

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 973

(Senators Madaleno and Conway)

Education, Health, and Environmental Affairs

Ways and Means

Election Law - Departmental Secretaries - Solicitation of Contributions or Donations

This bill prohibits a secretary of a principal department of the Executive Branch of State government from soliciting, transmitting, or depositing in a campaign account contributions or donations for the benefit of a candidate from a person subject to the regulatory authority of the secretary's department. A campaign finance entity or other entity that receives a contribution or donation as a result of a violation must refund the contribution or donation to the contributor or donor. The State Board of Elections may impose a civil penalty on (1) a campaign finance entity or other entity that knowingly receives a contribution or donation as a result of a violation, in an amount of up to \$1,000 plus the amount of the contribution or donation, for each violation and (2) a secretary, for each violation, in an amount of up to \$1,000. Civil penalties are deposited in the Fair Campaign Financing Fund (FCFF). "Solicit" includes the authorized use of the name or image of a secretary in campaign material.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: Under conflict of interest provisions of the Maryland Public Ethics Law, an official or employee is prohibited from intentionally using the prestige of

office or public position for that official's or employee's private gain or that of another. The State Ethics Commission, which administers the Maryland Public Ethics Law, has, in advisory opinions, discussed the application of the prestige of office provision to campaigning and fundraising. In one opinion the commission stated: "With regard to political campaigning and fundraising ... the Commission has advised individuals of the continuing application of the [prestige of office provision] and the need to avoid circumstances where a person's position may figure in private campaigning. Individuals are consistently advised to take care in campaign activities about soliciting campaign funds or assistance from individuals who are subject to the agency's authority or that are vendors or likely vendors to the individual's agency employer."

FCFF holds funding for public campaign financing of gubernatorial tickets under the Public Financing Act.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections; State Ethics Commission, Opinion No. 00-02; Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2016
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