

**ADVISORY OPINION NO. 2000-05**

**Issued On April 6, 2000 By The**

**WEST VIRGINIA ETHICS COMMISSION**

**OPINION SOUGHT**

A **State Elected Official** asks if he may write to private sector individuals and companies encouraging interest and support for a Statewide promotional celebration.

**FACTS RELIED UPON BY THE COMMISSION**

An agency of State government has been established to initiate and help present 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 celebrations.

From its inception this West Virginia Celebration 2000 project has been a public/private initiative. An ad hoc group governs the project's activities through an executive committee comprised of both public officials and private citizens who have volunteered their time. The Celebration 2000 programs are supported by both public and private resources.

In an earlier advisory opinion A.O. 99-32 the Commission ruled that the project was not a "charitable" activity, as that term is used in the Ethics Act, and that the State employee who serves as its Executive Director could not solicit financial support for the project. The Ethics Act provides that public servants may not solicit gifts, unless they are for a charitable purpose.

While the State is providing substantial public funding for the project, it is expected that the private sector will supply significant support as well. The private sector volunteers have been soliciting financial support as well as a private, for profit, fund raiser.

The Governor, the Senate President and the Speaker of the House are honorary co-chairs of the project and each would like to encourage private sector support of the project. Recognizing that they, as public servants, may not solicit financial support, they never the less ask whether they may send a letter to private companies and individuals to facilitate the solicitations being made by the private volunteers and the paid fund raiser.

**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 ...."

## ADVISORY OPINION

The officials propose sending a letter to those who have expressed interest in the project after having been contacted by private sector volunteers or the paid fund-raiser. A draft of the letter was submitted with the request for this advisory opinion. It mentions the author's position of project co-chair, gives a brief description of the project and concludes with "I hope you will consider joining us in this important and worthwhile project." The letter thanks them for their interest and support, but makes no direct solicitation of funds.

In its advisory opinions, the Commission has defined "solicitation" as seeking to obtain something by direct persuasion or by petitioning persistently. The Commission finds that a letter from any of the officials, in essentially the same form, would not constitute a prohibited gift solicitation and would not be a violation of the Ethics Act.

This opinion does not endorse direct personal solicitation or "arm twisting" by the officials, but is confined to their written solicitations of public support for this project, which will benefit the public generally, even if it is not a "charitable" purpose.

  
Chairman