

ADVISORY OPINION NO. 2004-15

Issued On August 5, 2004 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A Board of Supervisors for a Soil Conservation District ask if they are required to file financial disclosure statements with the Commission pursuant to W. Va. Code § 6B-2-6.

FACTS RELIED UPON BY THE COMMISSION

The requesters are members of a Board of Supervisors who govern a 5-county Soil Conservation District. Supervisors must be landowners within the District. They are elected in special elections where only landowners are eligible to cast ballots.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-6 provides:

The following persons must file the financial disclosure statement required by this section with the ethics commission:

(1) All elected officials in this state, including, but not limited to, all persons elected statewide, all county elected officials, municipal elected officials in municipalities which have, by ordinance, opted to be covered by the disclosure provisions of this section, all members of the several county or district boards of education and all county or district school board superintendents;

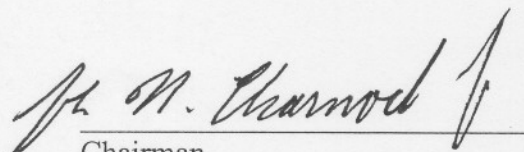
(2) All members of state boards, commissions and agencies appointed by the governor; and

(3) Secretaries of departments, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads and assistant department heads.

ADVISORY OPINION

The Ethics Act requires all elected officials at the state and county level to file an annual financial disclosure statement. Supervisors of Soil Conservation Districts are public servants subject to the standards of conduct in the Act. However, Supervisors have not previously been recognized as elected officials required to submit financial disclosure statements to the Commission.

The statutory scheme for electing Supervisors who govern a Soil Conservation District differs significantly from the election process for other elected offices. The Commission finds that a Supervisor of a Soil Conservation District, elected by landowners within his or her District pursuant to W. Va. Code § 19-21A-6, is not serving as an "elected official" for purposes of the financial disclosure provisions in the Act.


Chairman
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