

ADVISORY OPINION NO. 89-122

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON FEBRUARY 1, 1990

GOVERNMENTAL BODY SEEKING OPINION

A State Delegate

OPINION SOUGHT

Whether it is a violation of the Act for a Delegate to solicit gifts for a non-profit, tax-exempt organization of which he is the executive director?

OTHER FACTS RELIED UPON BY THE COMMISSION

This delegate serves as executive director of a group ten months out of the year. The group is a statewide, non-profit, tax exempt organization pursuant to Internal Revenue Code 501(c)(4). The organization's budget is primarily dependent on large numbers of small contributors throughout the State. As a result much of the delegate's time involves soliciting: (1) existing members to contribute again and (2) the general public to become members.

The delegate does not solicit as a public official, nor does he identify himself as a member of the Legislature.

His salary is fixed and he does not receive any commission, remuneration or compensation as a result of his solicitation on behalf of the Organization.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(c)(1) states in pertinent part that...
An official of the state may not solicit any gift...

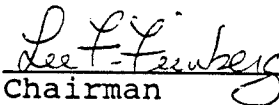
ADVISORY OPINION

It is the Commission's opinion that the Legislature did not intend to prohibit the solicitation of all gifts.

Certain solicitation is permitted by public officials or employees when the following criteria is met:

- 1) It is for a charitable purpose;
- 2) the solicitor does not receive any direct benefit from the gift; and
- 3) the individual does not solicit from subordinates in his place of employment.

It is the Commission's opinion that the delegate's solicitation of members and contributors for the non-profit, tax-exempt organization is not a violation of subsection 5(c)(1) of the Act.


Chairman