

ADVISORY OPINION NO. 90-176

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON NOVEMBER 1, 1990

GOVERNMENTAL BODY SEEKING OPINION

A County Commission

OPINION SOUGHT

Whether it is a violation of the Ethics Act for a County to accept monetary contributions from area businessmen to be used to defray the cost of providing the training required for Deputies of the County Sheriff's Department?

OTHER FACTS RELIED UPON BY THE COMMISSION

Some businessmen in the County would like to make **unsolicited** contributions to the County to be used for the cost of **providing the training required for Deputies** of the Sheriff's Department.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(c)(1) states in pertinent part that...a public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family...No official or employee may knowingly accept any gift, directly or indirectly...from any person whom the official or employee knows or has reason to know:

- (A) Is doing or seeking to do business of any kind with his or her agency;
- (B) Is engaged in activities which are regulated or controlled by his or her agency; or
- (C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his official duties.

West Virginia Code Section 6B-2-5(c)(5) states in pertinent part that...the governor or his designee, may, in the name of the State of West Virginia, accept and receive gifts from any public or private source. Any such gift so obtained shall become the property of the state and shall, within thirty days of the receipt thereof, be registered with the Commission and the Department of Culture and History.

ADVISORY OPINION

Solicitation

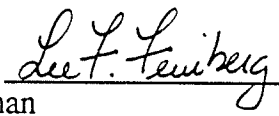
A public official or public employee may not solicit any gift, except for a charitable purpose. The Commission does not consider the funding of the required training for County Deputies to be a charitable purpose. Although the question was not asked by the requestor the County officials and employees may not solicit monetary contributions from area businessmen.

Acceptance

Pursuant to subsection 6B-2-5(c)(1) of the Ethics Act a public official or a public employee may not accept any gift from persons who are seeking to conduct business with the public official's governmental agency, persons who are regulated by the public official's governmental agency or any person who has a financial interest in the performance of the public official's duties.

However, the subsection which prohibits the acceptance of gifts pertains to individual public officials and public employees receiving gifts. In this instance the requestor has stated that the donations from area businessmen would not be used for a specific person's benefit but for the County Sheriff's office as a governmental entity.

The Ethics Act speaks to the solicitation and acceptance of gifts by **public officials and employees** and does not integrate governmental entities into the general prohibitions. The Ethics Commission has determined that public agencies may accept a gift on behalf of their governmental entity, pursuant to subsection 6B-2-5(c)(5). Therefore, it would not be a violation of subsection 6B-2-5(c) of the Ethics Act for a County to accept monetary contributions from area businessmen to be used to defray the cost of providing the training required for Deputies of the County Sheriff's Department.


Chairman