

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 374

(Senator Kagan)

Education, Health, and Environmental Affairs

Ways and Means

Maryland Public Ethics Law - Special Session of the General Assembly -
Contributions Prohibited

This bill prohibits specified campaign finance activity, including receiving a contribution or conducting a fund-raising event, during a special session of the General Assembly, by a legislator, or a person acting on behalf of the legislator, subject to specified exceptions.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Under provisions of the Maryland Public Ethics Law that apply only to members of the General Assembly, the bill prohibits a legislator or a person acting on behalf of the legislator from – during a special session of the General Assembly, and as to a federal, State, or local candidate or associated campaign finance entity – (1) receiving a contribution; (2) conducting a fund-raising event; (3) selling or soliciting for the sale of a ticket to a fund-raising event; or (4) depositing or using any contribution of money that was received but not deposited before the special session.

However, a legislator, or a person acting on behalf of the legislator, may conduct a fund-raising event during a special session if the event was organized before the announcement of the special session through (1) the commitment of funds or (2) the

sending of solicitations. A legislator, or a person acting on behalf of the legislator, may not intentionally schedule a fund-raising event that coincides with a special session once the special session has been announced.

The bill's prohibitions do not apply to a legislator, or a person acting on behalf of the legislator, when engaged in activities solely related to the official's election to an elective federal or local office for which the official is a filed candidate.

Current Law:

Campaign Finance Activity During a Regular Session

State campaign finance law prohibits the Governor, the Lieutenant Governor, the Attorney General, the Comptroller, and members of the General Assembly, or a person acting on one of those officials' behalf, from – during a regular session of the General Assembly, and as to a federal, State, or local candidate or associated campaign finance entity – (1) receiving a contribution; (2) conducting a fund-raising event; (3) soliciting a contribution; or (4) depositing or using any contribution of money that was not deposited prior to the session. Exceptions apply for activities solely related to the official's election to an elective federal or local office for which the official is a filed candidate and for publicly financed gubernatorial tickets. In addition, a contribution may be deposited by an official, or a person acting on the official's behalf, during the legislative session, if the contribution was made electronically before the start of the session.

The campaign finance entity of an official in violation of the prohibition must refund the contribution to the contributor and pay a civil penalty of \$1,000 plus the amount of the contribution, unless the State Board of Elections at its discretion assesses a lesser penalty for good cause. Penalties are distributed to the Fair Campaign Financing Fund, which holds funds for public campaign financing of gubernatorial tickets under the Public Financing Act.

Joint Committee on Legislative Ethics Opinion and Enforcement

The Joint Committee on Legislative Ethics is authorized under the Maryland Public Ethics Law to issue opinions regarding the propriety of conduct of legislators under applicable ethics standards. A published opinion is binding on all members of the General Assembly. One of the committee's published opinions (Joint Committee on Legislative Ethics' [2021 Ethics Guide](#), Ethics Opinion #11, pg. 66) addresses campaign fundraising during special sessions, and prohibits campaign finance activity in the same manner as the bill's prohibitions (including its exceptions).

The enforcement procedures under provisions of the Maryland Public Ethics Law that apply only to members of the General Assembly (to which the bill's provisions are added) are summarized in the Joint Committee on Legislative Ethics' *2021 Ethics Guide* (pg. 29):

The Ethics Committee may receive complaints alleging a violation of the standards of legislative ethics in three ways: through a written and signed statement filed by any person; on a motion of the majority of the members of the committee; or through a referral from a Presiding Officer. After reviewing a complaint, the committee may (1) counsel or educate the member on the standards of legislative ethics; (2) dismiss the complaint for various reasons, including because the violation was cured or was minor; or (3) hold further proceedings. The committee may hold a hearing and may make recommendations to the appropriate Presiding Officer or the full house of the accused legislator. The committee is required by law to keep information related to complaints confidential unless the member involved in the matter waives confidentiality or the committee votes to release information.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): State Board of Elections; State Ethics Commission; Office of the State Prosecutor; Department of Legislative Services

Fiscal Note History: First Reader - February 3, 2021
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