

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 81 (Senator Della)
Education, Health, and Environmental Affairs

Procurement of Services of Regulated Lobbyist - Prohibited

This bill prohibits most State Executive Branch agencies from awarding contracts for services that are to be performed in part or in whole by a lobbyist registered with the State.

Fiscal Summary

State Effect: State finances would not be directly affected.

Local Effect: None.

Small Business Effect: Potentially meaningful. To the extent that lobbying firms are small businesses, they could be excluded from receiving State contracts.

Analysis

Current Law: Entities must register with the State Ethics Commission (SEC) if, during a reporting period, they:

- communicate with an official or employee of the Legislative or Executive Branches for the purpose of influencing legislative action, the development or adoption of regulations, or the development or issuance of an executive order, provided they incur at least \$500 in expenses or earn at least \$2,500 in compensation for their communication;

- spend at least \$100 for gifts, including meals, beverages, and special events for one or more officials or employees of the Executive Branch for the purpose of influencing executive action;
- receive compensation to influence executive action on a procurement contract that exceeds \$100,000 in value;
- receive compensation from a business entity to secure from the State a business grant or loan with a value exceeding \$100,000;
- spend at least \$2,000 for the express purpose of soliciting others to communicate with an official to influence legislative or executive action; or
- spend at least \$2,500 to compensate a registered lobbyist.

Any entity that compensates one or more lobbyists and that reasonably expects the lobbyist to report all expenditures requiring registration is exempt from the registration and reporting requirements.

Certain State agencies are exempted in whole or in part from most State procurement law including:

- University System of Maryland;
- Morgan State University;
- St. Mary's College of Maryland;
- Blind Industries and Services of Maryland;
- Maryland State Arts Council;
- Maryland Health and Higher Educational Facilities Authority;
- Department of Business and Economic Development;
- Maryland Food Center Authority;
- Maryland Public Broadcasting Commission;
- Maryland State Planning Council on Developmental Disabilities;
- Maryland Automobile Insurance Fund;
- Maryland Historical Trust;
- Rural Maryland Council;
- Maryland State Lottery Agency;
- Maryland Health Insurance Plan;
- Maryland Energy Administration;
- Maryland Developmental Disabilities Administration;
- Maryland Stadium Authority; and
- State Retirement and Pension System.

Background: In fiscal 2006, 2,652 lobbyists registered with SEC to lobby on behalf of their clients. According to SEC, some firms that employ lobbyists but whose primary function is not lobbying nevertheless register with the State, but claim the exemption

from reporting lobbyist expenses. It is possible, subject to the interpretation of the terms of this bill, that these firms could also be barred from receiving State contracts.

State Fiscal Effect: Federal law prevents the use of federal funds to lobby federal agencies or Congress, but there is no prohibition on the use of nonfederal funds to lobby federal agencies or Congress. State agencies, most notably the Maryland Department of Transportation (MDOT), use general or special funds to employ lobbyists to assist them in securing federal funds for State programs. If these lobbyists are also registered with SEC, or if their firms have lobbyists registered with SEC, MDOT and other agencies will be barred from hiring them to lobby for federal funds. This could indirectly lead to a decrease in federal funds, although the extent of any potential decrease cannot be estimated.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of General Services, Board of Public Works, State Ethics Commission, University System of Maryland, Maryland Department of Transportation, Department of Budget and Management, Department of Legislative Services

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