

ADVISORY OPINION NO. 2008-01

Issued On March 6, 2008 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **Candidate for Public Office** asks if he is required to disclose a federal disability benefit on his Financial Disclosure Statement

FACTS RELIED UPON BY THE COMMISSION

The requester is a candidate for public office. In accordance with W. Va. Code § 6B-2-6(b), the requester is required to file a Financial Disclosure Statement with the Ethics Commission within ten days after filing as a candidate. He is currently receiving disability benefits from the United States Department of Veterans Affairs. These benefits exceeded \$1000 during the previous calendar year.

As authorized by federal law in 38 U.S.C. § 1110 *et seq.*, disability compensation is a monetary benefit paid to veterans who are disabled by an injury or disease that was incurred or aggravated during active military service. These disabilities are considered to be service-connected. Disability compensation varies with the degree of disability and the number of veteran's dependents, and is paid monthly. Veterans with certain severe disabilities may be eligible for additional special monthly compensation. The benefits are not subject to federal or state income **tax**.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-7 provides:

The financial disclosure statement required under this article shall contain the following information:

* * *

(4) The identification, by category, of every source of income over one thousand dollars received during the preceding calendar year, in his or her own name or by any other person for his or her use or benefit, by the person filing the statement and a brief description of the nature of the services for which the income was received. This subdivision does not require a person filing the statement who derives income from a business, profession or occupation to disclose the individual sources and items of income that constitute the gross income of that business, profession or occupation nor does this subdivision require a person filing the statement to report the source or amount of income derived by his or her spouse.

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The Ethics Act requires certain public servants and candidates seeking public office to file a Financial Disclosure Statement with the Ethics Commission. The Financial Disclosure Statement is intended to provide public access to certain information regarding these individuals. Part of the information to be disclosed involves identifying each source of income from which the public servant or candidate received over \$1000 during the previous calendar year.

"Income" ordinarily includes money which someone receives from employment, business, investments and royalties. Veterans benefits generally represent continuing compensation for certain conditions that arose in the course of military service. The requester is actually receiving these monetary benefits at the present time.

Accordingly, the Commission finds that veterans benefits which are received as the result of a service-connected disability must be disclosed on the Financial Disclosure Statement, when the total amount of benefits received in the previous calendar year exceed \$1000. The requester is only required to list "US Department of Veterans Affairs" or "USVA" as the source of income in Section 5 of the current form and "federal benefits" or "veterans benefits" as the description of the income. The requester is not otherwise required to make any reference to nature of this compensation or reveal any medical diagnosis or condition on the Financial Disclosure Statement.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et. seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by public servants and other persons unless and until it is amended or revoked, or the law is changed.

/s/ R. Kemp Morton, Chairman
R. Kemp Morton, Chairman