

SENATE BILL 289

G1, L2, A2

8lr0357
CF HB 630

By: **Senators Hough and Young**

Introduced and read first time: January 22, 2018

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: February 13, 2018

CHAPTER _____

1 AN ACT concerning

2 **Frederick County – Ethics and Campaign Activity – Governing Body, County**
3 **Board and Commission Members, and Board of License Commissioners**

4 FOR the purpose of prohibiting an agent of a certain applicant from making a contribution
5 to a member of the governing body of Frederick County during the pendency of a
6 certain application; altering the circumstances under which a member of the
7 governing body of Frederick County is prohibited from taking certain actions
8 regarding a certain application; authorizing a certain party of record to file with the
9 Chief Administrative Officer an affidavit of a contribution made by a certain agent
10 in violation of a certain provision of law; providing for a certain penalty; requiring
11 certain members of the Frederick County Board of Zoning Appeals, Ethics
12 Commission, or Planning Commission or the Board of License Commissioners for
13 Frederick County who establish an authorized candidate campaign committee to
14 vacate office within a certain period of time after opening a campaign account
15 through a campaign finance entity; defining a certain term; and generally relating
16 to ethics and campaign activity in Frederick County.

17 BY repealing and reenacting, without amendments,
18 Article – Alcoholic Beverages
19 Section 20–201 and 20–202(a) and (d) through (f)
20 Annotated Code of Maryland
21 (2016 Volume and 2017 Supplement)

22 BY adding to
23 Article – Alcoholic Beverages

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 20–202(g)
2 Annotated Code of Maryland
3 (2016 Volume and 2017 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – General Provisions
6 Section 5–857, 5–858, 5–860, and 5–862 to be under the amended part “Part IX.
7 Special Provisions for Frederick County – Planning and Zoning”
8 Annotated Code of Maryland
9 (2014 Volume and 2017 Supplement)

10 BY adding to
11 Article – General Provisions
12 Section 5–865 and 5–866 to be under the new part “Part X. Special Provisions for
13 Frederick County – Campaign Activity Concerning County Board and
14 Commission Members and the Board of License Commissioners”
15 Annotated Code of Maryland
16 (2014 Volume and 2017 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Alcoholic Beverages**

20 20–201.

21 There is a Board of License Commissioners for Frederick County.

22 20–202.

23 (a) The Governor shall appoint three members to the Board.

24 (d) (1) The term of a member is 5 years.

25 (2) The terms of the members are staggered as required by the terms
26 provided for members of the Board on July 1, 2016.

27 (e) A member who is appointed after a term has begun serves only for the rest of
28 the term and until a successor is appointed and qualifies.

29 (f) (1) The Governor may remove a member for incompetence, misconduct,
30 neglect of a duty required by law, or unprofessional or dishonorable conduct.

31 (2) The Governor shall give a member who is charged a copy of the charges
32 against the member and, with at least 10 days’ notice, an opportunity to be heard publicly
33 in person or by counsel.

1 (3) If a member is removed, the Governor shall file with the Office of the
 2 Secretary of State a statement of charges against the member and the Governor’s findings
 3 on the charges.

4 (G) NO LATER THAN 48 HOURS AFTER OPENING A CAMPAIGN ACCOUNT
 5 THROUGH A CAMPAIGN FINANCE ENTITY, AS DEFINED IN § 1–101 OF THE ELECTION
 6 LAW ARTICLE, A MEMBER WHO HAS ESTABLISHED AN AUTHORIZED CANDIDATE
 7 CAMPAIGN COMMITTEE SHALL VACATE THE MEMBER’S POSITION ON THE BOARD IN
 8 ACCORDANCE WITH § 5–866 OF THE GENERAL PROVISIONS ARTICLE.

9 Article – General Provisions

10 Part IX. Special Provisions for Frederick County – PLANNING AND ZONING.

11 5–857.

12 (a) In this part the following words have the meanings indicated.

13 (B) “AGENT” MEANS A PERSON THAT IS:

14 (1) HIRED OR RETAINED BY A BUSINESS ENTITY THAT IS AN
 15 APPLICANT WITH AN APPLICATION BEFORE THE GOVERNING BODY TO PROVIDE
 16 SERVICES, FOR COMPENSATION, RELATING TO THE APPLICATION; AND

17 (2) (I) AN ATTORNEY;

18 (II) AN ARCHITECT OR A LANDSCAPE ARCHITECT;

19 (III) A TRAFFIC CONSULTANT;

20 (IV) AN ENGINEER; OR

21 (V) A TRAFFIC ENGINEER.

22 [(b)] (C) “Aggrieved party” means:

23 (1) a property owner whose property:

24 (i) adjoins, fronts, or is located near the subject property; or

25 (ii) is located within sight or sound of the subject property; or

26 (2) an individual located within the same subdivision as the subject
 27 property or who lives up to three–quarters of a mile by road or otherwise one–half mile
 28 away from the subject property.

1 **[(c)] (D)** (1) “Applicant” means a person that is:

2 (i) a title owner or contract purchaser of land that is the subject of
3 an application;

4 (ii) a trustee who has an interest in land that is the subject of an
5 application, excluding trustees described in a mortgage or deed of trust; or

6 (iii) a holder of at least a 10% interest in land that is the subject of
7 an application.

8 (2) “Applicant” includes a person who is an officer or a director of a
9 corporation that actually holds title to the land, or is a contract purchaser of the land, that
10 is the subject of an application.

11 (3) “Applicant” does not include:

12 (i) a financial institution that has loaned money or extended
13 financing for the acquisition, development, or construction of or improvements on the land
14 that is the subject of an application;

15 (ii) a municipal corporation or public corporation;

16 (iii) a public authority;

17 (iv) an electric company or electric supplier applying for a certificate
18 of public convenience and necessity under § 7–207 or § 7–208 of the Public Utilities Article;
19 or

20 (v) a person who is hired or retained as an accountant, an attorney,
21 an architect, an engineer, a land use consultant, an economic consultant, a real estate
22 agent, a real estate broker, a traffic consultant, or a traffic engineer.

23 **[(d)] (E)** “Application” means:

24 (1) an application for a zoning map amendment as part of a piecemeal or
25 floating zone rezoning proceeding;

26 (2) a formal application for a comprehensive map planning change or
27 zoning change during the county comprehensive land use plan update;

28 (3) an application for a map amendment to the county water and sewerage
29 plan;

30 (4) a request made under § 4–416 of the Local Government Article for the
31 governing body to approve the placement of annexed land in a zoning classification that

1 allows a land use that is substantially different from the use for the land authorized in the
2 zoning classification of the county applicable at the time of annexation; or

3 (5) an application to create a district or an easement or any other interest
4 in real property as part of an agricultural land preservation program.

5 [(e)] (F) “Business entity” means:

6 (1) a corporation;

7 (2) a limited liability company;

8 (3) a partnership; or

9 (4) a sole proprietorship.

10 [(f)] (G) “Candidate” means a candidate for County Executive or County Council
11 who becomes an elected official.

12 [(g)] (H) “Contribution” means a payment or transfer of money or property worth
13 at least \$100, calculated cumulatively during the pendency of the application, to a
14 candidate or a treasurer or political committee of a candidate.

15 [(h)] (I) “Governing body” means the governing body of Frederick County.

16 [(i)] (J) “Partnership” includes:

17 (1) a general partnership;

18 (2) a joint venture;

19 (3) a limited liability limited partnership;

20 (4) a limited liability partnership; or

21 (5) a limited partnership.

22 [(j)] (K) “Party of record” means a person that participated in a proceeding on
23 an application before the governing body by appearing at a public hearing or filing a
24 statement in an official record.

25 [(k)] (L) “Pendency of the application” means the time between the acceptance
26 by the County Department of Planning and Zoning of a filing of an application and the
27 earlier of:

28 (1) 2 years after the acceptance of the application; or

1 (2) the expiration of 30 days after:

2 (i) the governing body has taken final action on the application; or

3 (ii) the application is withdrawn.

4 ~~[(l)]~~ (M) “Political committee” means a committee specifically created to promote
5 the candidacy of a member of the governing body who is running for an elective office.

6 ~~[(m)]~~ (N) “Treasurer” has the meaning stated in § 1–101 of the Election Law
7 Article.

8 5–858.

9 (a) An applicant **OR AGENT** may not make a contribution to a member of the
10 governing body during the pendency of the application.

11 (b) Except as provided in subsection (c) of this section, after an application has
12 been filed, a member of the governing body may not vote or participate in any way in the
13 proceedings on the application if the member or the treasurer or political committee of the
14 member received a contribution from the applicant **OR AGENT** during the pendency of the
15 application.

16 (c) A member of the governing body may participate in a comprehensive zoning
17 or rezoning proceeding.

18 5–860.

19 At any time before final action on an application, a party of record may file with the
20 Chief Administrative Officer an affidavit including competent evidence of:

21 (1) a contribution by an applicant **OR AGENT** covered under § 5–858 of this
22 subtitle; or

23 (2) an ex parte communication covered under § 5–859 of this subtitle.

24 5–862.

25 (a) (1) The Frederick County Ethics Commission or another aggrieved party
26 of record may assert as procedural error a violation of this part in an action for judicial
27 review of the application.

28 (2) If the court finds that a violation of this part occurred, the court shall
29 remand the case to the governing body for reconsideration.

30 (b) (1) A person that knowingly and willfully violates this part is guilty of a

1 misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine
2 not exceeding \$1,000 or both.

3 (2) If the person is a business entity **OR AGENT** and not an individual, each
4 member, officer, or partner of the business entity **OR AGENT** who knowingly authorized or
5 participated in the violation is guilty of a misdemeanor and on conviction is subject to
6 imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both.

7 (3) An action taken in reliance on an opinion of the State Ethics
8 Commission or the Frederick County Ethics Commission may not be considered a knowing
9 and willful violation.

10 (c) (1) A person that is subject to this part shall preserve all books, papers,
11 and other documents necessary to complete and substantiate any reports, statements, or
12 records required to be made under this part for 3 years from the date of filing the
13 application.

14 (2) The documents shall be available for inspection on request.

15 **5-863. RESERVED.**

16 **5-864. RESERVED.**

17 **PART X. SPECIAL PROVISIONS FOR FREDERICK COUNTY – CAMPAIGN ACTIVITY**
18 **CONCERNING COUNTY BOARD AND COMMISSION MEMBERS AND THE BOARD OF**
19 **LICENSE COMMISSIONERS.**

20 **5-865.**

21 **THIS PART APPLIES ONLY TO AN APPOINTED MEMBER OF THE FREDERICK**
22 **COUNTY BOARD OF ZONING APPEALS, THE FREDERICK COUNTY ETHICS**
23 **COMMISSION, THE FREDERICK COUNTY PLANNING COMMISSION, OR THE BOARD**
24 **OF LICENSE COMMISSIONERS FOR FREDERICK COUNTY.**

25 **5-866.**

26 **NOT LATER THAN 48 HOURS AFTER OPENING A CAMPAIGN ACCOUNT**
27 **THROUGH A CAMPAIGN FINANCE ENTITY, AS DEFINED IN § 1-101 OF THE ELECTION**
28 **LAW ARTICLE, AN APPOINTED MEMBER OF THE BOARD OF ZONING APPEALS,**
29 **ETHICS COMMISSION, PLANNING COMMISSION, OR THE BOARD OF LICENSE**
30 **COMMISSIONERS WHO HAS ESTABLISHED AN AUTHORIZED CANDIDATE CAMPAIGN**
31 **COMMITTEE SHALL VACATE THE POSITION ON THE BOARD OR COMMISSION.**

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
33 1, 2018.