

ADVISORY OPINION NO. 91-11
ISSUED BY THE
WEST VIRGINIA ETHICS COMMISSION
ON MARCH 7, 1991

GOVERNMENTAL BODY SEEKING OPINION

Director of a State Division

OPINION SOUGHT

Whether it is a violation of the Ethics Act for state employees to accept transportation to various in-state sites, and meals and beverages from two Associations whose members are regulated by their State Division?

FACTS RELIED UPON BY THE COMMISSION

A State Division would like to participate in coordinating a tour with two independent Associations of various oil and gas sites throughout the State. Members of the Associations are regulated by the State Division.

The tour would be conducted for Legislators and certain State employees. The purpose of the tour is to educate participants regarding the oil and gas operations and State regulations in this area.

The State Division would like to co-sponsor the tour and allow its employees to participate. Transportation, meals and beverages would be provided to the public officials and employees who choose to attend.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

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

West Virginia Code Section 6B-2-5(c)(1) states in pertinent part that...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)(2) states in pertinent part that...a person who is a public official or public employee may accept a gift described in this subdivision...

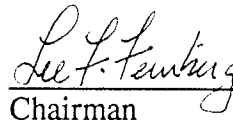
- (A) Meals and beverages;

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Subsection 6B-2-5(c)(1) of the Ethics Act provides that public officials and public employees may not accept any gift from persons who are or may be regulated by their governmental agency.

The Commission recognizes that as a result of this tour the public employees will be receiving free transportation, meals and beverages but considers these benefits to inure to the State and the public in general. It is the Commission's opinion that employee participation in the tour of various oil and gas sites throughout the State for the purpose of gaining information regarding oil and gas operations and State regulations are part of the employee's training and education and would not be considered a prohibited gift within the meaning of the Ethics Act.

Therefore, it would not be a violation of subsection 6B-2-5(c)(1) of the Ethics Act for public employees of a State Division to accept free transportation, meals and beverages from Associations regulated by the State Division since the tour of various oil and gas sites throughout the State would be considered part of the employee's training and education and would inure to the benefit of the State Division.


Chairman