

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 1024 (Senator Brinkley)
Education, Health, and Environmental Affairs

Public Ethics Law - Prestige of Office - Prohibited Use

This bill prohibits an official from intentionally using his or her prestige of office or public position to solicit, compel, or oblige a public or private entity into an agreement with a labor organization.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Under the Maryland Public Ethics Law, an official or employee may not intentionally use his or her prestige of office or public position for his or her own private gain or the private gain of another. This prohibition, however, does not prohibit the performance of usual and customary constituent services, without additional compensation.

“Official” means either a State or public official. “State official” is defined in statute and includes a constitutional officer or officer-elect in an executive unit and a member or member-elect of the General Assembly. In most cases, whether an individual in an executive unit is a public official is determined by the State Ethics Commission according to criteria generally relating to the individual’s pay grade, decisionmaking authority, and/or role as an advisor to a person with decisionmaking authority.

An individual in the Legislative Branch is a public official if the individual receives a specified level of compensation and is designated a public official by order of the Presiding Officers of the General Assembly.

Members of unions are required to pay membership fees and generally have access to additional services or benefits beyond representation. Other employees who are not members may be represented by unions and may or may not have to pay service fees. These employees generally do not have access to services or benefits beyond representation.

It is the policy of the State that negotiation of terms and conditions of employment should result from a voluntary agreement between employees and the employer and, thus, each individual worker must be fully free to associate, organize, and designate a representative for negotiation of terms and conditions of employment. This process must be free from coercion, interference, or restraint by an employer in (1) designation of a representative; (2) self-organization; and (3) other concerted activity for the purpose of collective bargaining or other mutual aid or protection. State law establishes a procedure for certifying a labor organization as the bargaining representative for a workplace, and a majority of employees must vote in favor of joining a union in order for a workplace to unionize.

Background: According to the U.S. Bureau of Labor Statistics, 11.6% of employees in Maryland were *members of* unions and 13.1% of employees in Maryland were *represented by* unions (which include those paying service fees) in 2013. These percentages are slightly higher than the national average of 11.3% and 12.4%, respectively. **Exhibit 1** shows the percentage of union members and workers represented by unions in Maryland and its surrounding states, including the District of Columbia.

Exhibit 1
Union Participation Rates in Maryland and Surrounding States
2013

	<u>Union Members</u>	<u>Represented by Unions</u>
Delaware	10.3%	11.0%
District of Columbia	9.3%	11.0%
Maryland	11.6%	13.1%
Pennsylvania	12.7%	13.7%
Virginia	5.0%	6.4%
West Virginia	12.7%	13.5%

Source: U.S. Department of Labor

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Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, U.S. Bureau of Labor Statistics, U.S. Department of Labor, State Ethics Commission, Department of Legislative Services

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ncs/kdm

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