

ADVISORY OPINION NO. 90-147

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON SEPTEMBER 6, 1990

GOVERNMENTAL BODY SEEKING OPINION

A Lobbyist

OPINION SOUGHT

Whether a lobbyist should report on the Lobbyist Activity Report form, **contributions** to political candidates, political parties or political action committees?

OTHER FACTS RELIED UPON BY THE COMMISSION

The requestor is a registered lobbyist for a West Virginia based Association and requests clarification on the issue of whether a lobbyist should report contributions to candidates, political parties or political action committees (hereafter referred to as PACs).

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code subsection 6B-3-4(b)(1) states in pertinent part that...each report filed by a lobbyist shall show the total amount of all expenditures for lobbying made or incurred by such lobbyist or...lobbyist's employer...The report shall also show subtotals segregated according to category...including...**contributions**...to public officials or employees or to immediate family members of such persons; and other expenses or services.

West Virginia Code subsection 6B-4-1-(6) states in pertinent part that..."Lobbying" or "lobbying activity" means the act of communicating with a **government officer or employee** to promote, advocate or oppose or otherwise attempt to influence:

(i) The passage of defeat or the executive approval or veto of any legislation which may be considered by the Legislature of this State; or

(ii) The adoption or rejection of any rule, regulation, legislative rule, standard, rate, fee, or other delegated legislation or quasi-legislative action to be taken or withheld by any executive department.

West Virginia Code subsection 6B-3-1(4) states in pertinent part that...the term "government officer or employee" shall include candidates who have been elected but who have not yet assumed office.

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Candidates Subsequently Elected

The Act requires a lobbyist to include on the reporting form any contributions made during the reporting period which he incurred as a result of lobbying activity, including: communicating with a government officer or employee to promote, advocate or oppose or otherwise attempt to influence the passage or defeat of any legislation or quasi-legislative action to be taken or withheld

by any executive department.

As defined by the Act a government official or employee would include candidates who have been elected, but who have not yet assumed office.

Therefore, it is the Commission's opinion that pursuant to subsection 6B-3-4(b)(1) the lobbyist is required to report political contributions made directly to public employees, officials, candidates for public office (**or members of their immediate family**) as well as their campaign or finance committees as a result of lobbying activity. For the purpose of this section "immediate family" means a spouse residing in the individual's household, any dependent children and dependent parents.

Political Parties/PACs

It is the Commission's opinion that contributions to political parties or political action groups should not be included in the Lobbyist Activity Report since it would not be possible for the lobbyist to specifically determine whether his contribution was given to a recipient who is a public official or a candidate that was subsequently elected. It is possible that the contribution might be distributed to a congressional or non-elected candidate. Therefore, the lobbyist is not required to report contributions made to political parties or PACs on the Lobbyist Activity Report.

Chairman