

HOUSE BILL 1330

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8lr1872

By: **Delegates McMillan, Clark, and Knotts**

Introduced and read first time: February 9, 2018

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Public Ethics Law – Conflicts of Interest – Political Consulting**

3 FOR the purpose of designating a contractual State’s Attorney paid over a certain level per
4 year as a public official for a certain purpose; prohibiting an official or employee from
5 being employed by or having a financial interest in an entity that provides political
6 consulting services to State or local officials or candidates; and generally relating to
7 public ethics, conflicts of interest, employment, and financial interests.

8 BY repealing and reenacting, without amendments,

9 Article – General Provisions

10 Section 5–101(a) and (n)

11 Annotated Code of Maryland

12 (2014 Volume and 2017 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – General Provisions

15 Section 5–103(b) and 5–502

16 Annotated Code of Maryland

17 (2014 Volume and 2017 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

19 That the Laws of Maryland read as follows:

20 **Article – General Provisions**

21 5–101.

22 (a) In this title the following words have the meanings indicated unless:

23 (1) the context clearly requires a different meaning; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) a different definition is adopted for a particular provision.

2 (n) "Financial interest" means:

3 (1) ownership of an interest as the result of which the owner has received
4 within the past 3 years, is currently receiving, or in the future is entitled to receive, more
5 than \$1,000 per year; or

6 (2) (i) ownership of more than 3% of a business entity by:

7 1. an official;

8 2. an employee; or

9 3. the spouse of an official or employee; or

10 (ii) ownership of securities of any kind that represent, or are
11 convertible into, ownership of more than 3% of a business entity by:

12 1. an official;

13 2. an employee; or

14 3. the spouse of an official or employee.

15 5–103.

16 (b) Except as provided in subsection (f) of this section, the following individuals
17 in executive units are public officials:

18 (1) an individual who receives compensation at a rate equivalent to at least
19 State grade level 16, or who is appointed to a board, if the Ethics Commission determines
20 under § 5–208 of this title that:

21 (i) the individual, acting alone or as a member of an executive unit,
22 has decision–making authority or acts as a principal advisor to an individual with
23 decision–making authority:

24 1. in making State policy in an executive unit; or

25 2. in exercising quasi–judicial, regulatory, licensing,
26 inspecting, or auditing functions; and

27 (ii) the individual's duties are not essentially administrative and
28 ministerial;

29 (2) any other individual in an executive unit if the Ethics Commission

1 determines that the individual, acting alone or as a member of the executive unit, has
2 decision-making authority or acts as a principal advisor to an individual with
3 decision-making authority in drafting specifications for, negotiating, or executing contracts
4 that commit the State or an executive unit to spend more than \$10,000 in a year;

5 (3) a member, appointee, or employee of the Maryland Stadium Authority;

6 (4) a member, appointee, or employee of the Canal Place Preservation and
7 Development Authority;

8 (5) a member of the Emergency Medical Services Board; [and]

9 (6) except in counties in which a county council or board of county
10 commissioners sits as a board of license commissioners or a liquor control board, a member
11 or employee of a board of license commissioners or a liquor control board; **AND**

12 **(7) A CONTRACTUAL STATE'S ATTORNEY COMPENSATED AT A RATE**
13 **EQUIVALENT TO AT LEAST STATE GRADE LEVEL 16.**

14 5-502.

15 (a) This section does not apply to members of the General Assembly.

16 (b) Except as provided in subsections (c) and (d) of this section, an official or
17 employee may not:

18 (1) be employed by or have a financial interest in:

19 (i) an entity subject to the authority of that official or employee or
20 of the governmental unit with which the official or employee is affiliated; [or]

21 (ii) an entity that is negotiating or has entered a contract with that
22 governmental unit or an entity that is a subcontractor on a contract with that governmental
23 unit; or

24 **(III) AN ENTITY THAT PROVIDES POLITICAL CONSULTING**
25 **SERVICES TO STATE OR LOCAL OFFICIALS OR CANDIDATES; OR**

26 (2) hold any other employment relationship that would impair the
27 impartiality and independent judgment of the official or employee.

28 (c) The prohibitions of subsection (b) of this section do not apply:

29 (1) to employment or a financial interest allowed by regulation of the
30 Ethics Commission if:

1 (i) the employment does not create a conflict of interest or the
2 appearance of a conflict of interest; or

3 (ii) the financial interest is disclosed;

4 (2) to a public official who is appointed to a regulatory or licensing unit in
5 accordance with a statutory requirement that entities subject to the jurisdiction of the unit
6 be represented in appointments to it;

7 (3) as allowed by regulations adopted by the Ethics Commission, to an
8 employee whose government duties are ministerial, if the private employment or financial
9 interest does not create a conflict of interest or the appearance of a conflict of interest; or

10 (4) to a member of a board who holds the employment or financial interest
11 when appointed if the employment or financial interest is disclosed publicly to the
12 appointing authority, the Ethics Commission, and, if applicable, the Senate of Maryland
13 before Senate confirmation.

14 (d) (1) Subject to paragraph (2) of this subsection, the Ethics Commission may
15 exempt a public official of an executive unit or an employee of an executive unit from the
16 prohibitions of subsection (b) of this section if the Ethics Commission determines that:

17 (i) failure to grant the exemption would limit the ability of the State
18 to:

19 1. recruit and hire highly qualified or uniquely qualified
20 professionals for public service; or

21 2. assure the availability of competent services to the public;
22 and

23 (ii) the number of exemptions granted under this subsection has not
24 eroded the purposes of subsection (b) of this section or other provisions of this title.

25 (2) (i) The Ethics Commission may grant an exemption under
26 paragraph (1) of this subsection only:

27 1. in extraordinary situations; and

28 2. on the recommendation of the Governor, at the request of
29 the executive unit involved.

30 (ii) The Ethics Commission shall apply this subsection as
31 consistently as possible under similar facts and circumstances.

32 (e) (1) The Ethics Commission shall make freely available on the Internet
33 documentation of a disclosure under subsection (c)(4) of this section that is submitted to

1 the Ethics Commission on or after January 1, 2019.

2 (2) An appointing authority shall promptly transmit a copy of a disclosure
3 statement submitted to the appointing authority under subsection (c)(4) of this section to
4 the Ethics Commission.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
6 1, 2018.