

**Department of Legislative Services**  
Maryland General Assembly  
2014 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 91 (Chair, Education, Health, and Environmental Affairs  
Committee)(By Request - Departmental - Ethics  
Commission, State)

Education, Health, and Environmental Affairs

Environmental Matters

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**State Ethics Commission - Local Governments and School Boards - Compliance  
Enforcement**

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This departmental bill makes various changes to the Maryland Public Ethics Law relating to the development and enforcement of ethics requirements for local school boards, counties, and municipal corporations.

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**Fiscal Summary**

**State Effect:** None. The bill's requirements can be handled with existing budgeted resources.

**Local Effect:** Local finances are not materially affected.

**Small Business Effect:** The State Ethics Commission has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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**Analysis**

**Bill Summary:** The State Ethics Commission must adopt, by regulation, model provisions for school boards that relate to conflicts of interest, financial disclosure, and the regulation of lobbying. These provisions may be adopted by any school board or imposed on a school board. If the commission determines that a school board has not complied with and has not made good-faith efforts toward compliance with the adoption

of ethics regulations for members of the school board, as required by the Maryland Public Ethics Law, the commission may (1) issue a public notice concerning the failure of compliance, including a list of specific areas of noncompliance; (2) issue an order stating that officials and employees of the school board are subject to the local ethics laws in the county in which the school board is located; and (3) petition a circuit court to compel compliance. The circuit court may grant any available equitable relief.

Additionally, if the commission determines that a county or municipal corporation has not complied with and has not made good-faith efforts toward compliance with the adoption of ethics regulations for local governments, as required by the Public Ethics Law, the commission may issue a public notice concerning the failure of compliance, including a list of specific areas of noncompliance.

**Current Law:** If the State Ethics Commission determines that any provision of the Public Ethics Law has been violated, the commission may (1) issue an order of compliance directing a respondent to cease and desist from the violation; (2) issue a reprimand; and (3) recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal, if that discipline is authorized by law.

The Maryland Public Ethics Law requires each county and municipal corporation to enact provisions governing the public ethics of local officials related to conflicts of interest, financial disclosure, and lobbying. Chapter 277 of 2010 requires that the ethics laws of a county or municipal corporation must be similar to or substantively similar to the State Public Ethics Law, but may be more stringent based on local circumstances where more stringent provisions are necessary to prevent conflicts of interest. To assist local governments in developing ethics regulations, the State Ethics Commission is required to adopt, by regulation, model provisions for local governments that relate to conflicts of interest, financial disclosure, and regulation of lobbying. These model provisions may be adopted by or imposed upon a local jurisdiction. If the State Ethics Commission determines that a local jurisdiction has not complied with these requirements, the commission may petition a circuit court to compel compliance.

Local school boards are also required to adopt public ethics regulations related to conflicts of interest, financial disclosure, and lobbying. Because school boards enact their own ethics regulations, they are independent from county ethics laws. The commission has developed, and adopted by regulation, model provisions for local school boards, but is not required to do so by statute. Chapter 277 of 2010 also requires that the ethics laws of a county or municipal corporation must be similar to or substantively similar to the State Public Ethics Law, but may be more stringent based on local circumstances where more stringent provisions are necessary to prevent conflicts of interest. Unless a school board adopts and maintains appropriate ethics regulations, the ethics provisions adopted by the county in which the school board is located apply to the

school board. There are no additional enforcement options available to the State Ethics Commission to compel local school board compliance with these requirements.

**Background:** The primary enforcement alternative available to the commission with respect to the Maryland Public Ethics Law requirements for local governments is to file a suit in circuit court, and alternatives available in the case of a noncompliant school board are more limited. To ensure that these similar entities are treated consistently, the commission recommends equal compliance enforcement authority for both local school boards and local governments by allowing the commission to petition a circuit court for compliance for local school boards as well. The commission advises that most local governments and all school boards are in compliance with the Maryland Public Ethics Law.

Due to this high level of compliance, the commission reports that it has not needed to bring suit against any local government in circuit court. The commission advises that litigation is costly and time-consuming for the local government or school board, as well as the commission. With the authority conferred by the bill to make a public order compelling compliance and to make an order stating a school board is subject to the local ethics laws, the commission has additional, less costly alternatives to ensure that the Maryland Public Ethics Law is upheld.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Ethics Commission, State Board of Elections, Judiciary (Administrative Office of the Courts), Baltimore City, Kent and Montgomery counties, Town of Leonardtown, Department of Legislative Services

**Fiscal Note History:** First Reader - January 21, 2014  
mam/kdm Revised - Senate Third Reader - March 18, 2014

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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Public Ethics-Local Governments and School Boards-Regulations-Enforcement

BILL NUMBER: SB 91

PREPARED BY: State Ethics Commission

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small businesses.