



**ANNE ARUNDEL COUNTY  
ETHICS COMMISSION**

December 11, 2007

***By Electronic Mail Only***

Re: AO-07-95

You inquired whether the ethics law precludes members of the county council or employees of the auditor's office from participating in discussions with the administration or legislative actions regarding modifications to retiree health benefits. Your inquiry is based on the fact that potentially all county employees, including members of the council, may be affected by any such modifications.

It is true that under §§7-5-101 of the ethics law, an employee is prohibited from participating in any matter in which the employee has an interest. However, §7-5-101(c)(1) provides that participation is allowed where "the disqualification would leave a body with less than a quorum capable of acting." In [AO-99-02](#), the ethics commission responded to a similar inquiry and advised that members of the county council could, because of this latter provision, participate in two pension bills then under consideration. The opinion stated that,

It would be hard to imagine a local government where elected officials do not occasionally experience the effects of the laws they enact. They establish and vote on zoning policy, budgets, school issues, and numerous other issues that affect them and their families personally. Their residency in the county, by itself, does not create the kind of interest in a matter that requires disqualification from participation under §3-101(a). On other occasions, the county council considers legislation that will affect [the members] as well as all other county employees. . . . For this reason, [§7-5-101(c)(1)] was created, expressly granting authority for an employee or official to act on a given matter, even if the employee has an interest in the matter, if the disqualification would leave a body with less than a quorum capable of acting on the matter. The only requirement is that the employee or official disclose the nature of the potential or actual conflict. In the case of the bills currently under discussion, the apparent conflict is a matter of public record.

Based on this opinion, and upon the necessity of having employees make decisions that may potentially affect them, the ethics commission advises that the council members and other employees may participate in matters regarding modifications to retiree health benefits.

Thank you for your inquiry.

The Anne Arundel County Ethics Commission

/s/

By: \_\_\_\_\_  
Betsy K. Dawson, Executive Director