

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 558

(Delegate Stull, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Department of Agriculture - Employment - Exemption from Ethics Restrictions

This bill exempts employees of the Maryland Department of Agriculture (MDA) from specified State ethics law restrictions, allowing an individual who owns or operates a farm regulated by MDA to be employed within MDA. However, the individual must not exercise any regulatory or supervisory authority over the farm activities of the individual's farm. MDA, in consultation with the State Ethics Commission, must adopt regulations to govern conflicts of interest with respect to those employees who own or operate a farm regulated by the department. MDA and the State Ethics Commission have to jointly prepare and submit a report to the General Assembly by December 31, 2010 that includes the number of employees hired after the effective date of the bill who own or operate a farm, the positions the employees were hired for, and how any conflicts of interest or potential conflicts of interest were addressed.

Fiscal Summary

State Effect: None. The bill would not directly affect State finances.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Subject to exceptions, and excluding members of the General Assembly, a State or public official or employee may not be employed by or have a financial interest in:

- an entity that is subject to their authority or the authority of the governmental unit they are affiliated with; or
- an entity that is negotiating or has entered a contract with that governmental unit, or a subcontractor on a contract with the governmental unit; and
- may not hold any other employment relationship that would impair the impartiality and independent judgment of the official or employee.

Exceptions to these restrictions include:

- employment or a financial interest allowed by State Ethics Commission regulations if the employment does not create a conflict of interest or the appearance of a conflict of interest, or if the financial interest is disclosed;
- public officials appointed to a regulatory or licensing unit pursuant to a statutory requirement that entities subject to the jurisdiction of the unit be represented in appointments to it; and
- a member of a board holding the employment or financial interest when appointed if the employment or financial interest is publicly disclosed to the appointing authority, the State Ethics Commission, and, if applicable, the Senate before confirmation.

The State Ethics Commission may also exempt an official or employee of an executive unit in extraordinary circumstances, upon the recommendation of the Governor, at the request of the executive unit involved, where failure to grant an exemption would limit the State's ability to recruit and hire highly qualified or uniquely qualified professionals for public service, or assure the availability of competent services to the public. State Ethics Commission regulations set out further guidelines and exceptions with respect to conflicts of interest arising from outside employment or financial interests.

Background: MDA is currently having problems with recruitment, and candidates who are employed by or have financial interests in farm operations are well-suited for many positions within the department, especially those in the soil conservation districts and pesticide and nutrient management programs. Candidates with experience in farm operations require less training, and MDA has had more success in retaining employees who have outside employment and interests in the farming industry. Farm operations, however, are generally regulated by MDA. Therefore, the department has to seek an exemption from the State Ethics Commission for new-hire candidates who are employed by or have financial interests in farm businesses.

State Fiscal Effect: The bill's changes would have a positive operational effect on MDA by allowing it to hire qualified candidates who have outside employment or financial interests in farm businesses. However, the bill would not directly affect State finances.

Small Business Effect: The bill's changes would have a positive impact on small farm business operators by allowing them to work at MDA in positions for which they are uniquely qualified. Small farms generally rely on some level of outside income to stay in business. According to the 2002 Census of Agriculture, farming was not the primary occupation of over 40% of principal farm operators in Maryland.

Additional Information

Prior Introductions: Similar bills were introduced in 2006 as HB 588 and SB 793. HB 588 was amended in both the House and the Senate. Although a conference committee was appointed by the House, the Senate did not appoint members and thus the differences were not resolved. SB 793 was also amended in both the Senate and the House; however, no further action was taken.

Cross File: None.

Information Source(s): State Ethics Commission, Maryland Department of Agriculture, Department of Legislative Services

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