

# HOUSE BILL 1337

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71r3352

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By: **Delegate Minnick**

Introduced and read first time: February 28, 2007

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Ethics – Public Official – Membership on Board or Executive Unit with**  
3 **Advisory Capacity**

4 FOR the purpose of providing that certain prohibitions under the conflicts of interest  
5 provisions of the public ethics law do not apply to a public official who is  
6 appointed to a board or executive unit that has authority to act only in a certain  
7 advisory capacity and who also is appointed in accordance with a certain  
8 statutory requirement; and generally relating to membership by a public official  
9 on a board or executive unit and the application of certain public ethics laws.

10 BY repealing and reenacting, with amendments,  
11 Article – State Government  
12 Section 15–502  
13 Annotated Code of Maryland  
14 (2004 Replacement Volume and 2006 Supplement)

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

17 **Article – State Government**

18 15–502.

19 (a) This section does not apply to members of the General Assembly.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) Except as provided in subsections (c) and (d) of this section, an official or  
2 employee may not:

3 (1) be employed by or have a financial interest in:

4 (i) an entity subject to the authority of that official or employee  
5 or of the governmental unit with which the official or employee is affiliated; or

6 (ii) an entity that is negotiating or has entered a contract with  
7 that governmental unit or an entity that is a subcontractor on a contract with that  
8 governmental unit; or

9 (2) hold any other employment relationship if that employment  
10 relationship would impair the impartiality and independent judgment of the official or  
11 employee.

12 (c) The prohibitions of subsection (b) of this section do not apply:

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

15 (i) the employment does not create a conflict of interest or the  
16 appearance of a conflict of interest; or

17 (ii) the financial interest is disclosed;

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

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

25 (4) to a member of a board who holds the employment or financial  
26 interest when appointed if the employment or financial interest is publicly disclosed to  
27 the appointing authority, the Ethics Commission, and, if applicable, the Senate of  
28 Maryland before Senate confirmation; **OR**

29 **(5) TO A PUBLIC OFFICIAL IF THE PUBLIC OFFICIAL IS**  
30 **APPOINTED:**

1                   **(I) TO A BOARD OR EXECUTIVE UNIT THAT HAS AUTHORITY**  
2 **TO ACT ONLY IN AN ADVISORY CAPACITY; AND**

3                   **(II) IN ACCORDANCE WITH A STATUTORY REQUIREMENT**  
4 **THAT THE PUBLIC OFFICIAL BE APPOINTED ON RECOMMENDATION OF AN**  
5 **ENTITY OR ORGANIZATION ENTITLED BY STATUTE TO HAVE REPRESENTATION**  
6 **ON THE BOARD OR EXECUTIVE UNIT.**

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

11                   (i) failure to grant the exemption would limit the ability of the  
12 State to:

13                               1. recruit and hire highly qualified or uniquely qualified  
14 professionals for public service; or

15                               2. assure the availability of competent services to the  
16 public; and

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

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

22                               1. in extraordinary situations; and

23                               2. upon the recommendation of the Governor, at the  
24 request of the executive unit involved.

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

27           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2007.