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Re: County Ordinance No. 05-18

To the County Commissioners:

We are concerned by one of the proposed amendments to the Human Resources Code contained in County Ordinance No. 05-18. Of concern is a proposed addition to '27-76.

'27-76 currently reads:

Outside Employment.

- A. The work of the County shall have priority over the other occupational interests of employees.
- B. An employee shall not undertake any outside work, which would create a conflict of interest or otherwise be incompatible with County service.

The proposed amendment would add to this section a new subparagraph (B)(1):

(1) A conflict of interest shall be determined by the employee's appointing authority.

According to the Queen Anne's County Code, the determination of whether or not a County employee's outside employment is in conflict with that employee's County service is made by the Ethics Commission, not by the person who appoints the employee. The Ethics Code (Chapter 8) provides:

8-10 Administration; Powers and Duties. . . .

(b) This Commission shall be the advisory body responsible for interpreting this Chapter and advising persons subject to it as to its application.

8-11 Conflicts of Interest

Queen Anne's County officials, board and commission members, and employees as provided in Section 8-5 shall be prohibited from the following: . . .

(c) Holding any other employment relationship if that employment relationship would impair the impartiality and independent judgment of the official or employee.

8-15 Exemptions; modifications.

The Commission may grant exemptions and modifications to the requirements of Section 8-11(Conflicts of Interest)

Comment:

There is no good reason we can think of for the proposed addition to '27-76.

An employee's appointing authority should not be the one to determine what constitutes a conflict of interest. Conflicts of interest should be decided by an independent Ethics Commission that has no stake in the decision and is guided by the provisions and precedents of the Ethics Code.

This amendment could unnecessarily cause problems for employees and their appointing authorities. It has the potential of leading them to believe that a determination with respect to a possible conflict of interest made by the appointing authority under the Human Resources Code satisfies the Ethics Ordinance requirements administered by the Ethics Commission.

Should this confusing provision be added to the Human Resources Code, it should at least be qualified with the same statement that qualifies provisions in another section (Article XVI) of the HR Code:

"These provisions are supplemental to the Queen Anne's County Ethics Ordinance and are not intended to substitute and/or abrogate any requirement of such ordinance."

Thank you for your attention to this concern.

Sincerely,

Mary Campbell for Ethics Matters, Inc.

