

ADVISORY OPINION NO. 90-55

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON APRIL 5, 1990

GOVERNMENTAL BODY SEEKING OPINION

A County Surveyor

OPINION SOUGHT

1. Whether the provisions of the Act apply to an elected County surveyor?
2. Whether an elected County surveyor must file a financial disclosure statement?

OTHER FACTS RELIED UPON BY THE COMMISSION

The requestor is the duly elected County Surveyor of Lands of and for the County, having been elected to the post during the November General Election in 1988. The requestor maintains that his position is merely a ceremonial post having absolutely no authority, duties or responsibilities as well as receiving no compensation.

The requestor is a licensed land surveyor in the State and maintains an office through his private practice. The County Surveyor is not provided with an office in the County Courthouse, nor is he provided with a County budget or staff.

He has no official duties involving inspecting or licensing as a County Surveyor, and there are no duties specified in the State Constitution.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(a) states in pertinent part that...the provisions of this section apply to all elected public officials whether full or part time, in...county governments.

West Virginia Code Section 6B-1-3(i) states that "public official" means any person who is elected...and who... takes official action which is either ministerial or nonministerial, or both, with respect to (i) contracting for, or procurement of, goods or services, (ii) administering or monitoring grants or subsidies, (iii) planning or zoning, (iv) inspecting, licensing, regulating or auditing any person, or (v) any other activity where the official action has an economic impact of greater than a de minimis nature on the interest or interests of any person.

West Virginia Code Section 6B-2-6(a) states that...the following persons must file the financial disclosure statement required by this section with the Ethics Commission:

1. All elected officials in this state, including, but not limited to, all persons elected state-wide, all county elected officials...

ADVISORY OPINION

1. It is clear from a plain reading of subsection 6B-2-5(a) that the County surveyor as an elected public official is covered by the Act.

Furthermore, "public official" is defined in subsection 6B-1-3(i) to include an elected person who takes official action with respect to any other activity where the official action has an economic impact of greater than a de minimis nature on the interest of any person.

2. As previously noted, the County surveyor is an elected public official. Therefore, it is the Commission's opinion that the County surveyor must file a financial disclosure statement as dictated by subsection 6B-2-6(a) and is hereby given 21 days to file such statement from the date of this opinion.

  
CHAIRMAN