

ADVISORY OPINION NO. 90-130

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON AUGUST 2, 1990

GOVERNMENTAL BODY SEEKING OPINION

A County Commissioner

OPINION SOUGHT

Whether it is a violation of the Act for a County Commissioner to accept part-time employment with a City as a water treatment operator?

OTHER FACTS RELIED UPON BY THE COMMISSION

The requestor is currently a member of the County Commission. Prior to his election to this position, the County Commissioner acquired through his previous employment, a Class II Water Treatment operator's license.

A City located within his County has a part-time employment position available for a qualified applicant with a Class II Water Treatment Operator's license. The County Commissioner would like to apply for this position.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

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

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 or employee may have direct authority to enter into, or over which he or she may have control...

West Virginia Code Section 6B-2-5(h)(1) states in pertinent part that...No full-time public official...who exercises policymaking, nonministerial or regulatory authority may seek employment with, or allow himself to be employed by any person who is or may be regulated by the governmental body which he serves while he serves in the governmental agency...

ADVISORY OPINION

Public Contracts

The Commission finds that the County Commissioner has direct authority and control over the letting of public contracts by the **County Commission**. However, as County Commissioner he does not have direct authority or control over the letting of **City** contracts (including his contract for employment with the City).

Therefore, it would not be a violation of subsection 6B-2-5(d)(1) of the Ethics Act for a County Commissioner who has no authority or control over City contracts to be **employed** on a part-time basis with the City.

Regulated Persons

Pursuant to subsection 6B-2-5(h)(1) of the Act, a full-time, policy-making employee may not seek employment with or be employed by any person who is or may be regulated by the governmental entity with which he is employed.

However, the Commission finds that the City is not regulated by the County Commission and that the requestor's employment with the City is not connected or based in any way, either directly or indirectly to his part-time position with the County Commission.

Therefore, it would not be a violation of subsection 6B-2-5(h)(1) of the Act for a County Commissioner to be employed on a part-time basis with the City.

The Commission would note that although there is no evidence of such, the requestor should be mindful of subsection 6B-2-5(b)(1) which prohibits a public official from using his office or prestige of his office for his own private gain (i.e. using his position as County Commissioner to obtain employment with the City).



Chairman