

## OPEN MEETINGS ADVISORY OPINION NO. 2004-03

Issued On March 4, 2004 By The

### WEST VIRGINIA ETHICS COMMISSION COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

#### OPINION SOUGHT

The Chairs of the West Virginia Air Quality Board (WVAQB) and the West Virginia Environmental Quality Board (WVEQB) ask for guidance regarding a proposed meeting with the Chair of the West Virginia Surface Mine Board (WVSMB).

#### FACTS RELIED UPON BY THE COMMITTEE

Pursuant to a statutory mandate, the WVAQB, WVEQB and WVSMB are to share a consolidated staff, physical facilities and general overhead. The WVAQB and WVEQB have already consolidated their support activities and their two Board Chairs propose meeting with the WVSMB Chair to discuss including that agency in their consolidated operation at a central location.

#### CODE PROVISIONS RELIED UPON BY THE COMMITTEE

The Open Governmental Meetings Act applies to “public agencies” which are defined by W. Va. Code § 6-9A-2(6) as:

any administrative or legislative unit of state, county or municipal government, including any department, division, bureau, office, commission, authority, board, public corporation, section, committee, subcommittee or any other agency or subunit of the foregoing authorized by law to exercise some portion of executive or legislative power.

#### ADVISORY OPINION

In Open Meetings Advisory Opinion 2000-04, this Committee determined that a gathering of public officials, including Board Members from multiple Public Service Districts, would not involve a meeting of a governing body of a public agency that is authorized by law to exercise any executive or legislative power. Accordingly, this Committee finds that a gathering of the chairs of these three separate governing bodies does not entail a “meeting” of a governing body of a public agency subject to the Open Meetings Act.

This Committee’s authority is limited to advising on matters involving the meaning and application of the Open Meetings Act. Therefore, the Committee may not address whether this gathering, or any

agreements reached between the individual board chairs, must be approved by a majority vote of the affected Boards. However, whatever official action any individual Board decides to take should occur during a meeting that complies with the requirements of the Open Meetings Act.



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Chairman