

**ADVISORY OPINION NO. 90-129**

**ISSUED BY THE**

**WEST VIRGINIA ETHICS COMMISSION**

**ON AUGUST 2, 1990**

**GOVERNMENTAL BODY SEEKING OPINION**

Legal Counsel for a Public Energy Authority

**OPINION SOUGHT**

Whether it is a violation of the Act for a Public Energy Authority to hire a consultant who is a voluntary member of a Board of Investments?

**OTHER FACTS RELIED UPON BY THE COMMISSION**

The Public Energy Authority proposes, subject to compensation by the Governor's office, to hire a consultant to assist the Authority in the development of certain projects. The consultant they would like to hire is currently a volunteer member of the Board of Investments.

The Public Energy Authority is currently without a Director and it is impossible for the Board members and counsel to devote the time necessary to establish and complete these projects.

**PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION**

West Virginia Code Section 6B-2-5(d)(1) states in pertinent part that...no appointed public official...or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which such official or employee may have direct authority to enter into, or over which he or she may have control...

**ADVISORY OPINION**

The Commission finds that it would not be a violation of subsection 6B-2-5(d)(1) of the Act for a Public Energy Authority to hire a consultant who is a voluntary member of a Board of Investments since the Board of Investments member does not have direct authority or control over the letting of public contracts by the Public Energy Authority.

  
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Chairman