

Department of Legislative Services
Maryland General Assembly
1999 Session

FISCAL NOTE
Revised

Senate Bill 1 (The President. *et al.*)
(Special Study Commission on the Maryland Public Ethics Law)
Economic and Environmental Affairs

Ethics Law - Reform of Legislative Ethics Process

This bill alters the Maryland Public Ethics Law (and related provisions) as applicable to members of the General Assembly, in accordance with the Final Report of the Special Study Commission on the Maryland Public Ethics Law, issued December 1998.

Fiscal Summary

State Effect: Potential significant increase in general fund expenditures for computerization. No effect on revenues.

Local Effect: None.

Small Business Effect: Minimal.

Fiscal Analysis

Bill Summary: The bill modifies the Maryland Public Ethics Law in the following areas:

- Representation before governmental agencies. Current restrictions on legislators' representation of clients for compensation in matters before State agencies are broadened, and the same standards are applied to representation before local governments. Existing relationships are grandfathered.

- Employment by governmental agencies. Legislators are prohibited from receiving earned income from the State or a local government, unless the relationship existed before the legislator first ran for office. The Joint Committee on Legislative Ethics (the "committee") may exempt an individual from this prohibition. The prohibition does not apply to public safety positions.
- Use of prestige of office. The prohibition against using prestige of office for personal gain, or the gain of another, is made applicable to members of the General Assembly as well as other State officials.
- Nepotism. A member of the General Assembly is prohibited from employing the member's own relative, or the relative of another member, for legislative business. An exception is made for members with certain physical impairments who disclose the employment to the committee.
- Disclosure of interests. Currently, each legislator must file an annual financial disclosure statement with the State Ethics Commission in Towson by April 30. This disclosure is supplemented by specific reports required to be filed with the committee. The bill modifies legislators' reporting requirements in a number of ways, including the following:
 - The information presently filed with the committee on individual disclosure forms must also be included on the annual financial disclosure statement.
 - A duplicate of the annual financial disclosure statement must be filed with the committee in Annapolis for better availability to the public.
- Ethics advisory staff. A full-time counsel shall be appointed to be a confidential ethics advisor to the General Assembly, to draft opinions for the committee, and to conduct educational programs and seminars. The counsel may not participate in any investigatory or prosecutorial function. The counsel may not participate in any investigative or prosecutorial function.
- Committee procedures. The committee may propose the adoption, amendment, or repeal of Rules of Legislative Ethics. Changes to the rules shall be presented in the form of a joint resolution and shall become effective after adoption of the joint resolution by a constitutional majority of each house voting separately. Before presenting a change to the rules, the committee shall conduct a public hearing. Complaint, investigation, and disciplinary procedures are streamlined and revised, and the committee is given subpoena power. Committee membership is expanded from 10 to 12. In addition, membership on the committee must be proportional to the political party affiliations of the House and Senate, and minority party members are to be appointed on recommendation of the respective minority leaders.

The committee is required to develop procedures under which financial and disqualification statements may be filed electronically, without additional cost to the legislator.

- Conflicts of interest; participation in legislative action. The bill creates three classifications of conflict relating to a legislator's outside interest: (1) those that by their very nature do not create an ethical problem; (2) those that fall into a grey area for which a disclaimer form should be filed with the Joint Ethics Committee if the legislator wishes to participate; and (3) those where the conflicts are so strong that they require nonparticipation.

If the effect of a bill would be common to all members of the public, to a large group of the public of which the legislator is a member, or to all members of the legislator's profession or occupation, it is not treated as a presumed conflict of interest. No disclaimer form is required, and the legislator is free to participate fully on the issue, even if it might have a financial impact on the legislator.

If an apparent or presumed conflict is not "direct and personal," the legislator can participate fully in affected legislation by filing a disclaimer that describes the presumed conflict and asserts that the legislator can act fairly, objectively, and in the public interest.

A legislator is totally prohibited from voting on or otherwise attempting to influence any legislation to which an apparent or presumed conflict relates if the conflict is "direct and personal" to the legislator or the legislator's immediate family or employer. When the bill comes up in committee or on the floor, the member must be excused from voting. The reasons for being excused must be specified in a form filed by the member with the Joint Ethics Committee. The prohibition does not apply to the annual operating budget bill, in its entirety, or the annual capital budget bill, in its entirety.

- Use of public funds. Public resources may be used by members of the General Assembly only for public purposes. This provision does not prohibit incidental use of public resources for nonpublic purposes.
- Gifts by lobbyists.
 - Gifts of meals and alcoholic beverages for individual legislators are generally prohibited. Legislators may attend receptions to which all members of officially-recognized groups of legislators are invited, however. The prohibition does not apply to food or beverages received from a donor or sponsoring entity other than a lobbyist, at a time when the General Assembly is not in session, at a location within the legislator's district.

- Acceptance of tickets to events are limited to those offered by the non-lobbyist sponsor of the event.
- Honoraria may only be accepted to reimburse a legislator's expenses for participation as a speaker or panel member at a conference.
- Legislators are prohibited from soliciting or facilitating the solicitation of a gift on behalf of another individual or entity.
- Legislators are allowed to receive unsolicited gifts that are not meals or alcoholic beverages and do not exceed \$20 in cost.
- Reporting requirements for lobbyists of food, beverages, and tickets provided to legislators are altered.
- Gifts given by a lobbyist for purposes unrelated to the lobbyist's lobbying activities are no longer exempted from the law's restrictions.

State Expenditures: The State Ethics Commission would incur expenses in developing the capability for electronic filing of financial and disqualification statements. The total cost of such computerization cannot be reliably estimated at this time. Initial outlays could approach or exceed \$100,000, however.

It is expected that the bill's other requirements, including the appointment of an ethics advisory counsel, could be implemented using existing resources. Many of the bill's provisions relate to the standard of conduct applicable to legislators and other officials, and as such do not have a direct impact on governmental finances.

Small Business Effect: The bill would alter lobbyists' reporting requirements and gift-giving practices, but is not expected to significantly affect lobbyists' operations or income. Some Annapolis restaurants could lose business due to the bill's prohibition of gifts of meals and alcoholic beverages for individual legislators. However, some restaurants, hotels, and catering businesses could gain business to the extent that more receptions are held.

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

Fiscal Note History: First Reader - January 26, 1999
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