

OPEN MEETINGS ADVISORY OPINION NO. 2004-08

Issued On June 3, 2004 By The

WEST VIRGINIA ETHICS COMMISSION
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

The Summers County Convention and Visitors Bureau (SCCVB) asks if the Open Meetings Act applies to its meetings.

FACTS RELIED UPON BY THE COMMITTEE

SCCVB was established as a non-profit corporation to promote tourism and attract conventions, conferences and visitors to Summers County. SCCVB operates as a tax-exempt, private organization under § 501(c)(3) of the federal Internal Revenue Code. In accordance with W. Va. Code § 7-18-13, SCCVB receives certain proceeds from the hotel occupancy tax authorized by W. Va. Code § 7-18-1, *et seq.*

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

The Open Meetings Act applies to “public agencies” which are defined in W. Va. Code § 6-9A-2(6) as:

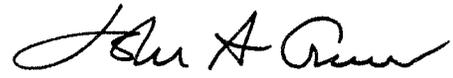
any administrative or legislative unit of state, county or municipal government, including any department, division, bureau, office, commission, authority, board, public corporation, section, committee, subcommittee or any other agency or subunit of the foregoing authorized by law to exercise some portion of executive or legislative power.

ADVISORY OPINION

The Open Meetings Act applies only to public agencies. The Act says that “public agency means any administrative or legislative unit of state, county or municipal government, including any department, division, bureau, office, commission, authority, board, **public corporation**, section, committee, subcommittee or any other agency or subunit of the foregoing, authorized by law to exercise some portion of executive or legislative power.”

If SCCVB is to fit into the Act’s definition of a public agency, it must be as a public corporation. In Open Meetings Advisory Opinion 99-13, the Committee determined that a public corporation is a corporation created by state or local authority to carry out a governmental function. The Committee further noted that the Act does not look at an organization’s receipt of state or local funds as a factor in determining whether the organization is a public corporation.

SCCVB is not a corporation created by state or local authority to carry out a governmental function. It exists independent of state authorization, and the Committee finds that it is not a public corporation and, therefore, is not subject to the Act.



Chairman