

ADVISORY OPINION NO. 95-28

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JUNE 1, 1995

GOVERNMENTAL OFFICIAL SEEKING OPINION

A State Official

OPINION SOUGHT

Is it a violation of the Ethics Act for a State official to invite selected individuals to participate in an outing to celebrate the opening of a new facility and the growth of the State's favorable image as a potential site for corporate expansion?

FACTS RELIED UPON BY THE COMMISSION

A new golf course has opened in West Virginia and the proprietors will make it available to a select group for an afternoon to showcase the facility, to celebrate the State's growing tourism industry and attraction as a site for business location. This course has received national attention due to its innovative design.

The requester is responsible for oversight and promotion of all aspects of the State economy, including tourism and economic development. He proposes sending out invitations to a select group of individuals involved in the areas of high-end tourism and economic development to join him for a round of golf and cookout at the new course.

The golf course is a private club with a local, national and international membership. No walk-on players are normally allowed and the only fees assessed to the club's members are nominal cart fees. However, to promote the State's image as a potential site for corporate expansion or relocation, the course owners have agreed to allow the invitees to play golf free of charge on the day in question.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(b)(1) states 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 position 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

Pursuant to WV Code §6B-2-5(b)(1), it is a violation of the Ethics Act for a public servant to use his office or the resulting prestige for his own private gain or for the private gain of another. However, the performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

In Advisory Opinion No. 95-05 the Commission found that it would not be a violation of WV Code §6B-2-5(b)(1) for a State official to write a letter soliciting State businesses to participate in a private publishing project. The Commission found that writing such a letter to encourage a private, profit-making venture did not violate the Ethics Act's prohibition against use of office for private gain since the book would serve as a tool to educate the general public about the history and culture of the State and could also serve as a resource to promote and increase economic development in West Virginia.

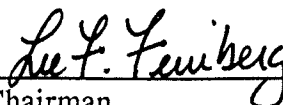
The same considerations that led to the Commission's opinion in Advisory Opinion No. 95-05 also apply to this request.

In this instance, a private club with local, national and international membership has opened in West Virginia. Although the golf course normally does not allow walk-on players, the course will be open for an afternoon to showcase the facility.

The requester is responsible for the oversight and promotion of all aspects of the State economy, including tourism and economic development. In an effort to fulfill that obligation, the State official proposes sending out invitations to a select group of individuals involved in the areas of high-end tourism and economic development to join him for a round of golf and cookout at the new facility. Many of the invitees will be bankers and executives involved in recommending sites for possible expansion or relocation of corporate offices.

The determination of whether this activity will actually benefit the State by promoting tourism and economic development is an issue for the Executive Branch to resolve. It is apparent from the request that the decision to send the proposed invitations reflects a decision that this will advance legitimate public policy goals.

Therefore, it would not be a violation of WV Code §6B-2-5(b)(1) for the requester to provide letters inviting selected persons to join him for a complementary round of golf and cook-out at the new course since the purpose of the outing is to promote tourism and economic development in the State.


Chairman