

ADVISORY OPINION NO. 91-33

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON MAY 2, 1991

GOVERNMENTAL BODY SEEKING OPINION

Commissioner of a State Department

OPINION SOUGHT

- a. Pursuant to subsection 6B-2-5(c)(5) of the Ethics Act the Governor or his designee may accept a gift on behalf of the State. The requestor seeks clarification of the term "designee".
- b. What is the definition of the term "gift" as it is used in subsection 6B-2-5(c)(5) of the Ethics Act?
- c. Who is responsible for the notification and registration of gifts which have been accepted in the name of the State and registered with the Commission and the Department of Culture and History?
- d. Whether the Ethics Act requires the listing of the location of all gifts that have been registered with the Department of Culture and History to be maintained?

FACTS RELIED UPON BY THE COMMISSION

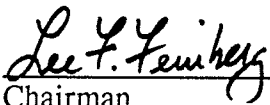
Pursuant to subsection 6B-2-5(c)(5) of the Ethics Act the Governor or his designee may accept a gift on behalf of the State. Any gift which has been accepted in the name of the State must be registered with the Commission and the Department of Culture and History. The requestor seeks the clarification of several issues raised in this subsection.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

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...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

- a. The Commission finds that the term "designee" as it is used in subsection 6B-2-5(c)(5) of the Ethics Act refers to any person who has been specifically appointed or selected by the Governor and given the authority to accept gifts in the name of and on behalf of the State.
- b. The term "gift" as it is used in subsection 6B-2-5(c)(5) of the Ethics Act pertains to any thing of value which is bestowed or donated voluntarily and without compensation.
- c. Subsection 6B-2-5(c)(5) of the Ethics Act does not specifically set out who is responsible for the notification and registration of gifts which have been accepted in the name of the State. However, it is the Commission's opinion that the most efficient method of registration would require the governor or his designee to be responsible for notifying the Department of Culture and History and registering the receipt of the gift.
- d. The requestor asks whether it is necessary to keep track of gift locations once they are received by the Department of Culture and History. The mere initial listing of gifts made to the State would seem useless. It is the Commission's opinion that gift locations should be tracked and gifts should be inventoried to assist the public in the identification and usage of such gifts. Therefore, the custodian or recipient of the gift has the responsibility to notify the Commission and the Department of Culture and History if the article is transferred to a new location.


Chairman