

ADVISORY OPINION NO. 95-46
ISSUED BY THE
WEST VIRGINIA ETHICS COMMISSION
ON NOVEMBER 2, 1995

GOVERNMENTAL BODY SEEKING OPINION

A State Employee

OPINION SOUGHT

Is it a violation of the Ethics Act for a State employee to participate in various activities devised to protect white deer in the State?

FACTS RELIED UPON BY THE COMMISSION

The requester is a State employee. He would like to solicit money from local residents to fund a reward which will be given to any individual who provides information resulting in the arrest and conviction of the party/parties involved in the poaching of white deer in the area.

The requester is also conducting a petition drive to acquire 1,000 signatures from concerned citizens to pursue the enactment of legislation which, if passed, would grant protective status to white deer in West Virginia.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code §6B-2-5(c)(1) states in pertinent part that...a public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family: **Provided**, That no public official or public employee may solicit for a charitable purpose any gift from any person who is also an official or employee of the state and whose position as such is subordinate to the soliciting official or employee...

West Virginia Code 6B-3-1(7)(A) provides in pertinent part that..."Lobbyist" means a person who, through communication with a government officer or employee, promotes, advocates or opposes or otherwise attempts to influence:

(i) The passage or defeat or the executive approval or veto of any legislation which may be considered by the Legislature of this state;...

West Virginia Code §6B-3-1(7)(B) states in pertinent part that...the term "lobbyist" shall not include the following persons, who shall be exempt from the registration and reporting requirements set forth in this article, unless such persons engage in activities which would otherwise subject them to the registration and reporting requirements:

(iv) Persons who lobby without compensation or other consideration for acting as lobbyists, and whose total expenditures in connection with such lobbying do not exceed twenty-five dollars during any calendar year, are exempt...

West Virginia Code 6B-3-5(1) provides in pertinent part that...Any person who has made expenditures, not required to be reported under other sections of this chapter, exceeding five hundred dollars in the aggregate within any three-month period or exceeding two hundred dollars in the aggregate within any one-month period in presenting a program addressed to the public, a substantial portion of which is intended, designed or calculated primarily to influence legislation, shall be required to register and report, as provided in subsection (2) of this section, as a sponsor of a grass roots lobbying campaign.

ADVISORY OPINION

The requester inquires as to the extent in which he may participate in various activities devised to protect white deer in the State.

Solicitation

Pursuant to WV Code 6B-2-5(c)(1) a public employee may not solicit any gift except when the solicitation is for a charitable purpose which does not result in a direct pecuniary benefit being conferred upon the employee or a member of his immediate family. The Commission considers the efforts of the requester to thwart poaching and consequently save white deer to be a charitable purpose as that term is used in the Ethics Act. Therefore, it would not be a violation of the Ethics Act for the requester to solicit money from local residents to fund a reward which will be given to any individual who provides information resulting in the arrest and conviction of the party/parties involved in the poaching of white deer in the area. Neither he nor members of his immediate family may be eligible for the reward.

Petition Drive

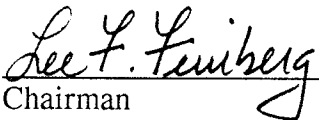
The requester is also conducting a petition drive to acquire 1,000 signatures from concerned citizens to resurrect a Senate Bill which, if passed, would grant protective status to white deer in West Virginia.

In considering this request the Ethics Commission has analyzed the facts presented in light of the statutory violations contained in the Ethics Act. The Commission has determined that no provision of the Ethics Act would prevent the requester from sponsoring the petition drive or becoming actively involved in various activities devised to protect white deer in the State.

The requester should be mindful that the Ethics Act, in part, defines a "lobbyist" as a person who, through communication with a government officer, attempts to influence the passage of any legislation which may be considered by the legislature. Such persons must register with the Commission and submit reports detailing his lobbyists activities and expenditures.

However, in order to permit and encourage citizens of this state to exercise their constitutional rights, certain individuals are exempt from the registration and reporting requirements established in the Ethics Act. Such persons include individuals who lobby without compensation or other consideration for acting as lobbyists, and whose total expenditures in connection with such lobbying do not exceed twenty-five dollars during any calendar year.

Finally, the Commission notes that pursuant to WV Code 6B-3-5, any person who has made expenditures exceeding five hundred dollars in the aggregate within any three-month period or exceeding two hundred dollars in the aggregate within any one-month period, in presenting a program addressed to the public, a substantial portion of which is intended to influence legislation, shall be required to register and report as a sponsor of a grass roots lobbying campaign.


Chairman