

March 3, 2003

Re: IO-03-01

You inquired whether you may accept secondary employment as a consultant to private landowners in surveying property and designing ponds. Your "county" job is with the Anne Arundel Soil Conservation District. Your private work would be outside of Anne Arundel County and your concern is that your private work will involve some interaction with employees of other county soil conservation districts.

As I advised you by phone, the first issue of concern is whether employees of the Soil Conservation District are covered under the county's ethics law. Staff members of the State Ethics Commission concluded that Soil Conservation Districts are not state agencies and are not covered under the state's Public Ethics Law. After reviewing state laws and county ordinances as well as other legal material, the ethics commission has reluctantly concluded that the county's Public Ethics Law does not cover the employees of the Soil Conservation District either.

The Public Ethics Law covers all county employees, defined in §1-101(f). There are two definitions that would be most likely to cover the Soil Conservation District. Subsection (f)(1)(i) defines an employee as "an individual elected to, appointed to, or employed in the Executive or Legislative Branch of the County." The second provision, subsection (f)(1)(ii), defines an employee as "a member of any County board, commission, or similar entity." If the employees of the Soil Conservation District are employed in the executive branch of the county government, or if they are members of a county board, commission, or similar entity, they fall within the jurisdiction of the county's public ethics law.

A soil conservation district "constitutes a political subdivision of the State, and a public body corporate and politic." §§8-101 and 8-306, Agriculture Article, Annotated Code of Maryland. See also, § 1-501(c), Natural Resources Article. Its powers are granted by state statute. It has the authority to enter into contracts, buy or sell property, and sue or be sued. Its employees are hired by the Soil Conservation Commission board of directors, and serve at the pleasure of the Board. Anne Arundel County Code, Article 8, §2-102.1. The employees of the Soil Conservation District are employees of an independent political subdivision, not the executive branch of the county government. Since the powers and duties of the district are not granted or controlled by the county, its employees are not members of a county board.

The fact that the county provides funding for the district or pays its employees does not conclusively establish an executive branch connection, at least for purposes of the ethics law. The employees of the health, social services, state's attorney, and sheriffs offices are paid by the county and generally consider themselves to be county employees but the State Public Ethics Law covers all of these employees.

In the absence of jurisdiction over the employees of the Soil Conservation District, the ethics commission cannot provide you with the advice you requested. I will be happy to discuss the matter with you informally only if you care to do so. Please accept my apology for the delay in responding to your inquiry, and for the unsatisfactory result. Please call me if you would like to discuss this further.

Sincerely,

Betsy K. Dawson
Executive Director