

ADVISORY OPINION NO. #92-01

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON FEBRUARY 21, 1992

GOVERNMENTAL BODY SEEKING OPINION

An Assistant Prosecuting Attorney for a County Commission

OPINION SOUGHT

Is it a violation of the Ethics Act for a County Commission to reappoint an individual who owns several businesses which are dependent on large quantities of water to serve as a member of the Public Service District Board of Directors?

FACTS RELIED UPON BY THE COMMISSION

An individual was appointed by the County Commission to serve on the Public Service District Board of Directors in 1984 to fill an unexpired term. He was subsequently reappointed to a six year term, which ended on December 10, 1991.

The County Commission and the Public Service Board would like to consider this former member for reappointment to the PSD Board. This individual currently owns two businesses, a laundromat and a car wash, which use PSD water. These businesses serve customers who live in the PSD's geographic area of responsibility.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

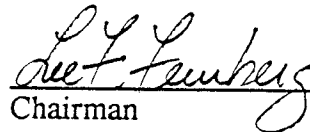
West Virginia Code §6B-2-5(b)(1) states in pertinent part that...a public official...may not knowingly and intentionally use his...office or the prestige of his...office for his...own private gain or that of another person.

ADVISORY OPINION

Nothing contained within the Ethics Act would prevent the County Commission from appointing a person as a member of the Board of Directors of a Public Service District simply because he is the owner of businesses which are large customers of the PSD. The Act also would not prevent the appointment because those businesses may serve customers who do not presently have access to public water although they live within the geographic area served by the PSD. Therefore, the County Commission would not violate the Ethics Act if it reappointed the former member to serve on the PSD Board.

This opinion is directed to the County Commission only and may not be relied upon as any grant of immunity under the Ethics Act by the individual who may be reappointed.

Although the Act does not prevent the member's reappointment to, or service on, the Board, any individual who is appointed would be subject to the provisions of the Ethics Act. He should be aware of all the prohibitions contained in the Ethics Act including, but not limited to, the use of public office for private gain and the improper disclosure of confidential information. Further, the member should be mindful of subsection 6B-1-2(c) which provides that a public official should not vote on any matter which is "personal" to that official.


Chairman