

ADVISORY OPINION 89-51

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON DECEMBER 7, 1989

GOVERNMENTAL BODY SEEKING OPINION

A State Senator

OPINION SOUGHT

Whether it is a violation of the Act for a State Senator to attend a seminar, reception, and dinner sponsored by a telephone company?

OTHER FACTS RELIED UPON BY THE COMMISSION

A seminar, reception, and dinner were held in October at the telephone company's new Technology Center in Charleston.

The Bell Atlantic Chairman, a special guest at the dinner, is the person responsible for deciding whether the company will expand in West Virginia. The Legislators and business people present hoped that the telephone company chairman would look favorably on West Virginia proposals.

STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(c)(1) states that an official or employee of the state may not solicit any gift. No official or employee may knowingly accept any gift, directly or indirectly, from any person whom the official or employee knows or has reason to know:

(A) Is doing or seeking to do business of any kind with his or her agency.

(B) Is engaged in activities which are regulated or controlled by his or her agency.

(C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his official duties.

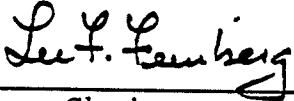
West Virginia Code 6B-2-5(c)(2) states that notwithstanding the provisions of subdivision (1) of this subsection, a person who is a public official or public employee may accept a gift described in this subdivision, and there shall be a presumption that the

provisions of subdivision (1) of this subsection, a person who is a public official or public employee may accept a gift described in this subdivision, and there shall be a presumption that the receipt of such gift does not impair the impartiality and independent judgment of the person. This presumption may be rebutted only by direct objective evidence that the gift did impair the impartiality and independent judgment of the person or that the person knew or had reason to know that the gift was offered with the intent to impair his or her impartiality and independent judgment. The provisions of subdivision (1) of this subsection do not apply to:

(A) Meals and beverages.

ADVISORY OPINION

It is not a violation of the Act for the legislator to attend the seminar, reception and dinner sponsored by the telephone company, since the provisions of subdivision (c)(1) prohibiting the acceptance of gifts by public officials does not apply to meals and beverages as set forth in West Virginia Code Section 6B-2-5(c)(2)(A).

  
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Chairman