

ADVISORY OPINION NO. 2003-14

Issued On January 8, 2004 By The

WEST VIRGINIA ETHICS COMMISSION

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OPINION SOUGHT

A **State Legislator** asks if it would be a violation for him to sponsor legislation authorizing a county referendum on an issue which could benefit the company by which he is employed.

FACTS RELIED UPON BY THE COMMISSION

The County Commission of a county represented by the Legislator has initiated a program to petition the Legislature to pass a law giving county residents the right to decide by local referendum whether table games will be permitted at a gaming site located within the county.

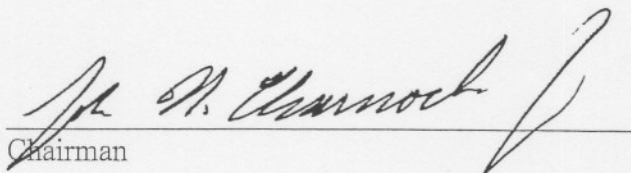
The Legislator is a full-time employee of the business which operates the gaming site, but his responsibilities are not directly related to its gaming activities and do not encompass public or governmental relations.

CODE PROVISIONS RELIED UPON BY COMMISSION

WV Code 6B-2-5(b) *Use of public office for private gain* provides in pertinent part that a public official ... may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. The performance of usual and customary duties associated with the office ... or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

ADVISORY OPINION

The usual and customary duties of members of the Legislature include sponsoring legislation, particularly legislation which is sought by constituents. However, in this situation the Legislator is employed full-time by a business which is among the principal beneficiaries of the legislation proposed. The Legislator shares a common financial interest with his employer in the proposed legislation and he should not, therefore, sponsor the legislation.


Chairman