
By: **Delegate McIntosh**
 Introduced and read first time: February 9, 2005
 Assigned to: Environmental Matters

Committee Report: Favorable with amendments
 House action: Adopted
 Read second time: March 21, 2005

CHAPTER _____

1 AN ACT concerning

2 **Public Ethics Law - Advisory Governmental ~~Body of Limited Duration~~**
 3 **Bodies - Application**

4 FOR the purpose of establishing that a person who serves on an advisory
 5 governmental body ~~of limited duration~~ is not a public official subject to the
 6 public ethics law by virtue of the person's service on that body; altering a
 7 provision of law requiring the State Ethics Commission to adopt certain
 8 regulations that authorize a regulated lobbyist to serve as an appointed member
 9 of a certain governmental body; and generally relating to the application of the
 10 public ethics law.

11 BY repealing and reenacting, with amendments,
 12 Article - State Government
 13 Section 15-103 and 15-703(f)(3)
 14 Annotated Code of Maryland
 15 (2004 Replacement Volume)

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

18 **Article - State Government**

19 15-103.

20 (a) The determination of whether an individual is a "public official" for the
 21 purposes of this title shall be made in accordance with the provisions of this section.

1 (b) Except as provided in subsection (f) of this section AND SUBJECT TO
2 SUBSECTION (G) OF THIS SECTION, the following individuals in executive units are
3 public officials:

4 (1) an individual who receives compensation at a rate equivalent to at
5 least State grade level 16, or who is appointed to a board, if the Ethics Commission
6 determines under § 15-208 of this title that:

7 (i) the individual, acting alone or as a member of an executive unit,
8 has decision making authority or acts as a principal advisor to one with that
9 authority:

10 1. in making State policy in an executive unit; or

11 2. in exercising quasi-judicial, regulatory, licensing,
12 inspecting, or auditing functions; and

13 (ii) the individual's duties are not essentially administrative and
14 ministerial;

15 (2) any other individual in an executive unit, if the Ethics Commission
16 determines that the individual, acting alone or as a member of the executive unit, has
17 decision making authority or acts as a principal advisor to one with that authority in
18 drafting specifications for, negotiating, or executing contracts that commit the State
19 or an executive unit to spend more than \$10,000 in a year;

20 (3) a member, appointee, or employee of the Maryland Stadium
21 Authority;

22 (4) a member, appointee, or employee of the Canal Place Preservation
23 and Development Authority; and

24 (5) a member of the Emergency Medical Services Board.

25 (c) Except as provided in subsection (f) of this section AND SUBJECT TO
26 SUBSECTION (G) OF THIS SECTION, an individual in the Legislative Branch is a public
27 official if the individual:

28 (1) receives compensation at a rate equivalent to at least State grade
29 level 16; and

30 (2) is designated a public official by order of the presiding officers of the
31 General Assembly.

32 (d) (1) Except as provided in paragraph (3) of this subsection or in
33 subsection (f) of this section, AND SUBJECT TO SUBSECTION (G) OF THIS SECTION, an
34 individual in the Judicial Branch is a public official if the individual receives
35 compensation at a rate equivalent to at least State grade level 16.

1 (2) For the purposes of paragraph (1) of this subsection, "individual in
2 the Judicial Branch" includes an individual who is:

3 (i) employed in the office of a clerk of court;

4 (ii) paid by a county to perform services in an orphans' court or
5 circuit court;

6 (iii) employed by the Attorney Grievance Commission;

7 (iv) employed by the State Board of Law Examiners; or

8 (v) employed by the Court of Appeals Standing Committee on Rules
9 of Practice and Procedure.

10 (3) The Ethics Commission may exclude the individuals in a position in
11 the Judicial Branch from inclusion as public officials under paragraph (1) of this
12 subsection:

13 (i) upon the recommendation of the State Court Administrator;
14 and

15 (ii) if the Ethics Commission determines that the position does not
16 have policy, policy advice, quasi-judicial, or procurement functions.

17 (e) A member of a bicounty commission is a public official.

18 (f) The following are not public officials:

19 (1) a State official;

20 (2) an individual employed on a contractual basis unless the individual
21 is:

22 (i) employed on a full-time basis for more than 6 months; and

23 (ii) designated pursuant to subsection (b)(1) or (c) of this section;
24 and

25 (3) a part-time or full-time faculty member at a State institution of
26 higher education:

27 (i) as to subsection (b)(2) of this section, only when the individual
28 is acting in the capacity of a faculty member; and

29 (ii) as to any other provision of this section, unless the individual
30 also:

31 1. is employed in another position that causes the individual
32 to be designated as a public official; or

1 2. directly procures, directly influences, or otherwise directly
2 affects the formation or execution of any State contract, purchase, or sale, as
3 established by regulations adopted by the Ethics Commission and approved by the
4 Joint Committee on Administrative, Executive, and Legislative Review.

5 (G) A PERSON WHO SERVES ON AN ADVISORY GOVERNMENTAL BODY ~~OF~~
6 ~~LIMITED DURATION~~ IS NOT A PUBLIC OFFICIAL BY VIRTUE OF THE PERSON'S
7 SERVICE ON THAT BODY.

8 15-703.

9 (f) (3) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, if a
10 regulated lobbyist is or becomes subject to regulation under this title as an official or
11 employee, the regulated lobbyist shall immediately terminate the registration in
12 accordance with paragraph (2) of this subsection.

13 (ii) After holding a public hearing, the Ethics Commission shall
14 adopt regulations establishing criteria under which a regulated lobbyist may serve on
15 a State board or commission.

16 (iii) The regulations adopted under subparagraph (ii) of this
17 paragraph shall:

18 1. establish a classification of State boards or commissions
19 on which regulated lobbyists may serve;

20 2. at a minimum authorize a regulated lobbyist to serve as
21 an appointed member of an advisory governmental body [of limited duration]; and

22 3. establish disclosure requirements for a regulated lobbyist
23 who serves on a board or commission under this paragraph, that are substantially
24 similar to disclosure requirements for members of the General Assembly.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2005.