
By: **Delegates Stull, Aumann, Barkley, Bartlett, Bobo, Cane, V. Clagett, Cluster, Conway, Dwyer, Edwards, Elliott, Elmore, Frank, Glassman, Haddaway, Hogan, James, Jennings, Kelly, Kohl, Kullen, McIntosh, McKee, McMillan, Myers, Parrott, Petzold, Rudolph, Smigiel, Sossi, Walkup, Weldon, and Wood**

Introduced and read first time: February 2, 2006

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2006

CHAPTER _____

1 AN ACT concerning

2 **Ethics - Employees ~~or~~ Officials of the Department of Agriculture – Farm**
 3 **Business, and Committee Members - Exceptions to Employment or**
 4 **Financial Restrictions**

5 FOR the purpose of exempting certain officials or employees of the Department of
 6 Agriculture who are employed by or have a financial interest in a farm business
 7 from a certain prohibition against officials or employees holding certain
 8 employment or having a certain financial interest under certain circumstances;
 9 requiring the Secretary of Agriculture to adopt certain procedures; providing
 10 that certain provisions of the Maryland Public Ethics Law related to conflicts of
 11 interest and the required termination of a lobbyist's registration do not apply
 12 under certain circumstances to a regulated lobbyist who serves on the Bay
 13 Restoration Fund Advisory Committee; and generally relating to ~~employees or~~
 14 officials of the Department of Agriculture- exceptions to employment and
 15 financial restrictions.

16 BY repealing and reenacting, ~~without~~ with amendments,
 17 Article - Agriculture
 18 Section 2-102
 19 Annotated Code of Maryland
 20 (1999 Replacement Volume and 2005 Supplement)

21 BY repealing and reenacting, with amendments.

1 Article - Environment
2 Section 9-1605.2(j)
3 Annotated Code of Maryland
4 (1996 Replacement Volume and 2005 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article - State Government
7 Section 15-502
8 Annotated Code of Maryland
9 (2004 Replacement Volume and 2005 Supplement)

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

12 **Article - Agriculture**

13 2-102.

14 (a) The head of the Department is the Secretary of Agriculture, who shall be
15 appointed by the Governor, with the advice and consent of the Senate.

16 (b) The Secretary shall receive the salary provided in the State budget. He
17 serves at the pleasure of the Governor and is responsible directly to the Governor. The
18 Secretary shall counsel and advise the Governor on all matters assigned to the
19 Department of Agriculture and is responsible for carrying out the Governor's policies
20 with respect to these matters. The Secretary shall be responsible for the operation of
21 the Department and shall establish guidelines and procedures to promote the orderly
22 and efficient administration of the Department.

23 (c) The Secretary, with the approval of the Governor, shall appoint a deputy
24 secretary who has the duties provided by law or delegated by the Secretary. The
25 deputy secretary serves at the pleasure of the Secretary and shall receive the salary
26 provided in the State budget.

27 (d) (1) (i) The Secretary also shall have within the Department
28 assistants, professional consultants, and employees as provided in the State budget.

29 (ii) Assistants in charge of areas of responsibility and professional
30 consultants shall be in the executive service, management service, or special
31 appointments in the State Personnel Management System and shall serve at the
32 pleasure of the Secretary.

33 (iii) Wherever it is provided by law that the Secretary makes an
34 appointment to a particular office within the Department with the approval of the
35 Governor, the Secretary may not remove the appointee without first obtaining the
36 Governor's approval.

1 (2) Except as otherwise provided by law, the Secretary shall appoint and
2 remove all other personnel in accordance with the provisions of the State Personnel
3 and Pensions Article.

4 (3) The Secretary may delegate the authority to appoint and remove
5 personnel of any unit to the administrator of the unit.

6 (4) THE SECRETARY SHALL ESTABLISH PROCEDURES TO ENSURE THE
7 IMPARTIALITY AND INDEPENDENT JUDGMENT OF AN OFFICIAL OR EMPLOYEE WHO
8 IS EMPLOYED BY OR HAS A FINANCIAL INTEREST IN AN OUTSIDE FARM BUSINESS IN
9 ACCORDANCE WITH § 15-502(C)(5) OF THE STATE GOVERNMENT ARTICLE.

10 **Article - Environment**

11 9-1605.2.

12 (j) (1) There is a Bay Restoration Fund Advisory Committee.

13 (2) The Committee consists of the following members:

14 (i) The Secretaries of the Environment, Agriculture, Planning,
15 Natural Resources, and Budget and Management, or their designees;

16 (ii) One member of the Senate, appointed by the President of the
17 Senate;

18 (iii) One member of the House of Delegates, appointed by the
19 Speaker of the House of Delegates;

20 (iv) Two individuals representing publicly owned wastewater
21 facilities, appointed by the Governor;

22 (v) Two individuals representing environmental organizations,
23 appointed by the Governor;

24 (vi) One individual each from the Maryland Association of Counties
25 and the Maryland Municipal League, appointed by the Governor;

26 (vii) Two individuals representing the business community,
27 appointed by the Governor;

28 (viii) Two individuals representing local health departments who
29 have expertise in onsite sewage disposal systems, appointed by the Governor; and

30 (ix) One individual representing a university or research institute
31 who has expertise in nutrient pollution, appointed by the Governor.

32 (3) (I) The Governor shall appoint the chairman of the Committee
33 from the designated members of the Committee.

1 (II) IF THE GOVERNOR APPOINTS A REGULATED LOBBYIST TO
2 SERVE AS A MEMBER OF THE COMMITTEE, THE LOBBYIST:

3 1. IS NOT SUBJECT TO § 15-504(D) OF THE STATE
4 GOVERNMENT ARTICLE WITH RESPECT TO THAT SERVICE; AND

5 2. IS NOT SUBJECT TO § 15-703(F)(3)(I) OF THE STATE
6 GOVERNMENT ARTICLE AS A RESULT OF THAT SERVICE.

7 (4) The Committee may consult with any stakeholder group as it deems
8 necessary.

9 (5) (i) The term of a member is 4 years.

10 (ii) A member continues to serve until a successor is appointed.

11 (iii) The terms of the members appointed by the Governor are
12 staggered as required by the terms provided for members of the Committee on
13 October 1, 2004.

14 (iv) At the end of a term, a member continues to serve until a
15 successor is appointed and qualifies.

16 (v) A member who is appointed after a term has begun serves only
17 for the rest of the term and until a successor is appointed and qualifies.

18 (6) The Committee shall:

19 (i) Perform an analysis of the cost of nutrient removal from
20 wastewater facilities;

21 (ii) Identify additional sources for funding the Bay Restoration
22 Fund;

23 (iii) Make recommendations to improve the effectiveness of the Bay
24 Restoration Fund in reducing nutrient loadings to the waters of the State;

25 (iv) Make recommendations regarding the appropriate restoration
26 fee to be assessed in fiscal year 2008 and subsequent years as necessary to meet the
27 financing needs of the Bay Restoration Fund;

28 (v) In consultation with the governing body of each county:

29 1. Identify users of onsite sewage disposal systems and
30 holding tanks; and

31 2. Make recommendations to the governing body of each
32 county on the best method of collecting the Bay restoration fee from the users of
33 onsite sewage disposal systems and holding tanks that do not receive water bills;

1 (1) to employment or a financial interest allowed by regulation of the
2 Ethics Commission if:

3 (i) the employment does not create a conflict of interest or the
4 appearance of a conflict of interest; or

5 (ii) the financial interest is disclosed;

6 (2) to a public official who is appointed to a regulatory or licensing unit
7 pursuant to a statutory requirement that entities subject to the jurisdiction of the
8 unit be represented in appointments to it;

9 (3) as allowed by regulations adopted by the Commission, to an employee
10 whose government duties are ministerial, if the private employment or financial
11 interest does not create a conflict of interest or the appearance of a conflict of interest;
12 [or]

13 (4) to a member of a board who holds the employment or financial
14 interest when appointed if the employment or financial interest is publicly disclosed
15 to the appointing authority, the Ethics Commission, and, if applicable, the Senate of
16 Maryland before Senate confirmation; OR

17 (5) TO EMPLOYMENT BY OR A FINANCIAL INTEREST IN A FARM
18 BUSINESS BY AN OFFICIAL OR EMPLOYEE OF THE DEPARTMENT OF AGRICULTURE
19 APPOINTED OR HIRED UNDER ~~§ 2-102~~ § 2-102(D)(1)(I) OR (II) OF THE AGRICULTURE
20 ARTICLE IF:

21 (I) THE OFFICIAL OR EMPLOYEE IS NOT A SUBCONTRACTOR; AND

22 (II) THE OFFICIAL OR EMPLOYEE IS ONLY WORKING ON FARM
23 CONTRACTS RELATING TO ENVIRONMENTAL PROTECTION PROGRAMS
24 ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE.

25 (d) (1) Subject to paragraph (2) of this subsection, the Ethics Commission
26 may exempt a public official of an executive unit or an employee of an executive unit
27 from the prohibitions of subsection (b) of this section if the Ethics Commission
28 determines that:

29 (i) failure to grant the exemption would limit the ability of the
30 State to:

31 1. recruit and hire highly qualified or uniquely qualified
32 professionals for public service; or

33 2. assure the availability of competent services to the public;
34 and

35 (ii) the number of exemptions granted under this subsection has
36 not tended to erode the purposes of subsection (b) of this section or other provisions of
37 this title.

1 (2) (i) The Ethics Commission may grant an exemption under
2 paragraph (1) of this subsection only:

- 3 1. in extraordinary situations; and
4 2. upon the recommendation of the Governor, at the request
5 of the executive unit involved.

6 (ii) The Ethics Commission shall apply this subsection as
7 consistently as possible under similar facts and circumstances.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 ~~October~~ June 1, 2006.