

ADVISORY OPINION NO. 90-12

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON FEBRUARY 1, 1990

GOVERNMENTAL BODY SEEKING OPINION

A County and State Executive Committee member

OPINION SOUGHT

Whether a County or State Executive Committee member is required by the Ethics Act to file a financial disclosure statement pursuant to West Virginia Code 6B-2-6(b)?

OTHER FACTS RELIED UPON BY THE COMMISSION

An elected member of a County Executive Committee and a member of the State Executive Committee is preparing to file her candidacy for both positions to be elected in May 1990.

This individual does not believe she must file a financial disclosure statement for either position since neither party position affects her income and both require long hours of volunteer work.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-6(b) states in pertinent part that...a candidate for a public office shall file a financial disclosure statement for the previous twelve months with the State Ethics Commission no later than ten days after he or she files a certificate of candidacy, but in all cases, no later than ten days prior to the election...

West Virginia Code 6B-1-3(i) states in pertinent part that..."Public official" means any person who is elected...and who is responsible for the making of policy or takes official action which is either ministerial or non-ministerial, or both with respect to (i) contracting for, or procurement of, goods or services, (ii) administering or monitoring grants or subsidies, (iii) planing or zoning, (iv) inspecting, licensing, regulating or auditing any person, or (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.

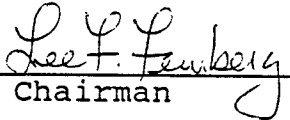
ADVISORY OPINION

Subsection 6(b) of the Act requires candidates for public office to file a financial disclosure statement. Public official is defined in subsection 6B-1-3(i) of the Act.

It is the Commission's opinion that a County or State Executive Committee member is not included within the meaning of a public office. The committee member, although elected by the public at large receives no remuneration for the position nor is he or she responsible for making policy or taking official action.

The Supreme Court in State v. Bivens, 149 S.E.2d 284 (1966) held that a committee member is not a public officer. Although an executive committee of a political party is created and the election and conduct of its members are regulated by statute (WV-Code 3-1-9), a member of such committee is not, for that reason a public officer.

Therefore, it is the Commission's opinion that candidates for County or State Executive Committees are not required to file financial disclosure statements pursuant to West Virginia Code 6B-2-6(b).


Chairman