

ADVISORY OPINION 2026-08

Issued on October 1, 2026, by

The West Virginia Ethics Commission

OPINION SOUGHT

A **County Sheriff** asks whether he can accept compensation in addition to his statutory compensation for working security detail pursuant to a county commission contract with a private pipeline company and whether he can participate in grant-funded initiatives, resulting in overtime compensation.

FACTS RELIED UPON BY THE COMMISSION

The Requester is an elected County Sheriff. Several months ago, the County Commission entered into a contract with a private pipeline company to provide two deputy sheriffs for security at a pipeline job site. The security detail runs from 19:00 to 07:00 hours, Monday through Friday, and 24 hours per day on weekends, with an expected duration through June 2027. The Requester was not personally involved in helping develop the details of the agreement with the pipeline. Rather, a senior deputy who typically handles scheduling helped work out the details for use by deputy sheriffs.

Under the terms of the agreement, the pipeline company reimburses the County Commission at a rate of \$60 per hour for the deputies' time and pays a fee of \$15 per hour for using the county's cruisers. The County Commission disburses these payments to the participating deputies at the rate of \$47.50 an hour with the remaining \$12.50 used to cover the deputies' portion of retirement and other payroll deductions.

Because the deputies are experiencing difficulty covering all required shifts, the Sheriff asks if he can work shifts on the pipeline security detail himself, resulting in extra compensation through the County Commission. The Requester states that he would work the security detail outside of his normal Monday-Friday 8:30am-4:30pm hours. This arrangement would increase his salary and retirement benefits, including overtime pay.

The Sheriff also inquires whether he may participate in after-hours Highway Safety Patrols or STOP Grant enforcement details and receive additional pay including overtime pay. The Highway Safety Patrol is a grant-based program that allows deputies to do extra highway safety road checks and patrols typically on Friday and Saturday evenings. The Sheriff's department has a deputy who is the designated Highway Safety Officer who is responsible for scheduling these additional patrols. The STOP Grant program pays deputies overtime pay for off-time work on domestic-related calls, such as serving emergency protective orders.

The Requester explains that the Sheriff's department has more than four deputies. The Requester's desire to work the pipeline security detail and grant programs is two fold. First, the deputies are having a hard time filling the shifts for the pipeline detail which as noted above is expected to last until mid-2027. Second, the Requester is close to retirement and being able to work these additional details will increase his retirement benefits.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5(b)(1) provides, in relevant part:

A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person.... The performance of usual and customary duties associated with the office or position or the advancement of public

policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

W. Va. Code § 6B-2-5(h)(6) states:

(6) A full-time public official or full-time public employee may not receive private compensation for providing information or services that he or she is required to provide in carrying out his or her public job responsibilities.

W. Va. Code § 61-10-15(a) states, in relevant part:

It is unlawful for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary, supervisor, superintendent, principal or teacher, he or she may have any voice, influence or control....

ADVISORY OPINION

Pipeline Security Detail and Highway Safety Patrols and STOP Grant Overtime Compensation

W. Va. Code § 61-10-15

County officers, including elected sheriffs, are subject to the strict statutory prohibitions contained in W. Va. Code § 61-10-15, a criminal misdemeanor statute prohibiting county officers from having a direct or indirect pecuniary interest in any public contract over which they exercise voice, influence, or control. The Supreme Court of Appeals of West

Virginia has held that W. Va. Code § 61-10-15 is designed to safeguard public funds and remove from public officers all temptation for personal financial advantage. See, *Alexander v. Ritchie*, 132 W. Va. 865, 53 S.E.2d 735 (1949); *Summers County Citizens League, Inc. v. Tassos*, 179 W. Va. 261, 367 S.E.2d 209 (1988).

The Commission has repeatedly noted in past opinions that as an elected executive officer, a sheriff exercises ultimate statutory voice, influence, and control over the operations of the Sheriff's Office, including the deployment of departmental personnel, the assignment of cruisers, and the administration of law enforcement contracts. See Advisory Opinions [2014-17](#), [2016-18](#), and [2025-01](#). Moreover, as noted in [Advisory Opinion 1995-24](#), the Supreme Court of Appeals of West Virginia has held that this provision applies to employment contracts.¹ This advisory opinion further notes that § 61-10-15, “sanctions the mere existence of a pecuniary interest, thus the requester cannot obtain protection from the sanctions of the statute by abstaining from voting....”²

Even if the contract was formally executed between the County Commission and the private pipeline company, the Sheriff holds direct supervisory and operational authority over the performance of the contract. Receiving contract proceeds or an increased salary and pension benefit from a public contract administered by his department constitutes a direct pecuniary interest in a public contract over which he exercises voice, influence, or control, in violation of W. Va. Code § 61-10-15.

The Sheriff also asks whether he may work after-hours Highway Safety Patrols or STOP Grant details and receive overtime pay. Because the Sheriff exercises voice, influence, or control over grant applications, grant administration, and department operations, the same analysis of W. Va. Code § 61-10-15 in the prior question produces the same result here. In [Advisory Opinion 2013-15](#), the Commission found that W. Va. Code § 61-10-15 prohibited a chief deputy from continuing to serve as the county's 911 director

¹ See, *Cimino v. Bd. Ed. of Marion Co.* 210 S.E. 2d 485 (1974), holding that it would be a violation of W. Va. Code § 61-10-15 for a cook to remain employed by the County School Board after her spouse was elected to serve on that County Board of Education.

² See, *Fisher v. Jackson*, 107 W.Va. 138, 147 S.E. 541 (1929).

when the deputy had already been serving in that capacity without pay when he was sheriff. In fact, at the time he was sheriff, the chief deputy had entered into a memorandum of understanding (MOU) with the county commission whereby he or his designee would serve as the 911 director. Consequently, the Commission held that, along with the sheriff, the deputy, given his involvement in the original MOU, as well as the statutory role of a deputy to perform any of the sheriff's duties, had the requisite voice, influence, or control over the new contract to compensate the 911 director under § 61-10-15. The deputy could not be compensated for this work.

Here, the Requester's involvement in ultimately overseeing the administration of these grant programs prohibits him from directly or indirectly benefiting from them under § 61-10-15.

The Ethics Commission holds even though the pipeline security contract is between the County Commission and a private company, W. Va. Code § 61-10-15 prohibits the Sheriff from working the pipeline security detail for additional compensation or increased salary and retirement benefits since the Sheriff exercises voice, influence, or control over the performance of the contract. The Ethics Commission further holds that W. Va. Code § 61-10-15 prohibits the Sheriff from receiving overtime or additional compensation for working Highway Safety Patrols or STOP Grant enforcement details given the Sheriff's voice, influence, or control over these contracts and their administration.

In addition to the prohibition in W. Va. Code § 61-10-15, the Commission will address the private gain and extra compensation restrictions in the Ethics Act although such analysis is not determinative to the final finding as set forth above.

Private Gain

W. Va. Code § 6B-2-5(b)(1) prohibits use of office for private gain. This prohibition includes using one's office or authority to generate additional personal compensation or enhance retirement benefits beyond the lawful emoluments of the elected office. See

[Advisory Opinion 2024-03](#), holding that Board of Education members may not vote themselves additional per meeting compensation during their current term of office; and [Advisory Opinion 2015-14](#), holding that an Executive Director of a County Ambulance Authority could not receive a personal loan from the Ambulance Authority to transfer from the Public Employment Retirement System to the Emergency Medical Services Retirement System as it amounted to private gain in the form both public monies from the board and also in the form of transferring to a retirement system of his choice.

Relevant to the analysis of private gain in this instance is the provision of W. Va. Code § 6-3-1(a)(5) which provides, in relevant part:

A sheriff in any county in which there are more than four deputies shall devote his full time to the performance of the services or duties required by law of such sheriff, and he shall not receive any compensation or reimbursement, directly or indirectly, from any person, firm or corporation for the performance of any private or public services or duties....

Furthermore, W. Va. Code § 7-7-4 establishes statutory annual salaries for various elected county officials including sheriffs. Thus, since the Requester has a department with more than four deputies and has administrative authority over the performance of the contract between the County Commission and pipeline company, his participation in providing security services for additional remuneration would amount to use of office for additional personal compensation beyond what is statutorily allowed.

With respect to the grant programs, given the Requester's administrative authority over these programs, the same private gain analysis performed above for the pipeline security work is also applicable to this issue thus prohibiting this off duty work under the Ethics Act.

Extra Compensation

W. Va. Code § 6B-2-5(h)(6) states:

(6) A full-time public official or full-time public employee may not receive private compensation for providing information or services that he or she is required to provide in carrying out his or her public job responsibilities.

In [Advisory Opinion 2014-26](#), a sheriff's tax deputy asked whether he could operate a business during non-work hours that would provide county taxpayers the ability to pay taxes before they were due. The deputy made it clear that he would not perform any duties of a tax deputy including giving advice on current or future county taxes. The Commission allowed the deputy to operate his intended business with the explicit condition he not provide any services or information he is required to provide in carrying out his public job duties. In the instant case, it is not the duty of a sheriff to provide a security detail at private businesses. While patrolling various areas of the county, including streets or areas with private businesses, is part of law enforcement's normal operations, continuous security monitoring for hours at a time is not. Consequently, § 6B-2-5(h)(6) would by itself not prohibit the Requester from providing security services for the private pipeline as long as any such services do not overlap with the Requester's duties as Sheriff.

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, including W. Va. Code § 7-7-4 (Establishes statutory annual salaries for elected county officials), W. Va. Code § 6-3-1(a)(5) (Establishes full time status of sheriffs) W. Va. Code § 7-14-15a (States, in relevant part: "No sheriff may have a direct or indirect pecuniary interest in any outside employment.")

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