

June 26, 2000
Re: IO-00-105

You inquired whether you may participate in the discussion and vote on Bills No. 42-00 and 43-00, dealing with pensions and personnel pay scales, respectively. You stated that AO-98-105 and IO-00-44 would appear to prohibit you from participating in these bills which affect not only the fire department, where your spouse is employed, but also all other employees of the county.

Bill No. 42-00 affects the election by employees to participate in tier one or tier two pension plans. As to the fire department, it eliminates tier two completely, making all firefighters tier one participants. You indicated that your spouse is already a tier one employee, and that this bill will not affect -- personally. More significantly, you indicated that this measure codifies the agreement negotiated between the county and the fire fighters union.

Bill 43-00 affects the pay scales of most or all county employees, and again, where the fire fighters union is concerned, codifies the agreement reached by negotiation between the fire fighters union and the county.

The ethics commission has previously advised that a conflict of interest as to one portion of a bill, does not necessarily prohibit a council member from voting on the entire bill, if the problematic portion is but a small part of the overall legislation. See, AO-99-87. The questions you raise present the same issues. Because the pension and personnel bills potentially affect all employees, it is my opinion that you may participate in the work sessions and in the public hearings on these bills. However, you should be circumspect in participating in that portion of either bill that deals with items of specific concern to the fire fighters' union since those are matters in which your spouse has an interest. I am enclosing for your information a form prepared in compliance with §3-102(c), that we have previously submitted to the county council for its use as appropriate.

You have also asked for an opportunity to address the full ethics commission concerning the scope of the limitations that advisory opinions have placed on your participation in fire department matters. The next ethics commission meeting is scheduled for July 10, 2000 at 6:00 p.m. at the ethics commission office and you have a place on the agenda. I look forward to seeing you then.

Thank you for your inquiry. If you have other questions, please call any time.

Sincerely,

Betsy K. Dawson
Executive Director

enclosure