

ADVISORY OPINION NO. #91-51

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JULY 11, 1991

GOVERNMENTAL BODY SEEKING OPINION

A Public Employee

OPINION SOUGHT

- a. Whether it is a violation of the Ethics Act for a public employee to be employed by a lobbying Association while on annual leave from employment with the Legislature?
- b. Whether compensation paid for secretarial services provided during a lobbying Association's annual conference is a lobbying expense required to be disclosed on the Lobbyist Reporting Form?

FACTS RELIED UPON BY THE COMMISSION

An office of the Legislature supervises the clerical business of the Legislature. It is responsible for all of the technical, clerical, custodial and other services required by the Legislature.

The requestor is a full-time employee with this Legislative Office. Her responsibilities include overseeing daily office operations and administration of the office, answering correspondence and telephone requests, scheduling appointments and reservations and compiling election results. The requestor must also compile and publish the Roster of the Legislature and the Directory of State Offices.

The requestor would like to be employed by a lobbying Association to work during its Annual Conference. The Annual Conference extends for a period of five days, during which time the public employee would take annual leave from her public employment position. Her responsibilities during this Conference would include Conference attendee registration, various secretarial duties and coordination of certain social activities.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(h)(1) states that...no full-time public employee who exercises policymaking, nonministerial or regulatory authority may seek employment with, or allow...herself to be employed by any person who is or may be regulated by the governmental body which...she serves while...she is employed or serves in the governmental agency.

West Virginia Code 6B-3-4(b)(2) states in pertinent part that...Lobbyists are not required to report the following:

(D) Any expense for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance...

ADVISORY OPINION

Employment

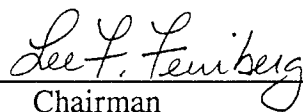
a. Pursuant to subsection 6B-2-5(h)(1) of the Ethics Act, a full-time public employee **who exercises policymaking, nonministerial or regulatory authority** may not seek employment with any person who is or may be regulated by her governmental agency.

The requestor's duties include technical, clerical and supervisory services but do not encompass policymaking or regulatory responsibilities. The Commission has determined that the requestor does not have the requisite authority contemplated by subsection 6B-2-5(h)(1) of the Ethics Act.

Therefore, it would not be a violation of subsection 6B-2-5(h)(1) of the Ethics Act for the requestor to be employed by a lobbying Association while on annual leave from her employment with the Legislature since the public employee does not exercise policymaking, nonministerial or regulatory authority.

Reporting Requirements

b. Subsection 6B-3-4(b)(2) of the Ethics Act provides that a Lobbyist is not required to report expenditures incurred for secretarial and staff assistance. Therefore, compensation paid for secretarial services provided during a lobbying Association's annual conference is not a lobbying expense required to be disclosed on the Lobbyist Reporting Form.


Chairman