

ADVISORY OPINION NO. 2000-37

Issued On December 7, 2000 By The

WEST VIRGINIA ETHICS COMMISSION

COPY

OPINION SOUGHT

Two **County Board of Education Members** ask whether it would be a violation for them to remain in a Board meeting, in order to secure a quorum, during a vote to pay a utility bill from a company by which their husbands are employed.

FACTS RELIED UPON BY THE COMMISSION

In Advisory Opinion 2000-23 the Ethics Commission ruled that it would not be a violation WV Code 61-10-15 for the Board to purchase electricity from an electrical utility which employs a Board Member's spouse, since the utility is the sole provider of electrical power in the county.

In that Opinion the Commission instructed the Board Member to recuse herself from official action affecting her husband's employer. The Commission's rules require a person to be absent from the room during the discussion and vote on a matter from which they must be recused.

The Board recently lost one of its five members. Two of the remaining Board members have recused themselves from acting on utility bills from their spouses' employer and the Board is unable to secure a three member quorum needed to act on the bills. The Members ask if they may remain in the room in order to sustain a quorum, if they take no part in the discussion or vote on whether to pay these bills.

CODE PROVISIONS RELIED UPON BY COMMISSION

WV Code § 6B-1-1 et.seq.

ADVISORY OPINION

The Commission finds and rules that, where it is necessary to sustain the Board's quorum, it would not be a violation for either member, or both members, to remain in the room during the Board's discussion and vote on the bills submitted by the utility for services rendered and, where necessary to secure a majority decision, to actually vote as Board Members on whether to pay those bills.


Chairman