

ADVISORY OPINION NO. 99-32

Issued on October 7, 1999 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

The Executive Director of an agency of State government asks if he may solicit financial support for the agency's planned State wide celebration.

FACTS RELIED UPON BY THE COMMISSION

An agency of State government has been established to initiate year 2000 activities, events and gatherings which will promote and create a positive image of the State, its people and its business prospects. Some activities will be exclusive to the celebration, but the majority will be associated with existing fairs, festivals, and community based or statewide celebrations.

The majority of the funds expended will be for entertainment to complement existing events. A three or four-day celebration of the State's birthday, to be held at the State capitol grounds, will be the largest single event.

The Executive Director asks if he may solicit "funding and sponsorship" for these activities from individuals, groups, communities, businesses, corporations and state and federal governments. Those who do or seek to do business with the State and those who receive State funds will be included among those solicited.

WV CODE PROVISIONS RELIED UPON BY COMMISSION

WV Code 6B-2-5(c) *Gifts*. -- (1) A public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family ...

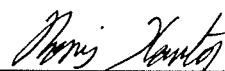
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The Ethics Act provides that public servants may not solicit a gift unless it is for a charitable purpose. The Executive Director may not solicit financial support for the agency's promotional activities from any source, unless those activities constitute a "charitable purpose."

Because the Ethics Act contains no definition of "charitable purpose," the Commission must decide, on a case by case basis, which activities are charitable. Generally speaking those which benefit the poor or disadvantaged are charitable. In some instances the Commission has found those which further education or public welfare are charitable.

In this instance the activities proposed are intended to benefit the public generally and it cannot be said that they will focus on benefitting the poor or the disadvantaged. The activities are clearly of a promotional nature intended, as the Executive Director explains, "to showcase - nationally and internationally - what the people and communities of West Virginia have to offer."

While promotional activities of this type may be a legitimate and valuable governmental function, the Commission finds that they do not constitute a "charitable purpose" and it would be a violation of the Ethics Act for the Executive Director to solicit contributions or other financial sponsorship for them.



Chairman