

April 20, 1999

Re: IO-99-76: secondary employment

You inquired whether you could accept secondary employment with the East Coast Greenway Alliance, a non-profit organization based in Rhode Island, that is developing a system of trails extending from Maine to Florida. You have been a member of the organization for several years and have served as a noncompensated member of the board of directors since 1995. You have recently been offered a compensated position with this organization. Your duties will include setting up state committees to develop trails for the trail system, and to otherwise act as a regional coordinator for the organization. You will have no duties in Maryland since the Maryland portion of the trail system is already completed. Your duties will take place only out of state. Although this job requires some travel, you have indicated that you can perform your duties in the evenings and on weekends. Your supervisor has been supportive of your volunteer work for this organization and has no objection to your assuming the compensated position. If you accept this position, you will resign from your membership on the board.

Two sections of the Public Ethics Law are relevant to your inquiry. Section 3-104 prohibits an employee from using the prestige or authority of the office or position for the employee's personal gain. This section has been interpreted to mean that an employee may not use county contacts or skills acquired solely through county employment to secure an outside job. In your case, the job offer flowed from your volunteer membership and participation with East Coast Greenway, and the education and experiences you developed prior to joining the Department of Recreation and Parks, as well as your knowledge of the county park system. You obtained your education at the University of West Virginia, earning a degree in Wild Lands Administration, and served as a park ranger for the State of Maryland prior to joining the county as its first park ranger in 1982. Subsequently, you became the chief ranger of the B&A trail and then the park superintendent. Your county job duties involve the oversight of the operations, budget and personnel who manage the trail. During your tenure with the county, the B&A trail became part to the trail system being developed by East Coast Greenway. Although the experiences and knowledge you acquired on your county job would certainly be attractive to your proposed secondary employer, they are not the sole or necessarily primary reasons for your job offer. Therefore, it cannot be said that you used the prestige or authority of your office to obtain this offer of a position.

The other section of the ethics law pertinent to your inquiry is §3-105, which regulates secondary employment. In pertinent part, it would prohibit you from accepting a job with East Coast Greenway if it is subject to the authority of the Department of Recreation and Parks, or is negotiating a contract with the agency. You have indicated that neither of these relationships exist between the county and the proposed employer.

Another part of §3-105 would prohibit you from accepting any employment that would impair your impartiality or independent judgment. Since your duties for East Coast Greenway would occur only outside of the state, there are no apparent opportunities for impairment of your judgment.

Section 3-105(c)(2) would prohibit you from accepting employment with East Coast Greenway in order to assist the secondary employer in connection with any manner in which the county has an interest. The ethics commission has interpreted this provision to include only those county interests that may become adverse or competitive with the secondary employment. It would not appear that the mutual interests of the county or East Coast Greenway would be adverse or competitive in nature. In fact, your supervisor has supported your participation as a volunteer in this organization because of the identity of interests between the county and the organization.

Based on the information provided by you, the commission concludes that you may accept this secondary employment under certain conditions. Your duties with the organization cannot involve any county business, or county time or resources. (The prohibition against using county time or resources also applies to work conducted as a volunteer). If your job duties should change, or if your secondary employer has occasion to participate in business with Anne Arundel County or develops interests that might conflict with the county's interests, you will need to reexamine the provisions of §3-105 and §3-104. The ethics commission will provide you with any further guidance you may require.

Thank you for your inquiry.

Sincerely,

Betsy K. Dawson
Executive Director