

**[Advisory Opinion 1992-12]**  
ADVISORY OPINION 92-37

The Ethics Commission has reviewed your request for advice dated November 11, 1992. Based on your request, the Commission understands the facts which form the basis of your inquiry are as follows:

You are a Special Assistant to the County Executive appointed under Charter Section 401. Among your duties, you act as a senior adviser to the County Executive and the Department of Environmental Protection (DEP) on solid waste disposal matters. The County is currently considering whether solid waste should be disposed within Montgomery County or if an out-of-County disposal option should be selected.

Your request for advice indicates that your brother-in-law's firm has been retained by Browning Ferris Industries (BFI), a solid waste disposal business, to provide advice and services in promoting a grass roots education campaign in support of out-of-County solid waste disposal. Your brother-in-law's firm is being paid by BFI on an hourly basis. You've indicated you have no economic relationship with your brother-in-law or his firm. Finally, the grass roots education campaign does not involve direct contact with the County government.

Section 19A-11 prohibits a public employee from participating in any matter that affects, in a manner distinct from its effect on the public generally, a business in which a relative has an economic interest, if the public employee knows about the relative's interest.<sup>1</sup> Section 19A-11(a)(2)(B) prohibits a public employee from participating in a matter if the employee knows that a party to the matter is a business in which a relative has an economic interest.<sup>2</sup>

The compensation being paid by BFI to your brother-in-law's firm does not depend upon which option the County selects. The services being performed by your brother-in-law's firm for BFI are predecisional in nature; accordingly, continued work by the firm for BFI is not dependent upon the particular solid waste disposal option selected by the County. Therefore, the Ethics Commission does not believe your participation as a senior policy adviser to the County Executive and DEP on solid waste disposal matters creates a conflict of interest.<sup>3</sup>

The Ethics Commission trusts that you will find this advice responsive to your inquiry. If you have further questions, please do not hesitate to contact the Commission.

Date of Issue: 12/14/92

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<sup>1</sup> Section references are to the Montgomery County Code (1984).

<sup>2</sup> Section 19A-4(n) defines "relative" to include a brother-in-law.

<sup>3</sup> Under the circumstances of this case, the Ethics Commission would like to remind you that you will need to be especially sensitive about discussing solid waste issues with your brother-in-law. Section 19A-15(a) prohibits a public employee from disclosing confidential information that is not available to the public.