

ADVISORY OPINION NO. 95-53
ISSUED BY THE
WEST VIRGINIA ETHICS COMMISSION
ON JANUARY 4, 1996

PUBLIC SERVANT SEEKING OPINION

A County Commissioner

OPINION SOUGHT

Is it a violation of the Ethics Act for a County Commissioner to solicit funds for the County Development Authority?

FACTS RELIED UPON BY THE COMMISSION

Members of the County Development Authority are appointed by the County Commission and one member of the Commission must serve on the Authority's Board of Directors.

The County Commissioner who also serves on the Development Authority would like to participate in a fund raising campaign on behalf of the Authority. This would involve soliciting monetary contributions from local business enterprises and/or individuals. The potential donors would be asked to make a voluntary contribution and also pledge an annual commitment to enable the Authority to establish a long term base of financial support. No member of the County Commission would receive compensation of any sort from this campaign.

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...

ADVISORY OPINION

Pursuant to WV Code 6B-2-5(c)(1) a public official may not solicit any gift except for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or his immediate family.

The overall purpose of a County Development Authority is to promote, develop and advance the business prosperity and economic welfare of the county for which it was created by encouraging and assisting new business and industry and by rehabilitating the existing businesses and industries within the County.

The requester is a County Commissioner and serves as a member of the County Development Authority Board. As such he would like to participate in a fund raising campaign for the Development Authority. This would involve soliciting monetary contributions from local business enterprises and/or individuals. These potential donors would be asked to make a voluntary contribution and also pledge an annual commitment. The requester would not receive compensation, fees, payments, or any other private gain from this fund raising campaign.

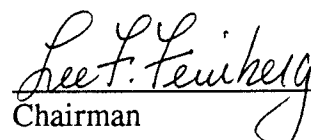
In the past, the Commission has established a broad definition of the term "charitable purpose". Programs which provide education, training, increased public awareness or other specific benefits to the individual citizens of this State are generally considered to be of a "charitable" nature. However, each solicitation must be decided on its individual merits on a case by case basis.

The Commission notes that the enabling legislation of County Development Authorities, WV Code 7-12-7, provides that the Development Authority is given the power and authority to apply for, receive and use grants-in-aids, donations and contributions from any source or sources and to accept and use bequests, devises, gifts and donations from any person, firm or corporation.

Since the goal of the Authority is to stimulate and promote the expansion of business and industrial activity within the County to maximize employment and improve the standard of living of the citizens of the county, the Commission has determined that soliciting funds to establish a long term base of financial support for the County Development Authority is a "charitable purpose" as that term is used in the Ethics Act.

Therefore, it would not be a violation of WV Code 6B-2-5(c)(1) for a County Commissioner to solicit funds for the County Development Authority. The requester should be mindful that care is taken that no gift is solicited under facts or circumstances which are improper or give the appearance of impropriety or the creation of a quid pro quo.

The Commission's decision is limited to the precise facts and circumstances of this case.


Chairman