

ADVISORY OPINION NO. 2026-07

Issued On September 3, 2026, by

The West Virginia Ethics Commission

OPINION SOUGHT

A **County Economic Development Authority** asks whether the County Commissioner serving as the Commission's representative on the County Economic Development Authority may participate and vote on issues that are or may become adverse to the position or actions of the County Commission.

FACTS RELIED UPON BY THE COMMISSION

Economic Development Authorities (EDA) are created to advance local business prosperity and economic welfare; assist new and existing industries through loans and transactions; promote business expansion, employment, thrift, and living standards; partner with government and local organizations; and provide funding, land, technical support, and aid to approved applicants. [W. Va. Code § 7-12-2.](#)

County Commissions are authorized to form economic development authorities and are charged with appointing members to the county EDAs. The enabling legislation in W. Va. Code § 7-12-3 specifically provides:

The management and control of a county authority, its property, operations, business, and affairs shall be lodged in a board of not fewer than seven nor more than 21 persons who shall be appointed by the county commission and be known as members of the authority. The county commission shall appoint one member to represent the county commission on the board. Members of the board shall be appointed by the county commission.

The County Commission appointed one of its own commissioners to the EDA to serve as the Commission's representative. In addition to the Commission's representative, persons "are eligible to participate in and request the governing body to appoint members to the development authority as the said authority by its bylaws provides. Members can also be drawn from citizens of a county contiguous to the county in which the county development authority is located regardless of their state of residence." W. Va. Code § 7-12-4.

EDA members may not receive any "compensation, whether in formal salary, per diem allowance or otherwise, in connection with his or her services as such member: Provided, That each member shall, however, be entitled to reimbursement by the authority for any necessary expenditures in connection with the performance of his or her general duties as such member....." [W. Va. Code § 7-12-5](#).

Recently, the County Commission appointed additional members to the Authority, increasing the membership from 11 to 17. The EDA's bylaws limit the membership to 11, but W. Va. Code § 7-12-3 permits up to 21 members. The Authority has retained legal counsel to advise the Authority on how to proceed to resolve this apparent conflict. The Requester asks whether the County Commissioner who serves as the Commission's representative may participate in the EDA's decisions that are or may become adverse to the position or actions of the County Commission.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5(j) reads in relevant part:

(j) Limitations on Voting.

(1) Public officials, excluding members of the Legislature who are governed by subsection (i) of this section, may not vote on a matter:

(A) In which they, an immediate family member, or a business with which they or an immediate family member is associated have a financial interest. Business

with which they are associated means a business of which the person...is a[n] employee. . . .

ADVISORY OPINION

County Commissioner appointment to Authority

The Ethics Commission has made clear that nothing in the Ethics Act or W.Va. Code § 61-10-15 prohibits a county commissioner from serving on a county board when the board members are uncompensated. The Ethics Commission, for instance, held in [Advisory Opinion 2019-06](#), a county commission may appoint one or more of its own members to serve as uncompensated members of the county parks commission. In [Advisory Opinion 2022-18](#), the Commission held that a board of education may appoint one of its own members to serve on the county public library board because it was an uncompensated position. The Commission has recognized that other laws apply to prohibit a commission's service on a particular county board. For instance, [W. Va. Code § 16-15-3](#) states that county commissioners are prohibited from serving on a county housing authority. However, the law in the enabling legislation for economic development authorities, W. Va. Code § 7-15-5, states: "The county commission shall appoint one member to represent the county commission on the board."

County Commission Representative's voting limitations

The question today is whether a county commissioner serving on an EDA as the county commission's representative must recuse himself when the EDA is taking up a matter adverse to the position or actions of the county commission. The Ethic Act's voting restrictions in W. Va. Code § 6B-2-5(j) prohibits public officials from voting when they have a financial interest in the outcome.

In [Advisory Opinion 2012-47](#), the requester asked whether a county commissioner who served on the county's ambulance authority may vote on funding requests from the

ambulance authority, or other matters which affect it, since he or she is also an authority board member. The Commission thoughtfully held:

County Commissioners normally serve on county boards as a means for a County Commission to monitor and observe the workings of its boards. County Commissions have a vested interest in the success of its boards and commissions. County Commissioners who serve on these boards, which are subunits of county government, do not, for purposes of the voting provisions in the Ethics Act, have a financial relationship which prohibits them, in their capacity as county commissioners, from voting on matters affecting the boards..... The Commission finds that there is nothing in the Ethics Act which prohibits County Commissioners from voting on matters which affect a county board on which they serve.

In [Advisory Opinion 2014-25](#), the Ethics Commission examined a similar county board issue, holding that a person could serve on both the county economic development authority (EDA) and a public service district (PSD), and permitted the member to vote on any matters between the county entities because the financial interests of the PSD and EDA could not be imputed to him as an uncompensated member of the boards¹. The requester could even vote on funding requests made to the county commission or any contract or other transaction between the EDA and the PSD.

Most recently, in [Advisory Opinion 2022-18](#), the Commission, relying on Advisory Opinion 2012-47, above, held that a board of education member could vote on matters, including financial matters, affecting a public library board on which he or she served as an uncompensated board member.

¹ The financial interest of the county commission may not be imputed to the county commissioner either. The salary of county commissioners is set by [West Virginia Code §7-7-4](#), which fixes salaries according to the classification (size and property values) of each county. Any financial interest the county commissioner would have in the financial well being of the county commission would not differ from that of any other citizen of the county.

The Ethics Commission holds that a county commissioner serving as the commission's representative on the county's Economic Development Authority may participate and vote on issues before the EDA that are or may become adverse to the position or actions of the County Commission because the EDA seat is not compensated.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and W. Va. Code § 61-10-15 and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other similarly situated public servants unless and until it is amended or revoked, or the law is changed.

/s/ Robert J. Wolfe
Robert J. Wolfe, Chairperson
West Virginia Ethics Commission