

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 202

(Senator Kagan)

Education, Health, and Environmental Affairs

Environment and Transportation

**Public Ethics - Executive Branch - Lobbying by Former Secretaries of Principal
Departments (Shut the Revolving Door Act of 2020)**

This bill prohibits a former secretary of a principal department of the Executive Branch from assisting or representing another party for compensation in a matter that is the subject of legislative action for one calendar year after the official leaves State office. The bill's prohibition, however, does not apply to representation of a municipal corporation, county, or State governmental entity. "Legislative action," as it applies to the bill, does not include testimony or other advocacy in an official capacity as a member of the General Assembly before a unit of State or local government.

Fiscal Summary

State Effect: The bill does not directly affect State finances.

Local Effect: The bill does not directly affect local governmental finances.

Small Business Effect: None.

Analysis

Current Law: Except for a former member of the General Assembly, a former official or employee may not assist or represent a party, other than the State, in a case, a contract, or any other specific matter for compensation if (1) the matter involves State government and (2) the former official or employee participated significantly in the matter as an official or employee. "Official," as it applies to the Maryland Public Ethics Law, means a State or public official. "Employee" means an individual who is employed by an executive unit, by the Legislative Branch, or in the Judicial Branch.

Chapter 31 of 2017 prohibits a former Governor, Lieutenant Governor, Attorney General, Comptroller, or State Treasurer from assisting or representing another party for compensation in a matter that is the subject of legislative action for one calendar year from the date the official leaves State office. Likewise, the Act specifies that a former member of the General Assembly may not assist another party for compensation in a matter that is the subject of legislative action for one calendar year from the date the member leaves office. The limitation does not apply to representation of a municipal corporation, county, or State governmental entity.

In addition, the Act expanded the definition of “legislative action” as it applies to the Maryland Public Ethics Law to include testimony or other advocacy in an official capacity as a member of the General Assembly before a unit of State or local government. Accordingly, “legislative action” means an official action or nonaction relating to (1) a bill, a resolution, an amendment, a nomination, an appointment, a report, or any other matter within the jurisdiction of the General Assembly; (2) a bill presented to the Governor for signature or veto; or (3) testimony or other advocacy in an official capacity as a member of the General Assembly before a unit of State or local government. It includes introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, and veto.

However, the Act specifies that the expanded definition does not apply to the representation limit discussed above. Accordingly, “legislative action” as it applies to provisions affected by the bill, does not include testimony or other advocacy in an official capacity as a member of the General Assembly before a unit of State or local government.

The Maryland Public Ethics Law, Generally

The Maryland Public Ethics Law sets out requirements, prohibitions, and procedures that affect officials in the Legislative, Executive, and Judicial branches of government for the purpose of maintaining people’s trust in government and protecting against the improper influence and the appearance of improper influence of government.

The law is generally administered by the State Ethics Commission, with two statutory exceptions. First, the Joint Committee on Legislative Ethics must administer provisions related to conflicts of interest as they apply to members of the General Assembly. Second, the Commission on Judicial Disabilities, or another body designated by the Court of Appeals, must administer provisions related to conflicts of interest and financial disclosure as they apply to State officials of the Judicial Branch.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 315 (Delegate Stewart, *et al.*) - Environment and Transportation.

Information Source(s): State Ethics Commission; Department of Legislative Services

Fiscal Note History: First Reader - January 31, 2020
mr/lgc Third Reader - February 25, 2020

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