

ADVISORY OPINION NO. 90-81

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON APRIL 20, 1990

GOVERNMENTAL BODY SEEKING OPINION

An Attorney for a part-time City employee

OPINION SOUGHT

Whether it is a violation of the Act for a part-time City employee to be appointed or elected to the City Council?

OTHER FACTS RELIED UPON BY THE COMMISSION

The requestor is a part-time City police department dispatcher. The City does not fall under the Civil Service Commission. The dispatcher was appointed to the City Council when a vacancy occurred and has since filed as a candidate for the City ward council seat. However, he must keep his part-time dispatcher job for financial purposes. The council seat is also part-time and only pays \$30.00 per month.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-1-2(c) states in pertinent part that...the Legislature finds that the state government and its many public bodies and local governments have many part-time public officials and public employees serving in elected and appointed capacities; and that certain conflicts of interest are inherent in part-time service and do not, in every instance, disqualify a public official or public employee from the responsibility of voting or deciding a matter; however, when such conflict becomes personal to a particular public official or public employee, such person should seek to be excused from voting, recused from deciding, or otherwise relieved from the obligation of acting as a public representative charged with deciding or acting on a matter.

West Virginia Code 6B-2-5(b)(1) states in pertinent part that... A public official or public employee may not intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person...

ADVISORY OPINION

It is the Commission's opinion that it would not be a violation of the Act for a part-time public employee to be appointed or elected as a City Council member.

Pursuant to subsection 6B-1-2(c) of the Act, the Candidate if elected as ward councilman, should seek to be excused from voting, recused from deciding, or otherwise relieved from the obligation of acting as a public representative charged with deciding or acting on a matter, when such matter becomes a conflict and when such conflict becomes **personal**.

Also, the Candidate should be mindful of subsection 6B-2-5(b)(1) which prohibits a public employee from using the prestige of his office for his own private gain (i.e. using his appointed seat or public employment to gain support for the election).


Vice-Chairman