

ADVISORY OPINION NO. 91-28

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON APRIL 4, 1991

GOVERNMENTAL BODY SEEKING OPINION

A National Committee President

OPINION SOUGHT

Whether a letter writing campaign initiated by a National Committee and directed at State Legislators would be considered the type of lobbying activity which would trigger the lobbyist registration requirements?

FACTS RELIED UPON BY THE COMMISSION

A National Committee intends to initiate a letter writing campaign which will be directed at State Legislators. The purpose of the campaign is to voice opposition to certain legislation. The letter will be drafted by the Committee President and the National Committee will be responsible for the postage and mailing of these letters. This is the only possible lobbying activity presently being contemplated by the National Committee.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-3-1(6) states in pertinent part that... "lobbying" or "lobbying activity" means the act of communication with a government officer or employee to promote, advocate or oppose or otherwise attempt to influence:

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

(ii) The adoption or rejection of any rule, regulation, legislative rule, standard, rate, fee or other delegated legislative or quasi-legislative action to be taken or withheld by any executive department.

ADVISORY OPINION

The Ethics Commission has determined that a letter writing campaign by a National Committee is a lobbying activity. The campaign would be directed at government officials in an attempt to influence legislation.

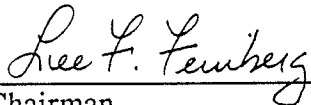
Provision 6B-3-1(4) of the Ethics Act makes lobbyist registration necessary if an individual attempts to influence government officers or employees who are empowered or authorized to make quasi-legislative policy and perform nonministerial functions.

In Advisory Opinion No.90-189 the Ethics Commission established that it is the **attempt to influence** which triggers the lobbyist registration requirements. The Act does not contemplate the degree of influence which is permitted without having to register. It is merely the status of engaging in the attempt to influence legislation or other executive department action as set out in 6B-3-1(b). There is no "degree" of influence exerted before registration is required.

The Ethics Act provides that persons who are compensated for their lobbying activities are required to register with the Ethics Commission. In this instance the letter writing campaign is being initiated at the direction of the Committee President, in furtherance of the Committee's legislative agenda. The campaign is part of the job for which the Committee President and staff members are being compensated and their action constitutes a lobbying activity.

Therefore, the letter writing campaign would be considered a lobbying activity and the appropriate Committee representative must register with the Ethics Commission. Any expenses incurred by the National Committee for the letter writing campaign are lobbying expenditures and must be reported by the Committee.

The Commission would note that this opinion does not pertain to private individuals who may choose to write to their Legislators since they would not be compensated for this activity.



Chairman