

ADVISORY OPINION NO. 90-1

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON FEBRUARY 1, 1990

GOVERNMENTAL AGENCY SEEKING OPINION

A Member of a State Fund

OPINION SOUGHT

Whether State elected public officials' representatives who substitute as Board of Directors at State Fund meetings are required to file financial disclosure statements?

OTHER FACTS RELIED UPON BY THE COMMISSION

Certain elected state public officials are required by statute to serve as Directors of a State Fund. These State public officials are represented by and participate in the Fund through designated representatives.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-6(a) states in pertinent part that...the requirements for filing a financial statement shall become initially effective on the first day of February, one thousand nine hundred ninety, for all persons holding public office or employment on that date and who are otherwise required to file such statement under the provisions of the section...The following persons must file the financial disclosure statement required by this section with the Ethics Commission:

(1) All elected officials in the state, including , but not limited to, all persons elected state-wide...,

(2) All members of State Boards, commissions and agencies appointed by the governor; and

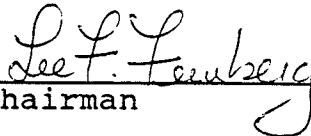
(3) Secretaries of departments, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads and assistant department heads.

ADVISORY OPINION

Subsection 6B-2-6(a) of the Act requires certain individuals to file financial disclosure statements. Included in that group are all elected officials in the State and members of State Boards who are appointed by the Governor.

The officials whose offices are specifically named in the Fund statute to act as Directors are elected and must therefore file a financial disclosure statement under the Act.

However, none of the named officials' designees, including the Governor's designee, is "appointed" in the context of the Act. Therefore, such designees are not required to file financial disclosure statements under the Act unless they are otherwise required to do so in their own right.

  
Chairman