

SENATE BILL 541

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2000 Regular Session
0lr1960
CF 0lr1858

By: **Senator McCabe**

Introduced and read first time: February 4, 2000

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Government - Procurement - Conflict of Interests**

3 FOR the purpose of providing that an individual who assists in a selection or award
4 made in response to a solicitation for bids or a request for proposal in a State
5 procurement may not submit a bid or proposal or assist another person who
6 submits a bid or proposal; extending this prohibition and existing prohibitions
7 relating to conflict of interests in State procurement to an individual who
8 employs the individual who assists in the procurement process; requiring an
9 individual under contract with an executive unit of State government, who
10 assists in, influences, or otherwise affects the formation, award, or execution of
11 a State procurement to file a disclosure statement containing information
12 relating to the individual's consultants, employer, employer's corporate
13 structure, and employer's subsidiaries; requiring disclosure of the clients of the
14 individual, the individual's employer, and any subsidiaries of the individual's
15 employer, and the general nature of the work performed for each client; and
16 generally relating to prohibitions against and disclosures relating to conflicts of
17 interest in the State procurement process.

18 BY repealing and reenacting, with amendments,
19 Article - State Government
20 Section 15-508
21 Annotated Code of Maryland
22 (1999 Replacement Volume)

23 BY adding to
24 Article - State Government
25 Section 15-509
26 Annotated Code of Maryland
27 (1999 Replacement Volume)

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

1

Article - State Government

2 15-508.

3 (a) An individual OR A PERSON THAT EMPLOYS AN INDIVIDUAL who assists
4 an executive unit in the drafting of specifications, an invitation for bids, [or] a
5 request for proposals for a procurement, or THE SELECTION OR AWARD MADE IN
6 RESPONSE TO AN INVITATION FOR BIDS OR REQUEST FOR PROPOSALS [a person that
7 employs the individual,] may not:

8 (1) submit a bid or proposal for that procurement; or

9 (2) assist or represent another person, directly or indirectly, who is
10 submitting a bid or proposal for that procurement.

11 (b) For purposes of subsection (a) of this section, assisting in the drafting of
12 specifications, an invitation for bids, or a request for proposals for a procurement does
13 not include:

14 (1) providing descriptive literature such as catalogue sheets, brochures,
15 technical data sheets, or standard specification "samples", whether requested by an
16 executive agency or provided on an unsolicited basis;

17 (2) submitting written comments on a specification prepared by an
18 agency or on a solicitation for a bid or proposal when comments are solicited from two
19 or more persons as part of a request for information or a prebid or preproposal
20 process;

21 (3) providing specifications for a sole source procurement made in
22 accordance with § 13-107 of the State Finance and Procurement Article; or

23 (4) providing architectural and engineering services for programming,
24 master planning, or other project planning services.

25 15-509.

26 (A) AN INDIVIDUAL UNDER CONTRACT WITH AN EXECUTIVE UNIT OF THE
27 STATE WHO ASSISTS IN, INFLUENCES, OR OTHERWISE AFFECTS THE FORMATION,
28 AWARD, OR EXECUTION OF ANY STATE CONTRACT, PURCHASE, OR SALE SHALL FILE
29 A STATEMENT WITH THE ETHICS COMMISSION THAT CONTAINS THE SCHEDULES
30 DISCLOSING THE INFORMATION AND INTERESTS SPECIFIED IN THIS SECTION.

31 (B) THE STATEMENT SHALL INCLUDE A SCHEDULE LISTING:

32 (1) ALL CURRENT PRIVATE OR PUBLIC SECTOR CLIENTS FROM WHOM
33 THE CONSULTANT HAS RECEIVED A FEE FOR SERVICES IN CONNECTION WITH
34 CONTRACT ACTIVITIES OR OTHER AREAS REGULATED BY THE EXECUTIVE UNIT;

35 (2) THE GENERAL NATURE OF THE WORK PERFORMED FOR EACH OF
36 THE CLIENTS LISTED; AND

1 (3) ANY SUBCONSULTANT WHO ASSISTED IN THE PERFORMING OF THE
2 SERVICES, ACCOMPANIED BY A SEPARATE SCHEDULE MEETING THE REQUIREMENTS
3 OF ITEMS (1) AND (2) OF THIS SUBSECTION WITH RESPECT TO THAT
4 SUBCONSULTANT.

5 (C) IF THE INDIVIDUAL IS EMPLOYED BY A CORPORATION OR IF A CLIENT
6 LISTED IN SUBSECTION (B)(1) OF THIS SECTION IS A CORPORATION, THE STATEMENT
7 REQUIRED UNDER THIS SECTION SHALL INCLUDE, FOR EACH CORPORATION:

8 (1) A SCHEDULE OF THE OFFICERS, DIRECTORS, AND EACH DIRECT OR
9 INDIRECT OWNER OF ANY EQUITY SECURITY OR OTHER OWNERSHIP INTEREST IN
10 THE CORPORATION;

11 (2) A SCHEDULE OF ANY APPLICABLE PARENT CORPORATION OF THE
12 CORPORATION AND ALL SUBSIDIARY CORPORATIONS OF THAT PARENT
13 CORPORATION;

14 (3) A SCHEDULE OF ANY SUBSIDIARY CORPORATIONS OF THE
15 CORPORATION; AND

16 (4) A SCHEDULE LISTING:

17 (I) ANY CLIENTS OF THE APPLICABLE PARENT OR SUBSIDIARY
18 CORPORATIONS THAT HAVE RECEIVED A FEE FOR SERVICES IN CONNECTION WITH
19 CONTRACT ACTIVITIES OR OTHER AREAS REGULATED BY THE EXECUTIVE UNIT; AND

20 (II) THE GENERAL NATURE OF THE WORK PERFORMED FOR EACH
21 OF THE CLIENTS LISTED.

22 (D) IF THE CORPORATION IS A PUBLICLY TRADED CORPORATION, THE
23 DISCLOSURE UNDER SUBSECTION (C)(1) OF THIS SECTION NEED ONLY CONTAIN THE
24 NAMES AND ADDRESSES OF THOSE KNOWN TO THE CORPORATION TO BENEFICIALLY
25 OWN 5% OR MORE OF THE PUBLICLY HELD SECURITIES OF THE CORPORATION.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2000.