

SENATE BILL 314

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2002 Regular Session
2r1975
CF 2r1833

By: **Senator Collins**

Introduced and read first time: January 25, 2002

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2002

CHAPTER _____

1 AN ACT concerning

2 **Ethics Law - Regulated Lobbyists Serving on Boards and Commissions**

3 FOR the purpose of ~~specifying that a lobbyist may not serve on a board or commission~~
4 ~~that is an executive unit of State government if a conflict is reasonably expected~~
5 ~~to occur between the lobbyist's duties on the board or commission and the~~
6 ~~individual's private interest or the private interest of the entity represented by~~
7 ~~the lobbyist; repealing a provision of the Maryland Public Ethics Law that~~
8 ~~prohibits a regulated lobbyist from serving in certain State government~~
9 ~~positions~~ altering the requirement that a regulated lobbyist terminate the
10 lobbyist's registration under certain circumstances; requiring the State Ethics
11 Commission to adopt certain regulations authorizing a regulated lobbyist to
12 serve on a State board or commission under certain circumstances and subject to
13 certain requirements; and generally relating to the Maryland Public Ethics Law.

14 BY repealing and reenacting, ~~with~~ without amendments,
15 Article - State Government
16 Section 15-501
17 Annotated Code of Maryland
18 (1999 Replacement Volume and 2001 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - State Government
21 Section 15-703(f)(3)
22 Annotated Code of Maryland
23 (1999 Replacement Volume and 2001 Supplement)

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

3 **Article - State Government**

4 15-501.

5 (a) Except as otherwise provided in subsection (c) of this section, an official or
6 employee may not participate in a matter if:

7 (1) the official or employee or a qualifying relative of the official or
8 employee has an interest in the matter and the official or employee knows of the
9 interest; or

10 (2) any of the following is a party to the matter:

11 (i) a business entity in which the official or employee has a direct
12 financial interest of which the official or employee reasonably may be expected to
13 know;

14 (ii) a business entity, including a limited liability company or a
15 limited liability partnership, of which any of the following is an officer, director,
16 trustee, partner, or employee:

17 1. the official or employee; or

18 2. if known to the official or employee, a qualifying relative of
19 the official or employee;

20 (iii) a business entity with which any of the following has applied for
21 a position, is negotiating employment, or has arranged prospective employment:

22 1. the official or employee; or

23 2. if known to the official or employee, a qualifying relative of
24 the official or employee;

25 (iv) if the contract reasonably could be expected to result in a
26 conflict between the private interest and the official State duties of the official or
27 employee, a business entity that is a party to a contract with:

28 1. the official or employee; or

29 2. if known to the official or employee, a qualifying relative of
30 the official or employee;

31 (v) a business entity, either engaged in a transaction with the State
32 or subject to regulation by the official's or employee's governmental unit, in which a
33 direct financial interest is owned by another business entity if the official or
34 employee:

- 1 1. has a direct financial interest in the other business entity;
 2 and
- 3 2. reasonably may be expected to know of both financial
 4 interests; or
- 5 (vi) a business entity that:
- 6 1. the official or employee knows is a creditor or obligee of
 7 the official or employee, or of a qualifying relative of the official or employee, with
 8 respect to a thing of economic value; and
- 9 2. as a creditor or obligee, is in a position to affect directly
 10 and substantially the interest of the official, employee, or qualifying relative.

11 (b) (1) The prohibitions of subsection (a) of this section do not apply if
 12 participation is allowed:

13 (i) as to officials and employees subject to the authority of the
 14 Ethics Commission, by regulation of the Ethics Commission;

15 (ii) by the opinion of an advisory body; or

16 (iii) by another provision of this subtitle.

17 (2) This section does not prohibit participation by an official or employee
 18 that is limited to the exercise of an administrative or ministerial duty that does not
 19 affect the disposition or decision with respect to the matter involved.

20 (c) An official or employee who otherwise would be disqualified from
 21 participation under subsection (a) of this section shall disclose the nature and
 22 circumstances of the conflict, and may participate or act, if:

23 (1) the disqualification would leave a body with less than a quorum
 24 capable of acting;

25 (2) the disqualified official or employee is required by law to act; or

26 (3) the disqualified official or employee is the only individual authorized
 27 to act.

28 ~~(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A~~
 29 ~~REGULATED LOBBYIST MAY NOT SERVE ON A BOARD OR COMMISSION THAT IS AN~~
 30 ~~EXECUTIVE UNIT IF A CONFLICT IS REASONABLY EXPECTED TO OCCUR BETWEEN:~~

31 ~~(1) THE OFFICIAL STATE DUTIES OF THE LOBBYIST AS AN APPOINTEE~~
 32 ~~TO THE BOARD OR COMMISSION; AND~~

33 ~~(2) THE PRIVATE INTEREST OF:~~

34 ~~(i) THE REGULATED LOBBYIST; OR~~

1 (II) ~~AN ENTITY REPRESENTED BY THE LOBBYIST.~~

2 15-703.

3 (f) {(3) (i) ~~Except as provided in subparagraph (ii)~~ SUBJECT TO
4 SUBPARAGRAPHS (II) AND (III) of this paragraph, if a regulated lobbyist is or becomes
5 subject to regulation under this title as an official or employee, the regulated lobbyist
6 shall immediately terminate the registration in accordance with paragraph (2) of this
7 subsection.

8 (ii) [Subparagraph (i) of this paragraph does not apply to a
9 regulated lobbyist appointed to an advisory governmental body of limited duration.]
10 AFTER HOLDING A PUBLIC HEARING, THE ETHICS COMMISSION SHALL ADOPT
11 REGULATIONS ESTABLISHING CRITERIA UNDER WHICH A REGULATED LOBBYIST
12 MAY SERVE ON A STATE BOARD OF COMMISSION.

13 (III) THE REGULATIONS ADOPTED UNDER SUBPARAGRAPH (II) OF
14 THIS PARAGRAPH SHALL:

15 1. ESTABLISH A CLASSIFICATION OF STATE BOARDS OR
16 COMMISSIONS ON WHICH REGULATED LOBBYISTS MAY SERVE;

17 2. AT A MINIMUM AUTHORIZE A REGULATED LOBBYIST TO
18 SERVE AS AN APPOINTED MEMBER OF AN ADVISORY GOVERNMENTAL BODY OF
19 LIMITED DURATION; AND

20 3. ESTABLISH DISCLOSURE REQUIREMENTS FOR A
21 REGULATED LOBBYIST WHO SERVES ON A BOARD OR COMMISSION UNDER THIS
22 PARAGRAPH THAT ARE SUBSTANTIALLY SIMILAR TO DISCLOSURE REQUIREMENTS
23 FOR MEMBERS OF THE GENERAL ASSEMBLY.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2002.