

ADVISORY OPINION NO. 90-87

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JUNE 6, 1990

GOVERNMENTAL BODY SEEKING OPINION

A Candidate for a City Council

OPINION SOUGHT

Whether it is a violation of the Act for a City Council candidate to accept temporary employment with a State Park?

OTHER FACTS RELIED UPON BY THE COMMISSION

The requestor has applied for a six month job at a State park. He is also a candidate for a City Council position.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(b)(1) states that a public official may not intentionally use his or her office or the prestige of his or her office for his or her own private gain.

West Virginia Code Section 6B-2-5(d)(1) states in pertinent part that...no elected public official...may be a party to or have an interest in the profits or benefits of a contract which such official...may have direct authority to enter into, or over which he or she may have control...

West Virginia Code Section 6B-2-5(d)(2) states in pertinent part that...an elected...public official...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 subsection is:

(A) An interest:

(i) not exceeding ten percent of the partnership or the outstanding shares of a corporation; or

(ii) not exceeding thirty thousand dollars interest in the profits or benefits of the contract;

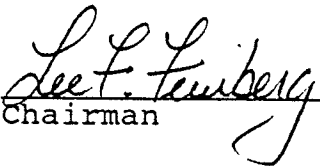
ADVISORY OPINION

It is the Commission's opinion that if the requestor is elected, he would be a public official with direct authority over a governmental entity, (i.e. the City Council and not the State Park).

Also, since the part-time public official would be an employee of the State Park he would not have any ownership interest in the profits or benefits of a public contract between the City and the State Park, if any should occur.

Therefore, it would not be a violation of subsection 6B-2-5(d)(1) of the Act for a City Council Candidate to accept employment with a State Park.

Although there is no evidence to suggest a violation, if he is elected, the requestor should be mindful of subsection 6B-2-5(b)(1) of the Act which prohibits a public official from using his office or prestige of office for his own private gain.


Chairman