated and possibly serve on the Fish and Wildlife Resources Commission.

In OAG 72-354, the Attorney General concluded that persons who serve as members of the Fish and Wildlife Resources Commission may not also serve in any state, county, city, town, municipal or federal office.

State "officer" is defined in KRS 11A.010(7) as follows:

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the State Board for Elementary and Secondary Education, the State Board for Adult and Technical Education, and any other management personnel with procurement authority;

The Commission believes that a state employee of an agency other than the Department of Fish and Wildlife Resources, who is not an officer as defined in KRS 11A.010(7) above, may serve on the Fish and Wildlife Resources Commission. However, for an employee of the Department of Fish and Wildlife Resources to seek such a position would be a conflict of interest.

You may seek appointment to and serve on the Fish and Wildlife Resources Commission as long as you are not an officer as defined above and are not employed by the Department of Fish and Wildlife Resources. If you are appointed, any time during your normal work hours spent on Fish and Wildlife Resources Commission business must be charged to annual or compensatory leave.