

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

House Bill 362 (Chair, Environmental Matters Committee)(By Request -
 Departmental - Ethics Commission, State)

Environmental Matters Education, Health, and Environmental Affairs

Public Ethics - Definition of "Interest" - Mutual Funds

This departmental bill excludes from the definition of “interest” under the Maryland Public Ethics Law a mutual fund that is publicly traded on a national scale unless the mutual fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by the individual’s governmental unit.

Fiscal Summary

State Effect: General fund expenditures increase by \$500 in FY 2014 only for contractual services to update the State Ethics Commission’s electronic financial disclosure system. Revenues are not affected.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	500	0	0	0	0
Net Effect	(\$500)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: The State Ethics Commission has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law: Under the Maryland Public Ethics Law, “interest” is defined as a legal or equitable economic interest that is owned or held wholly or partly, jointly or severally, or directly or indirectly, whether or not the economic interest is subject to an encumbrance or condition. There are certain exclusions from the definition of interest, however, including a common trust fund or a trust that forms part of a pension or a profit-sharing plan that (1) has more than 25 participants and (2) is determined by the Internal Revenue Service to be a qualified trust or college savings plan under the Internal Revenue Code.

Under the financial disclosure provisions of the Maryland Public Ethics Law, various officials are required to file financial disclosure statements with the State Ethics Commission, including State elected officials (other than those in the Judicial Branch, who file with the Judiciary), candidates for those offices, and State employees designated as public officials under standards set out in the law. A financial disclosure statement must disclose various interests, including each interest held by the individual in a corporation, partnership, limited liability partnership, or limited liability company, whether or not the entity does business with the State.

Background: The State Ethics Commission indicates that because an individual investor does not have control over the trading of individual holdings in a mutual fund, it is improbable that a State employee or public official can impact the value of a mutual fund through the performance of State duties. According to the commission, this change would also make the treatment of mutual funds consistent with the treatment of mutual funds or other interests in certain retirement accounts and college savings plans that are currently excluded from the definition of “interest.”

State Fiscal Effect: General fund expenditures are expected to increase by \$500 in fiscal 2014 due to a one-time expense to pay a contractor to update the State Ethics Commission’s electronic financial disclosure system to incorporate the bill’s change. The commission and its staff do not have the ability to modify the system.

Additional Information

Prior Introductions: SB 146 of 2012, a similar bill, passed the Senate as amended and received a hearing in the House Environmental Matters Committee, but no further action was taken.

Cross File: None.

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

Fiscal Note History: First Reader - February 8, 2013
ncs/kdm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Public Ethics – Interest – Definition – Mutual Funds

BILL NUMBER: HB 362

PREPARED BY: State Ethics Commission

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.