

**Department of Legislative Services**  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 920

(Senator Raskin, *et al.*)

Education, Health, and Environmental Affairs

Environmental Matters

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**Ethics Online Disclosure Act of 2012**

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This bill requires that specified statements and reports relating to conflicts of interest of legislators be filed electronically and, on or after January 1, 2013, be made available to the public on the Internet through an online registration program. The bill also adds a reporting requirement regarding legislators' employment and business interests and creates a specified exemption from certain legislator conflict of interest reporting requirements. Lastly, the bill requires that a workgroup be established to perform a review of the disclosure requirements of the Maryland Public Ethics Law as it applies to State and local governments.

The bill takes effect June 1, 2012, and the provisions requiring the workgroup to be established terminate May 31, 2013.

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**Fiscal Summary**

**State Effect:** The bill's requirements can be handled with existing resources.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

### **Bill Summary:**

#### *Legislator Conflict of Interest Statements/Reports – Electronic Filing and Online Access*

The bill requires statements filed by a legislator regarding the legislator's disqualification or voluntary recusal from participation in a legislative action, as well as other reports filed by legislators with respect to potential conflicts of interest, to be filed electronically. The Department of Legislative Services (DLS) must compile the statements and reports and make them available for public inspection. DLS must make statements and reports filed on or after January 1, 2013, freely available to the public on the Internet through an online registration program. However, information reported relating to consideration received by a legislator for specified representation or in relation to specified contractual relationships or transactions may not be posted on the Internet. For each statement filed by a legislator to suspend a disqualification, the Internet posting must indicate whether the Joint Committee on Legislative Ethics has made a determination with respect to the propriety of the legislator's participation in the particular legislative action, and, if a determination was made, the determination and the date of the determination.

#### *Modifications to Legislator Conflict of Interest Reporting Requirements*

In addition to other information on potential conflicts of interest that must be reported to the Joint Committee on Legislative Ethics, a legislator must report any primary employment or business interest and the employer of the legislator or the spouse of the legislator, except for employment as a legislator.

The bill also creates an exception to certain reporting requirements relating to potential conflicts of interest, including the newly established reporting requirements regarding employment and business interests. Under the exception, a legislator, on the written advice of the counsel to the Joint Committee on Legislative Ethics, is not required to report any information if doing so would violate standards of client confidentiality or professional conduct.

#### *Workgroup Established*

The bill requires the President of the Senate and the Speaker of the House of Delegates to jointly establish a workgroup during the 2012 interim to perform a comprehensive and coordinated review of the disclosure requirements of the Maryland Public Ethics Law as it applies to State and local governments. The workgroup must submit any recommended legislation for the 2013 regular session to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee by December 31, 2012.

## **Current Law:**

### *Legislative Disqualification Due to Conflict of Interest*

An interest of a member of the General Assembly conflicts with the public interest if the legislator's interest tends to impair the legislator's independence of judgment. The conflict disqualifies the legislator from participating in any legislative action, or otherwise attempting to influence any legislation, to which the conflict relates. Certain circumstances are specified in the law in which it is presumed that an interest disqualifies a legislator.

A disqualification is suspended if a legislator with an apparent or presumed conflict files with the Joint Committee on Legislative Ethics a sworn statement describing the conflict and asserting that the legislator can vote and otherwise participate in the action fairly, objectively, and in the public interest. A disqualification, however, may not be suspended for conflicts that are direct and personal to the legislator, an immediate family member, or the legislator's employer with respect to legislative action other than a vote on the annual operating or capital budget bills in their entirety. The committee, on its own motion, may issue a statement concerning the propriety of the legislator's participation in a matter for which suspension is sought, with reference to applicable ethical standards. A suspension is also subject to further action by the committee if the question of conflict comes before it as to the same circumstances and the same legislator.

Statements must also be filed with the committee by legislators who are disqualified due to a conflict that is direct and personal to the legislator, an immediate family member, or the legislator's employer and by legislators who choose to be excused from participation in legislative action because of the appearance or presumption of a conflict.

All statements filed are a matter of public record and the committee must develop procedures under which a statement may be filed electronically without any additional cost to the legislator.

### *Other Legislator Conflict of Interest Reporting*

Legislators must also report information to the Joint Committee on Legislative Ethics with respect to other specified circumstances that may give rise to a conflict of interest, including representation of a person for compensation before a State or local government agency, except in a judicial or quasi-judicial proceeding; representation of a State or local government agency for compensation; a specified interest in a business enterprise subject to regulation by a State agency, and others. The information must be reported in writing to the committee at times and in the manner required by the committee. The reports are a matter of public record and the committee must develop procedures under which a report may be filed electronically without any additional cost to the legislator.

**Background:** This bill originated from the Senate Special Committee on Ethics Reform. The committee was established in January 2012 by the President of the Senate to conduct a comprehensive review of the State ethics law and make recommendations as to improvements in its requirements, the openness and transparency of ethics disclosures and information, and the clarity of the complaint process and the subsequent penalties for violations.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Ethics Commission, Governor's Office, Department of Legislative Services

**Fiscal Note History:** First Reader - March 1, 2012  
mc/kdm Revised - Senate Third Reader - April 3, 2012  
Revised - Enrolled Bill - May 15, 2012

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