

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 447

(Senators Conway and Dyson)

Education, Health, and Environmental Affairs

Environmental Matters

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Public Ethics - Members of the General Assembly - Presumption of a Conflict -  
Clients

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This bill expands the definition of “close economic association” in relation to the Public Ethics Law to include a client of a legislator. It includes a client of a partnership, limited liability partnership, or limited liability corporation in which the legislator knowingly has invested capital or owns an interest.

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Fiscal Summary

**State Effect:** The bill does not materially affect State operations or finances.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** “Close economic association” means the association between a legislator and:

- the legislator’s employer, employee, or partner in a business or professional enterprise;
- a partnership, limited liability partnership, or limited liability company in which the legislator has invested capital or owns an interest;

- a corporation in which the legislator owns the lesser of (1) 10% or more of the outstanding capital stock or (2) capital stock with a cumulative value of \$25,000 or more; and
- a corporation in which the legislator is an officer, a director, or an agent.

“Close economic association” does not include a legislator’s stock owned directly through a mutual fund, a retirement plan, or any other similar commingled investment vehicle where the legislator does not control or manage individual investments.

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. If such a conflict of interest occurs, the legislator is disqualified from participating in any legislative action, or otherwise attempting to influence any legislation related to the conflict of interest.

It is presumed that a conflict of interest exists whenever the legislator:

- has or acquires a direct interest in an enterprise that would be affected by the legislator’s vote on proposed legislation, unless the interest is common to all members of (1) a profession or occupation of which the legislator is a member or (2) the general public or a large class of the general public;
- benefits financially from a close economic association with a person whom the legislator knows has a direct interest in an enterprise or interest that would be affected by the legislator’s participation in legislative action, differently from other like enterprises or interests;
- benefits financially from a close economic association with a person who is lobbying for the purpose of influencing legislative action; or
- solicits, accepts, or agrees to accept a loan, other than a loan from a commercial lender in the normal course of business, from a person who would be affected by or has an interest in an enterprise that would be affected by the legislator’s participation in legislative action.

The disqualification may be suspended if a legislator with a conflict files a sworn statement with the Joint Ethics Committee. The statement must describe the circumstances of the conflict, including the legislation or class of legislation to which it relates. The statement must assert that the legislator is able to participate in legislative action relating to the legislation fairly, objectively, and in the public interest.

A disqualification may not be suspended if the conflict of interest is direct and personal to the legislator, a member of the legislator’s immediate family, or the legislator’s employer. The disqualification does not apply to a vote on the annual capital and annual operating budget bills in their entirety.

**Background:** According to the National Conference of State Legislators, 21 states require lawmakers to report information about at least some of the private clients from the legislator's business, law firm, or consulting firm. These states are Alaska, California, Florida, Hawaii, Indiana, Kansas, Louisiana, Maine, Mississippi, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Utah, Virginia, Washington, and Wisconsin.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Ethics Commission, *Wall Street Journal*, National Conference of State Legislatures, Department of Legislative Services

**Fiscal Note History:** First Reader - February 4, 2014  
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