

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1230
Ways and Means

(Delegate Turner, *et al.*)
Education, Health, and Environmental Affairs

Election Law - Departmental Secretaries - Political Activity

This bill prohibits a secretary of a principal department of the Executive Branch of State government from soliciting, accepting, transmitting, or depositing in a campaign account contributions or donations for the benefit of a candidate or political party. A secretary of a principal department also may not be a candidate for a public elective office while serving as secretary. A secretary who violates these provisions is considered to have also violated a provision under the Maryland Public Ethics Law prohibiting an official or employee from intentionally using the prestige of office or public position for the official's or employee's private gain or that of another. A campaign finance entity or other entity that receives a contribution or donation as a result of a violation must refund the contribution or donation to the contributor or donor and may be subject to a civil penalty of up to \$1,000 plus the amount of the contribution or donation.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Under the bill, "solicit" includes (1) the authorized use of the name, image, or title of a secretary in campaign material or (2) being a featured speaker at a campaign fundraising event. The bill does not prohibit a secretary from making a personal political

contribution, informing any person of a position taken by a candidate or official, or engaging in other activities not specifically prohibited by the bill.

Civil penalties are deposited in the Fair Campaign Financing Fund (FCFF).

Current Law/Background: Under conflict of interest provisions of the Maryland Public Ethics Law, an official or employee is prohibited from intentionally using the prestige of office or public position for that official's or employee's private gain or that of another. The State Ethics Commission, which administers the Maryland Public Ethics Law, has, in advisory opinions, discussed the application of the prestige of office provision to campaigning and fundraising. In one opinion the commission stated: "With regard to political campaigning and fundraising ... the Commission has advised individuals of the continuing application of the [prestige of office provision] and the need to avoid circumstances where a person's position may figure in private campaigning. Individuals are consistently advised to take care in campaign activities about soliciting campaign funds or assistance from individuals who are subject to the agency's authority or that are vendors or likely vendors to the individual's agency employer."

FCFF holds funding for public campaign financing of gubernatorial tickets under the Public Financing Act.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections; State Ethics Commission, Opinion No. 00-02; Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2016
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