

October 29, 2003
Re: IO-03-94

You inquired whether you may participate in the discussion and vote on Bill 73-03, which was introduced on October 20, and which is scheduled for a public hearing on November 17, 2003. The ethics commission advises that you may not participate in legislative action on Bill 73-03.

This bill has been proposed as part of the process of developing binding arbitration procedures required by the Charter, §812. That Charter provision, approved by the voters in November, 2002, requires that the county council enact legislation to provide for binding arbitration to resolve “labor disputes” between the county and the public safety employees unions. The provision specifies that the arbitrator’s decision shall relate to the employees’ “terms and conditions of employment”.

In Bill 1-03, the county council enacted procedures to be followed when an impasse is reached between the county and the public safety employees’ unions. In that bill, Article 8, §4-101(j) defined an impasse to mean an inability of the county and the union(s) to agree on the “wages, hours, working conditions, or other terms and conditions of employment” . . .

Bill 73-03 now attempts to define the phrase, “wages, hours, working conditions, or other terms and conditions of employment”. Section 4-101(r)(2) would specifically exempt from this phrase, issues related to retirement benefits, hiring standards, establishment of work schedules, standards of productivity, discipline and termination of employees, and other aspects of employment.

In defining what is meant by terms of employment, the county council will not merely be carrying out a non-discretionary duty imposed by new Charter section 812. It will be exercising discretion in determining what issues may or may not be considered by an arbitrator. In considering this bill, the county council will be considering the viewpoint of the public safety employees’ unions, which have a significant interest in the outcome of this bill. Your spouse is a member of a public safety employee’s union, and therefore, has an interest in, and will be affected by this bill, and by the limitations on the subjects that may be considered by an arbitrator.

Under §5-111(a)(1)(I) of the Public Ethics law, recently enacted by the county council in Bill 38-03, a member of the county council may no longer suspend a disqualification from acting on any legislative matter in which an immediate family member has an interest. Since your spouse has an interest in the legislation that is “distinguishable from that of the public generally”, according to §5-101(a)(1), you are disqualified from participating in Bill 73-03. See IO-02-46, and citations therein.

Thank you for your inquiry.

Sincerely,

Betsy K. Dawson
Executive Director