

HOUSE BILL 1397

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3lr2574
CF 3lr3411

By: **Delegate Bobo (Chair, Workgroup to Conduct a Review of Disclosure Requirements of the Public Ethics Laws)**

Introduced and read first time: February 14, 2013

Assigned to: Rules and Executive Nominations

Re-referred to: Environmental Matters, February 26, 2013

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2013

CHAPTER _____

1 AN ACT concerning

2 ~~Joint Ethics Committee Reporting Requirements Employment and~~
3 ~~Sources of Earned Income~~
4 Public Ethics – Public Officials, Local Governments, and Lobbyists –
5 Training, Reporting, and Enforcement

6 FOR the purpose of requiring the State Ethics Commission to adopt certain model
7 ethics provisions for school boards; providing that a model provision may be
8 adopted by or imposed on a school board under certain circumstances; repealing
9 a requirement that a certain regulated lobbyist attend a certain training course
10 in a certain time period; altering the information related to employment and
11 sources of earned income that a member of the General Assembly is required to
12 report to the Joint Ethics Committee; prohibiting the Department of Legislative
13 Services from posting certain information on the Internet; requiring that a
14 regulated lobbyist complete a certain training course in a certain period;
15 requiring an individual who was a public official and registers as a regulated
16 lobbyist in a certain time period to seek certain advice from the State Ethics
17 Commission; authorizing the State Ethics Commission, after making a certain
18 determination, to issue a certain order directing a county or municipal
19 corporation to comply with certain provisions of the Public Ethics Law;
20 authorizing the State Ethics Commission, after making a certain determination,
21 to issue a certain order directing a school board to comply with certain
22 provisions of the Public Ethics Law; authorizing the State Ethics Commission to
23 petition a certain circuit court to compel a school board to comply with certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 requirements; altering the duties, reporting requirements, and termination date
 2 of a certain workgroup established to study public ethics; and generally relating
 3 to ~~reporting requirements of members of the General Assembly~~ public ethics,
 4 public officials, local governments, and lobbyists.

5 BY repealing and reenacting, with amendments,
 6 Article – State Government
 7 Section ~~15–513(b)~~ 15–205(b) and (e), 15–513(b) and (d), and 15–808
 8 Annotated Code of Maryland
 9 (2009 Replacement Volume and 2012 Supplement)

10 BY repealing and reenacting, without amendments,
 11 Article – State Government
 12 Section 15–513(c) and (d) and 15–607(h) and (i)
 13 Annotated Code of Maryland
 14 (2009 Replacement Volume and 2012 Supplement)

15 BY adding to
 16 Article – State Government
 17 Section 15–716, 15–717, and 15–816
 18 Annotated Code of Maryland
 19 (2009 Replacement Volume and 2012 Supplement)

20 BY repealing and reenacting, with amendments,
 21 Chapter 620 of the Acts of the General Assembly of 2012
 22 Section 2 and 3

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

25 **Article – State Government**

26 15–205.

27 (b) (1) The Ethics Commission shall adopt by regulation model provisions
 28 for local governments AND SCHOOL BOARDS that relate to:

29 (i) conflicts of interest;

30 (ii) financial disclosure; and

31 (iii) regulation of lobbying.

32 (2) Model provisions adopted under paragraph (1) of this subsection
 33 may be:

34 (i) adopted by any local jurisdiction OR SCHOOL BOARD; or

1 (ii) in accordance with Subtitle 8 of this title, imposed on a local
2 jurisdiction OR SCHOOL BOARD.

3 (e) (1) **[(i)]** The Ethics Commission shall provide a training course for
4 regulated lobbyists and prospective regulated lobbyists at least twice each year
5 regarding the provisions of the Maryland Public Ethics Law relevant to regulated
6 lobbyists. One such course shall be conducted in the month of January.

7 (ii) A regulated lobbyist, other than the employer of a regulated
8 lobbyist as described in § 15-701(a)(6) of this title, shall attend a training course
9 provided under subparagraph (i) of this paragraph at least once in any 2-year period
10 during which a lobbyist has registered with the Ethics Commission.]

11 (2) At the time of a person's initial registration as a regulated lobbyist,
12 the Ethics Commission shall provide the person with information relating to the
13 provisions of the Maryland Public Ethics Law relevant to regulated lobbyists.

14 15-513.

15 (b) (1) A legislator shall report the following information in writing to the
16 Joint Ethics Committee at the times and in the manner required by the Joint Ethics
17 Committee:

18 (i) subject to paragraph (2) of this subsection, if representing a
19 person for compensation before a State or local government agency, except in a judicial
20 proceeding or in a quasi-judicial proceeding, the name of the person represented, the
21 services performed, and the consideration. The Joint Ethics Committee may adopt
22 procedures to keep confidential the name of the person represented if that information
23 is privileged or confidential pursuant to any provision of law governing proceedings
24 before that State agency.

25 (ii) if representing a State or local government agency for
26 compensation, the name of the agency, the services performed, and the consideration.

27 (iii) the name of any business enterprise subject to regulation by
28 a State agency in which the legislator and a member of the legislator's immediate
29 family (spouse and children living with the legislator), together or separately, have:

30 1. the lesser of:

31 A. 10 percent or more of the capital stock of any
32 corporation; or

33 B. capital stock of any corporation with a cumulative
34 value of \$25,000 or more; and

1 2. any interest in a partnership, limited liability
2 partnership, or limited liability company.

3 (iv) details of any contractual relationship with the State or a
4 State agency, or a local government in the State, including the subject matter and the
5 consideration.

6 (v) details of any transaction with the State, or a local
7 government in the State, involving a monetary consideration.

8 (vi) [any primary employment or business interest and the
9 employer of the legislator or the spouse of the legislator] ~~THE SAME INFORMATION~~
10 ~~RELATED TO EMPLOYMENT AND SOURCES OF EARNED INCOME THAT THE~~
11 ~~LEGISLATOR IS REQUIRED TO INCLUDE IN A STATEMENT FILED WITH THE~~
12 ~~ETHICS COMMISSION UNDER § 15-607(I) FOR THE LEGISLATOR AND THE~~
13 ~~LEGISLATOR'S SPOUSE, THE INFORMATION REQUIRED UNDER § 15-607(H) AND~~
14 ~~(I) OF THIS TITLE~~, except for employment as a legislator.

15 (2) A legislator, on the written advice of the Counsel to the Joint
16 Ethics Committee, is not required to report any information under this paragraph if
17 reporting the information would violate standards of client confidentiality or
18 professional conduct.

19 (c) All reports filed under this section shall be:

20 (1) filed electronically on a form required by the Joint Ethics
21 Committee; and

22 (2) maintained as a matter of public record as required in subsection
23 (d) of this section.

24 (d) (1) The Department of Legislative Services shall:

25 (i) compile the reports filed under this section;

26 (ii) make the reports available for public inspection as provided
27 in the Public Information Act; and

28 (iii) as to reports filed on or after January 1, 2013, and except as
29 provided in paragraph (2) of this subsection, make the reports freely available to the
30 public on the Internet through an online registration program.

31 (2) The Department of Legislative Services may not post on the
32 Internet information related to:

1 (I) consideration received that is reported under subsection (b)
2 of this section; **OR**

3 (II) AN ADDRESS FOR AN EMPLOYER OR BUSINESS ENTITY
4 OF A SPOUSE REPORTED UNDER SUBSECTION (B)(1)(VI) OF THIS SECTION.

5 15-607.

6 (h) The statement shall include a schedule listing the members of the
7 immediate family of the individual who were employed by the State in any capacity at
8 any time during the applicable period.

9 (i) (1) Except as provided in paragraph (2) of this subsection, the
10 statement shall include a schedule listing the name and address of each:

11 (i) place of salaried employment, including secondary
12 employment, of the individual or a member of the individual's immediate family at any
13 time during the applicable period; and

14 (ii) business entity of which the individual or a member of the
15 individual's immediate family was a sole or partial owner, and from which the
16 individual or family member received earned income, at any time during the
17 applicable period.

18 (2) The statement may not include a listing of a minor child's
19 employment or business entities of which the child is sole or partial owner, unless the
20 place of employment or the business entity:

21 (i) is subject to the regulation or authority of the agency that
22 employs the individual; or

23 (ii) has contracts in excess of \$10,000 with the agency that
24 employs the individual.

25 15-716.

26 A REGULATED LOBBYIST, OTHER THAN THE EMPLOYER OF A REGULATED
27 LOBBYIST AS DESCRIBED IN § 15-701(A)(6) OF THIS TITLE, SHALL COMPLETE A
28 TRAINING COURSE PROVIDED UNDER § 15-205(E)(1) OF THIS TITLE AT LEAST
29 ONCE IN EACH YEAR DURING WHICH THE LOBBYIST IS REGISTERED WITH THE
30 ETHICS COMMISSION.

31 15-717.

1 (A) THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL WHO WAS A
2 PUBLIC OFFICIAL ONLY AS AN UNCOMPENSATED MEMBER OF A STATE BOARD
3 OR COMMISSION.

4 (B) WITHIN 45 DAYS OF INITIALLY REGISTERING AS A REGULATED
5 LOBBYIST AFTER BEING A PUBLIC OFFICIAL, AN INDIVIDUAL WHO WAS A PUBLIC
6 OFFICIAL IN THE EXECUTIVE OR LEGISLATIVE BRANCH AT ANY POINT IN THE
7 PRIOR 2 YEARS SHALL SEEK ADVICE FROM THE ETHICS COMMISSION
8 REGARDING THE APPLICATION OF THE PUBLIC ETHICS LAW TO THE
9 INDIVIDUAL.

10 15-808.

11 (a) If the Ethics Commission determines that a county or municipal
12 corporation has not complied with AND HAS NOT MADE GOOD-FAITH EFFORTS
13 TOWARD COMPLIANCE WITH the requirements of this Part I, the Ethics Commission:

14 (1) MAY ISSUE AN ORDER DIRECTING THE COUNTY OR MUNICIPAL
15 CORPORATION TO COMPLY WITH THIS PART I, INCLUDING A LISTING OF
16 SPECIFIC AREAS OF NONCOMPLIANCE; AND

17 (2) may petition a circuit court with venue over the proceeding for
18 appropriate relief to compel compliance.

19 (b) The circuit court may grant any available equitable relief.

20 15-816.

21 (A) IF THE ETHICS COMMISSION DETERMINES THAT A SCHOOL BOARD
22 HAS NOT COMPLIED WITH AND HAS NOT MADE GOOD-FAITH EFFORTS TOWARD
23 COMPLIANCE WITH THE REQUIREMENTS OF THIS PART II, THE ETHICS
24 COMMISSION:

25 (1) MAY ISSUE AN ORDER DIRECTING THE SCHOOL BOARD TO
26 COMPLY WITH THIS PART II, INCLUDING A LISTING OF SPECIFIC AREAS OF
27 NONCOMPLIANCE; AND

28 (2) MAY PETITION A CIRCUIT COURT WITH VENUE OVER THE
29 PROCEEDING FOR APPROPRIATE RELIEF TO COMPEL COMPLIANCE.

30 (B) THE CIRCUIT COURT MAY GRANT ANY AVAILABLE EQUITABLE
31 RELIEF.

1 SECTION 2. AND BE IT FURTHER ENACTED, That:

2 (a) The President of the Senate of Maryland and the Speaker of the
3 Maryland House of Delegates jointly shall establish a workgroup [during the 2012
4 interim] to perform a comprehensive and coordinated review of the disclosure
5 requirements of the Maryland Public Ethics Law as it applies to State and local
6 governments.

7 (b) The President and the Speaker may appoint to the workgroup in their
8 discretion:

9 (1) members of the General Assembly;

10 (2) representatives of the Maryland State Ethics Commission;

11 (3) representatives of State, county, and municipal governments;

12 (4) representatives of private sector agencies that promote and
13 encourage government accountability;

14 (5) representatives of public sector employees' unions; and

15 (6) any other interested party.

16 (c) The workgroup shall:

17 (1) review current methods used to provide access to public ethics
18 disclosures and consider any alternative methods that could be made available to
19 citizens and interested parties to more easily access public ethics disclosures;

20 (2) consider options for verifiable notification of electronic or postal
21 access into a public ethics disclosure to be made to the person who is the subject of the
22 inquiry;

23 (3) consider the feasibility and desirability of requiring different levels
24 of public ethics disclosure for different categories of persons based on the person's
25 position of authority and policy making duties;

26 (4) review the information that is currently required to be disclosed
27 and determine:

28 (i) additional information that should be required to be
29 disclosed; and

30 (ii) information that is currently disclosed that no longer needs
31 to be disclosed;

1 (5) consider the implications of current and any proposed disclosure
 2 requirements under the Maryland Public Ethics Law on counties and municipal
 3 corporations;

4 (6) review the composition, duties, and procedures of the Joint Ethics
 5 Committee;

6 (7) review any other aspect of the disclosure requirements [under]
 7 AND ADMINISTRATION OF the Maryland Public Ethics Law; and

8 (8) on or before December 31, [2012] 2014, submit, in accordance with
 9 § 2-1246 of the State Government Article, any recommended legislation [for the 2013
 10 regular session] to the Senate Education, Health, and Environmental Affairs
 11 Committee and the House Environmental Matters Committee.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 13 June 1, 2012. Section 2 of this Act shall remain effective for a period of [1 year] 3
 14 YEARS and, at the end of [May 31, 2013] MAY 31, 2015, with no further action
 15 required by the General Assembly, Section 2 of this Act shall be abrogated and of no
 16 further force and effect.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 18 ~~October~~ June 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.