



ETHICS COMMISSION
ANNE ARUNDEL COUNTY

October 9, 2007

Sent By Electronic Mail

Re: AO-07-67: Participation in Bill 71-07

You filed a Disclosure of Apparent Conflict of Interest Statement concerning Bill 71-07, but indicated that you believe that you may participate in the bill fairly, objectively, and in the public interest. The bill grants EMT-Paramedic certification allowances to non-union fire department battalion chiefs, fire division chiefs, and fire deputy chiefs. This bill will not directly affect your spouse who is a lieutenant in the fire department and already receives the allowance as per the collective bargaining agreement. Because your spouse has no interest in the outcome of this legislation, and because the possibility of a future interest is speculative, the ethics commission concluded that the ethics law does not prohibit your participation. In reaching this conclusion, the ethics commission presumes that you do not, in your private capacity as an attorney, represent any battalion chiefs, fire division chiefs, or fire deputy chiefs. If you do privately represent any of the officials that may be affected by this bill, both §7-5-110(c)(2) and §7-5-101(a)(2)(iv) would prohibit your participation.

You should also be aware that there was considerable opposition to this decision, and the members concluded that your participation, while not strictly prohibited, would create a significant appearance of conflict of interest. Although your spouse will not be directly affected by this legislation, your spouse is far more likely to be affected by this legislation than the members of the general public, since your spouse may eventually seek promotion to one of the positions affected by the bill. Additionally, some of your spouse's superior officers will be directly affected by this legislation. It is not unreasonable to assume that your interest and ongoing participation in fire department issues tends to create pressure on your spouse to "lobby" on behalf of your spouse's co-workers and superior officers.

Section 7-5-101(a)(2)(ii) prohibits an employee from participating in any matter in which a party to the matter employs the spouse of the employee. While the fire department is not a party to the legislation, the rationale behind this provision of law is certainly applicable in your spouse's situation. Whether an employee's spouse works for a "party to the matter" or for an entity affected by a matter, the appearance of a conflict of interest is created by the employee's participation in the matter.

For these reasons, the ethics commission advises that your participation in Bill 71-07 is not advisable but is not strictly prohibited by the ethics law.

The Anne Arundel County Ethics Commission

/s/

By: _____
Betsy K. Dawson, Executive Director