

ADVISORY OPINION NO. 90-57

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON APRIL 5, 1990

GOVERNMENTAL BODY SEEKING OPINION

A Town Mayor

OPINION SOUGHT

Whether it is a violation of the Act for a City official's spouse to be employed by an engineering company which designed a Wastewater treatment plant for the City?

OTHER FACTS RELIED UPON BY THE COMMISSION

The City Recorder's spouse has been offered a job as an inspector on the local Wastewater construction Project. The spouse will be employed and paid directly by the engineering firm that designed the plant. The City Recorder's spouse is the only qualified applicant for this position in the area. If he is not hired the City will probably hire someone from another state.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(d)(1) states in pertinent part that...no elected public official...or member of his or her immediate family may be a party to or have an interest in the profits or benefits of a contract with the governmental body over which he has direct authority...

West Virginia Code Section 6B-2-5(d)(2) states in pertinent part that...an elected...public official...or a member of his or her immediate family...shall not be considered as having an interest in a public contract when such a person has a limited interest as an owner, shareholder or creditor of the business which is the contractor on the public contract involved. A limited interest for the purposes of this section is an interest not exceeding ten percent of the partnership of the outstanding shares of a corporation or thirty thousand dollars, whichever is the lesser.

ADVISORY OPINION

The Commission finds that there is no violation of subsection 5(d)(1) of the Act since the City does not have a public contract with the City employee's spouse and the spouse has no ownership interest in the engineering firm which contracts with the City.


Chairman