

ADVISORY OPINION NO. 99-22

Issued On August 5, 1999 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A County Ambulance Authority Employee asks whether he may serve as a member of the board of an Ambulance Authority in another County.

FACTS RELIED UPON BY THE COMMISSION

The Requester is a full-time employee of a County Ambulance Authority. He has been appointed to a part-time position as a member of the board of an Ambulance Authority in another County. The Authority whose board he serves will purchase some of its medical supplies from the Authority by which he is employed.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(d)(1) provides in pertinent part that...no elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which such official or employee may have direct authority to enter into, or over which he or she may have control:...

West Virginia Code Section 61-10-15 states in pertinent part that...It shall be unlawful for any member...of any county or district board...to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in furnishing any supplies in the contract for, or the awarding or letting of, which as such member he may have any voice, influence or control.


ADVISORY OPINION

Both the Ethics Act and WV Code 61-10-15 prohibits public servants from having a personal financial interest in a public contract, purchase or sale over which their public positions gives them control. WV Code 61-10-15 applies only to certain county personnel.

If the Requester's employment by a County Ambulance Authority gives him a private financial interest in that Authority's sales, then it would be a problem for it to sell to the other Authority, whose contracts he controls as a board member.

For example, if the Requester were employed by a private business, it would be a violation of WV Code 61-10-15 for that business to sell supplies to the Authority on whose board he serves. Employees of private businesses are deemed to have a financial interest in the contracts of their employers. Thus the Requester would have an indirect private financial interest in the sales of his private employer to the public Authority on whose board he served.

However, the Commission finds that neither the Ethics Act's prohibition, nor that of WV Code 61-10-15, are intended to apply to the sales of one public agency to another. Therefore, it would not be a violation of either for the Requester to serve on the board of an Authority which purchases supplies from another Authority by which he is employed.


Chairman