

ADVISORY OPINION NO. 99-12

Issued On April 1, 1999 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **State Commission** asks whether it would be a violation for a member of the WV Legislature to serve as a member of the Commission and accept a statutorily established per diem allowance.

FACTS RELIED UPON BY THE COMMISSION

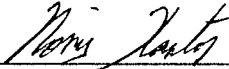
A Commission member was elected to the WV Legislature. The Commission asks whether she may continue to serve on the Commission, while a member of the Legislature.

The statute which establishes the Commission gives its members no salary, but provides that they may receive "fifty dollars per diem for actual time spent in performance of [Commission] duties" as well as "actual and necessary expenses." The Commission also ask whether, in the event accepting the per diem allowance or expense reimbursement poses a problem, the Commissioner may continue to serve, if she declines to accept the allowance or reimbursement?

ADVISORY OPINION

No provision of the Ethics Act prevents the Commission member from continuing to serve on the Commission, simply because of her election to the Legislature, whether the per diem allowance and expenses reimbursement is accepted or declined. Her service on the Commission would not be a violation of the Ethics Act in either situation.

The Ethics Commission has no authority to construe constitutional provisions and its opinion has no bearing on whether the Legislator's service on the Commission is consistent with Article 6, Section 15, Senators and Delegates Not to Hold Civil Office for Profit, of the WV Constitution.



Chairman