

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 175 (Anne Arundel County Delegation)
Environment and Transportation

Anne Arundel County - Police Officers - Secondary Employment

This bill authorizes Anne Arundel County to enact a local law that allows secondary employment of county police officers.

Fiscal Summary

State Effect: None.

Local Effect: The bill's authorization for Anne Arundel County to enact a local law is permissive in nature and has no direct fiscal or operational impact on the county.

Small Business Effect: None.

Analysis

Current Law: Each county and municipality is required to enact provisions to govern the public ethics of local officials relating to conflicts of interest, financial disclosure, and lobbying. The conflict of interest provisions must be similar, but not necessarily identical, to provisions applicable to State employees. Accordingly, local laws generally restrict the secondary employment of government employees and officials, but authorize a local ethics commission to grant exceptions on a case-by-case basis.

With regards to secondary employment for elected and nonelected local employees, regulations of the State Ethics Commission (COMAR 19A.04.02.04) state the following:

- Local laws must include, for elected local officials, the secondary employment restrictions included in under specified section of the State Government Article.

- When appropriate based on the local government structure and form, the local laws may include, for elected local officials, the secondary employment restrictions related to employment with the local government.
- Local laws must prohibit, for local employees and nonelected local officials, outside employment with an entity that (1) is subject to the authority of the local employee or nonelected local official or of the agency with which the nonelected local official or local employee is affiliated or (2) is negotiating or has entered a contract with or is a subcontractor on a contract with the agency with which the nonelected local official or local employee is affiliated.
- Local laws must prohibit, for local employees and nonelected officials, outside employment that would impair the impartiality or independent judgment of the nonelected local official or local employee.
- Local laws may include provisions authorizing the agency responsible for implementing the law (1) to grant exceptions to the outside employment restrictions when the outside employment does not create a conflict of interest or the appearance of a conflict and (2) to grant limited exemptions to the outside employment restrictions under extraordinary circumstances.

Background: In 2007, the Anne Arundel County Ethics Commission opined that the county's secondary employment restrictions precluded police officers from providing security in establishments where alcoholic beverages are served or sold. Subsequently, the county amended the local ethics law to provide an exception to allow police officers to work in the establishments. In 2008, the State Ethics Commission determined that the county's law was not in compliance with State law because the blanket exemption for police officers (removal of the determinations from the discretion of the local ethics commission) was not similar to the State provisions requiring case-by-case review. The county then requested the local ethics commission to reconsider and allow specified secondary employment for police officers. The County Ethics Commission did not approve the request. In 2010, the County Attorney submitted another request to the County Ethics Commission for an exemption, but the commission concluded that the issue was moot because local law already allowed the secondary employment. In 2011, legislation was introduced to authorize the county to enact a local law authorizing the secondary employment of police officers. A hearing was held, but the State Ethics Commission opposed the bill and there was no further action.

In a letter dated January 17, 2011, the Office of the Attorney General advised that the General Assembly may enact authority for a single charter county to amend the county's local ethics law to create an exemption for secondary employment by county police officers. In a letter dated March 3, 2011, regarding House Bill 651 of 2011, which included the same language as this bill, the Office of the Attorney General advised that (1) House Bill 651 would authorize a local ethics law that is not "similar to" the State

Public Ethics Law; (2) treating police officers separately with respect to secondary employment would not violate equal protection; and (3) a delegation of power to the county does not need to include guidelines or standards.

The Anne Arundel County Police Department is comprised of approximately 700 police officers as shown in **Exhibit 1**. The fiscal 2015 budget assumes \$114.9 million in expenditures for the Anne Arundel County Police Department.

Exhibit 1
Number of Anne Arundel County Police Officers by Rank

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
Police Officer	111	103	133
Police Officer First Class	79	91	85
Police Corporal	362	367	373
Police Sergeant	72	72	72
Police Lieutenant	32	32	32
Police Captain	8	9	9
Police Major	3	3	3
Deputy Police Chief	2	1	1
Total Officers	669	678	708

Source: Anne Arundel County Fiscal Year 2015 Budget

Additional Information

Prior Introductions: HB 651 of 2011 received a hearing in the House Environmental Matters Committee, but no further action was taken.

Cross File: SB 167 (Chair, Anne Arundel County Senators) - Education, Health, and Environmental Affairs.

Information Source(s): Anne Arundel County, Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2015
ncs/hlb

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