

ADVISORY OPINION #93-13

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON MAY 6, 1993

GOVERNMENTAL BODY SEEKING OPINION

A Circuit Court Judge

OPINION SOUGHT

Is it necessary for a Circuit Court Judge to complete the Annual Financial Disclosure Statement and submit it to the West Virginia Ethics Commission in view of the rules and regulations of the State Supreme Court?

FACTS RELIED UPON BY THE COMMISSION

Each year Circuit Court Judges are required to complete a financial statement and provide such statement to the Supreme Court of Appeals of the State of West Virginia. The requestor has stated that the information contained in this statement is substantially similar to the information which he is required to report on the Annual Financial Disclosure Statement established by the Ethics Commission. In view of this, the requestor inquires if it is necessary for him to complete the Annual Financial Disclosure Statement and submit it to the West Virginia Ethics Commission.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code §6B-2-6(a) states in pertinent part that...the following persons must file the financial disclosure statement required by this section with the Ethics Commission:

(1) All elected officials in this state, including, but not limited to, all persons elected state-wide, all county elected officials, municipal elected officials in municipalities which have, by ordinance, opted to be covered by the disclosure provisions of this section...

West Virginia Code §6B-2-6(c) states in pertinent part that...No candidate for public office may maintain his or her place on a ballot and no public official may take the oath of office or enter or continue upon his or her duties or receive compensation from public funds, unless he or she has filed a financial disclosure statement with the state ethics commission as required by the provisions of this section.

West Virginia Code §6B-1-3(i) states in pertinent part that... "Public Official" means any person who is elected or appointed and who is responsible for the making of policy or takes official action which is either ministerial or nonministerial, or both, with respect to...(v) any other activity where the official action has an economic impact of greater than a de minimis nature on the interest or interests of any person.

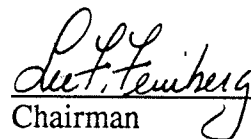
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West Virginia Code §6B-2-6A provides that all elected officials in this state must file a Financial Disclosure Statement with the Ethics Commission. The requestor is clearly an elected "public official" as that term is defined by the Ethics Act at WV Code §6B-1-3(i) and consequently falls within the purview of the Ethics Act.

As noted above, pursuant to WV Code §6B-2-6(a) "all" elected officials, including "all" county elected officials, "must" file the financial disclosure statement. The use of such all-inclusive, mandatory language leaves no doubt that the Circuit Court Judge is required to complete the Financial Disclosure Statement and file such statement with the WV Ethics Commission.

Where the Legislature wished to give the Commission the authority to grant exemptions to certain provisions of the Ethics Act, it did so in explicit language. See WV Code §6B-2-5(g) and (h). The Commission has received no such authority to grant exemptions from the filing requirements contained in WV Code §6B-2-6.

The Commission notes that, pursuant to WV Code 6B-2-6(c), a public official may not continue upon his or her duties or receive compensation from public funds, unless he or she has filed the Financial Disclosure Statement with the Ethics Commission. The requestor of this opinion, however, has filed the required statement.


Chairman