

ADVISORY OPINION NO. 90-123

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JULY 12, 1990

GOVERNMENTAL BODY SEEKING OPINION

A Prosecuting Attorney

OPINION SOUGHT

Whether it is a violation of the Act for a County Board of Education member-elect to be employed on a temporary basis with the County Assessor's office?

OTHER FACTS RELIED UPON BY THE COMMISSION

A newly elected member of a County Board of Education will be sworn in at the first Board meeting held after July 1st. Presently, he has taken temporary summer employment with the County Assessor's office.

As a temporary employee of the County Assessor's office, the employee will receive a prescribed number of working hours for a period of about two months.

As an employee of the Assessor's office his duties will include viewing County property for the purpose of verifying the information contained on the property assessments provided to the Assessor by the State Tax Commissioner.

The County Board of Education member is in no way involved in the formulating of the assessed value of county properties. His job would simply require that he validate the information provided.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(b)(1) states that a public official may not knowingly and intentionally use his office or the prestige of his office for his own private gain...

West Virginia Code Section 6B-2-5(d)(1) states in pertinent part that...no elected public official...may be a party to or have an interest in the profits or benefits of a contract which such official or employee may have direct authority to enter into, or over which he or she may have control: Provided, That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body...


ADVISORY OPINION

The Commission finds that the County Board of Education member has direct authority and control over the letting of the County Board of Education's public contracts.

There is no public contract between the County Board of Education and the County Assessor's office that would provide any benefit to the requestor.

Therefore, it would not be a violation of subsection 6B-2-5(d)(1) of the Act for a County Board of Education member to be employed on a temporary basis with the County Assessor's office.

The Commission would note that the County Board of Education member should be mindful of subsection 6B-2-5(b)(1) of the Act which prohibits a public official from using his office or prestige for his own private gain.


Chairman