

ADVISORY OPINION NO. 90-193

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JANUARY 3, 1991

GOVERNMENTAL BODY SEEKING OPINION

Executive Director of an Association for Health Centers

OPINION SOUGHT

Whether a reception sponsored by an Association for its members and legislators would be considered a "lobbying activity"?

OTHER FACTS RELIED UPON BY THE COMMISSION

The Association is planning a reception for all health center employees in the State and would like to invite legislators to attend. The attendance of the legislators will further the legislative agenda of the sponsoring organization. However, the Association is unsure as to whether this would be considered a lobbying activity and thus require the attendees of the reception sponsored by the Association to register as lobbyists.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-3-1(7)(A) states in pertinent part that...a "lobbyist" means a person who, through communication with a government officer or employee, promotes, advocates or opposes or otherwise attempts to influence:

- (i) The passage or defeat or the executive approval or veto of any legislation which may be considered by the legislature...,
- (ii) The adoption or rejection of any rule, regulation, legislative rule, standard, rate, fee or other delegated legislative or quasi-legislative action to be taken or withheld by any executive Department.

West Virginia Code Section 6B-1-3 states in pertinent part that a "Public Official" means any person who is elected and who is responsible for the making of policy or takes official action which is either ministerial or nonministerial, or both, with respect to (i) contracting for, or procurement of, goods or services, (ii) administering or monitoring grants or subsidies, (iii) planning or zoning, (iv) inspecting, licensing, regulating or auditing any person, or (v) any other activity where the official action has an economic impact of greater than a *de minimis* nature on the interest or interests of any person.

West Virginia Code Section 6B-3-1(7)(A)(iii) states in pertinent part that...persons who lobby **without compensation or other consideration** for acting as a lobbyist, when such persons make no expenditures for or on behalf of any government officer or employee in connection with such lobbying, are exempt.

West Virginia Code Section 6B-3-2 states in pertinent part that...before engaging in any lobbying activity...a lobbyist shall register with the Ethics Commission by filing a lobbyist registration statement...

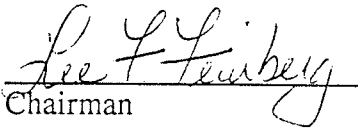
West Virginia Code Section 6B-3-4(e) states in pertinent part that...If, during the period covered by the report, the lobbyist made expenditures in the reporting categories of meals and beverages, living accommodations, travel, gifts or other expenditures, other than for those expenditures governed by subsection (f) of this section, which expenditures in any such reporting category total more than twenty-five dollar to or on behalf of any particular public official or employee, the lobbyist shall report the **name of the public official or employee** to whom or on whose behalf the expenditures were made, the total amount of the expenditures, and the subject matter of the lobbying activity, if any. Under this subsection (e), no portion of the amount of an expenditure for a dinner, party or other function sponsored by a lobbyist or a lobbyist's employer need be attributed to or counted toward the reporting amount of twenty-five dollars for a particular public official or employee who attends such function if the sponsor has invited to the function all the members of (1) the legislature, (2) either house of the Legislature, (3) a standing or select committee of either house, or (4) a joint committee of the two houses of the Legislature. However, the amount spent for such function shall be added to other expenditures reported under subsection (b) of the section.

ADVISORY OPINION

The Commission finds that business, labor and other associations invite members of the Legislature to receptions, dinners and other similar events as a result of a widely held belief that their attendance will further the legislative agenda of the sponsoring organizations. Since the association's hospitality to the Legislators is, in the final analysis, intended to influence legislation, the event is a "lobbying activity".

Expenditures by the Association on behalf of invited legislative guests are lobbying expenditures and must be reports by the association.

This opinion is limited to group events sponsored by business, labor, or other associations or groups which can reasonably be perceived as having a legislative agenda. The presence of Legislators at an event sponsored by a civic organization with no apparent legislative agenda would not ordinarily convert the event into a "lobbying activity".


Chairman