

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

**FISCAL AND POLICY NOTE**

Senate Bill 285

(Senator Frosh, *et al.*)

Judicial Proceedings

---

**Immunity of Local Government Officials - Prosecutions for Bribery**

---

This bill specifies that a provision establishing immunity from civil or criminal liability for a city or town councilman, county commissioner, county councilman, or similar official for words spoken at a meeting of the council or board of commissioners, or at a meeting of a committee or subcommittee, does not apply to an action involving the attempted bribery or bribery of a public employee.

---

**Fiscal Summary**

**State Effect:** The bill is not expected to materially affect State finances.

**Local Effect:** The bill is not expected to materially affect local government finances.

**Small Business Effect:** None.

---

**Analysis**

**Current Law/Background:** The Maryland Constitution, under Article III, § 18, specifies that no Senator or Delegate may be liable in any civil action, or criminal prosecution, for words spoken in debate. Under the Courts and Judicial Proceedings Article, § 5-501, of the Annotated Code, a civil or criminal action may not be brought against a city or town councilman, county commissioner, county councilman, or similar official by whatever name known, for words spoken at a meeting of the council or board of commissioners or at a meeting of a committee or subcommittee.

In a recent decision, *State v. Holton*, 420 Md. 530 (2011), the Maryland Court of Appeals affirmed the dismissal of an indictment of a local elected official based on the immunity

provided by § 5-501 of the Courts and Judicial Proceedings Article. The indictment, alleging that bribery and other crimes were committed by the official, included various assertions of legislative actions taken by the official. In its opinion, the Court of Special Appeals described the legislative immunity or privilege of federal, State, and local legislative officials:

“[M]embers of legislative bodies – whether Congress, State legislatures or local councils – may be prosecuted for criminal behavior, including offenses such as bribery, misfeasance in office and criminal corruption. These legislators have no general immunity from criminal prosecution. Under what are often referred to as the “speech and debate” clauses in the Federal Constitution (Art. I, § 6) and the Maryland Constitution (Md. Decl. Of Rts. Art. 10 and Art. III, § 18), there is a caveat to that principle, however. Members of those bodies generally may not be compelled to answer for or defend, in a non-legislative governmental forum, what they say or do in the legislative process. C.J.P. § 5-501 provides the same level of protection to members of local legislative bodies.” (*See State v. Holton*, 193 Md. App. 322 (2010)).

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Ethics Commission, Judiciary (Administrative Office of the Courts), State Prosecutor’s Office, Maryland Association of Counties, Maryland Municipal League, Department of Legislative Services

**Fiscal Note History:** First Reader - February 14, 2012  
ncs/kdm

---

Analysis by: Scott D. Kennedy

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510