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"A Public Office is a Public Trust"

January 14, 2019

Mr. Richard Pringle
General Counsel
Lehigh Acres Fire Control and Rescue District
Via Email

Re: Voting Conflict

Dear Mr. Pringle:

This letter is the response to your inquiry. It is based upon the information contained in your letter dated January, 9, 2018, emails dated January 11, 2019 and January 14, 2019, as well as follow-up telephone conversations with your office regarding this inquiry.

You indicate in your letter that the Public Employees Relations Commission has recognized and approved a Collective Bargaining Unit (Unit) for all of Lehigh Acres Fire Control and Rescue District's (District) employees in the rank and file employment job descriptions of the District. You relate that the Unit is represented by Local 1826 of the International Association of Fire Fighters and that approximately 105 employee positions are covered by the Unit, approximately 95 of which are currently filled. You further relate that the interests¹ of all of the subject employees are covered by a Collective Bargaining Agreement (CBA) that is pending voting approval by the District's board of commissioners. You indicate that two commissioners² have one relative³ each that is both a fire fighter⁴ and member of the Unit.

¹ You relate that, upon approval of the CBA by the District's board, none of the employees in the Unit will receive special treatment in the form of a greater benefit or harm, when compared to other members of the same job position in the Unit.

² Commissioner Cathy Kruse and Commissioner Lucia Sherman.

³ "Relative" means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law. [Section 112.3143(1)(c), Florida Statutes].

⁴ Your office indicates that neither of the subject fire fighters/members of the Unit are in a supervisory role.

Relevant to your inquiry is Section 112.3143(3)(a), Florida Statutes, which states:

Voting conflicts.—No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

In situations where the interest of a public official (e.g., commissioner) involves a somewhat large class of affected persons (such as the approximately 95 employees in the Unit), the Commission on Ethics has concluded that that no voting conflict is present due to there being no "special" gain. See CEO 01-8 and CEO 90-71; *See also*, Section 112.3143(1)(d), Florida Statutes.

Therefore, should the two local public officials—discussed herein—vote upon the approval of the CBA in their official capacity, apparently no voting conflict would be created.⁵

Sincerely,

Deanna E. Rahming

Deanna E. Rahming
Attorney
Florida Commission on Ethics

⁵ Based upon our communications, neither of the subject fire fighters/members of the Unit will be promoted or elevated from their current position upon approval of the CBA. Thus, the anti-nepotism law (Section 112.3135, Florida Statutes) apparently would not be triggered.