

ADVISORY OPINION NO. 98-17

Issued on June 4, 1998 by the

WEST VIRGINIA ETHICS COMMISSION

PUBLIC SERVANT SEEKING OPINION

A State Official

OPINION SOUGHT

Is it a violation of the Ethics Act if a State Official accepts a statutory per diem for *ex-officio* service on a State Commission?

FACTS RELIED UPON BY THE COMMISSION

The requester is a full-time State Official who is also an *ex-officio* member of another State Commission. The enabling legislation for that Commission provides that each member may receive one hundred dollars (\$100) for each day spent on official duties.

The requester inquires whether he may accept the per diem for service on the State Commission.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

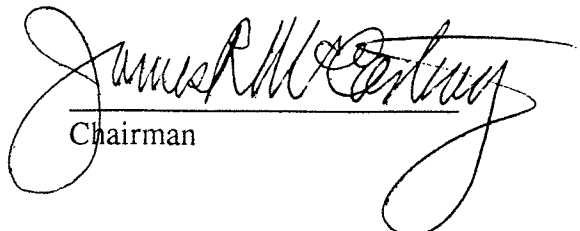
West Virginia Code 6B-2-5(k) states in pertinent part that...no public official or public employee shall knowingly request or accept from any governmental entity compensation or reimbursement for any expenses actually paid by a lobbyist and required by the provisions of this chapter to be reported, or actually paid by any other person.

ADVISORY OPINION

The Ethics Act contains a ban against "double dipping." This provision prohibits public servants from accepting compensation from any governmental entity if they are already paid for that same work.

The Commission finds that as a Public Official, the requester's salary is established by statute. Since he serves on the State Commission as an *ex officio* member, such service is considered part of his official responsibilities for which his compensation is already established by law.

Therefore the requester would violate WV Code 6B-2-5(k) if he accepted the per diem payment for service on the State Commission.


Chairman