

SENATE BILL 1026

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By: **Senator Conway**

Introduced and read first time: February 9, 2017

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Public Ethics Law – Conflicts of Interest and Financial Disclosure Statements**

3 FOR the purpose of altering the definition of “legislative action” in the Public Ethics Law
4 to include certain testimony or advocacy; prohibiting an official or employee from
5 using the prestige of office to influence the award of a State or local government
6 contract to a specific person; altering the definition of “close economic association” to
7 include associations between a legislator and an entity with which employment is
8 negotiated or prearranged; increasing a certain threshold amount of capital stock in
9 a corporation above which a close economic association is presumed and the
10 legislator must report to the Joint Committee on Legislative Ethics; requiring a
11 legislator to report to the Committee the names of certain clients of the legislator or
12 of a business entity in which the legislator has an ownership interest under certain
13 circumstances; requiring the State Ethics Commission to post promptly on the
14 Internet certain financial disclosure statements and preliminary disclosures filed on
15 or after a certain date; limiting a certain requirement to disclose certain debts owed
16 to entities doing business with or regulated by an individual’s governmental unit;
17 making clarifying changes; and generally relating to conflicts of interest, financial
18 disclosure statements, and public ethics.

19 BY repealing and reenacting, without amendments,

20 Article – General Provisions

21 Section 5–101(a), 5–513(a), 5–601(a), 5–602(c), and 5–607(a)

22 Annotated Code of Maryland

23 (2014 Volume and 2016 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article – General Provisions

26 Section 5–101(v), 5–506, 5–512, 5–514(b)(1), 5–606, and 5–607(g)

27 Annotated Code of Maryland

28 (2014 Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – General Provisions**

4 5–101.

5 (a) In this title the following words have the meanings indicated unless:

6 (1) the context clearly requires a different meaning; or

7 (2) a different definition is adopted for a particular provision.

8 (v) (1) “Legislative action” means an official action or nonaction relating to:

9 (i) a bill, a resolution, an amendment, a nomination, an
10 appointment, a report, or any other matter within the jurisdiction of the General Assembly;
11 [or]

12 (ii) a bill presented to the Governor for signature or veto; **OR**

13 **(III) TESTIMONY OR OTHER ADVOCACY IN AN OFFICIAL**
14 **CAPACITY BEFORE A UNIT OF STATE OR LOCAL GOVERNMENT.**

15 (2) “Legislative action” includes:

16 (i) introduction;

17 (ii) sponsorship;

18 (iii) consideration;

19 (iv) debate;

20 (v) amendment;

21 (vi) passage;

22 (vii) defeat;

23 (viii) approval; and

24 (ix) veto.

25 5–506.

1 (a) An official or employee may not intentionally use the prestige of office or public
2 position:

3 (1) for that official's or employee's private gain or that of another; **OR**

4 (2) **TO INFLUENCE, EXCEPT AS REQUIRED AS PART OF THE OFFICIAL**
5 **DUTIES OF THE OFFICIAL OR EMPLOYEE, THE AWARD OF A STATE OR LOCAL**
6 **GOVERNMENT CONTRACT TO A SPECIFIC PERSON.**

7 (b) The performance of usual and customary constituent services, without
8 additional compensation, is not prohibited under subsection (a) of this section.

9 5-512.

10 (a) (1) In this section, "close economic association" means the association
11 between a legislator and:

12 (i) the legislator's:

13 1. employer;

14 2. employee; [or]

15 3. partner in a business or professional enterprise; **OR**

16 4. **IMMEDIATE FAMILY;**

17 (ii) a partnership, limited liability partnership, or limited liability
18 company in which the legislator has invested capital or owns an interest;

19 (iii) a corporation in which the legislator owns the lesser of:

20 1. 10% or more of the outstanding capital stock; or

21 2. capital stock with a cumulative value of **[\$25,000]**
22 **\$35,000** or more; [and]

23 (iv) a corporation in which the legislator is an officer, a director, or
24 an agent; **AND**

25 (v) **AN ENTITY WITH WHICH THE LEGISLATOR IS NEGOTIATING**
26 **EMPLOYMENT OR HAS ARRANGED PROSPECTIVE EMPLOYMENT.**

27 (2) "Close economic association" does not include a legislator's ownership
28 of stock directly through a mutual fund, a retirement plan, or any other similar commingled

1 investment vehicle the individual investments of which the legislator does not control or
2 manage.

3 (b) (1) An interest of a member of the General Assembly conflicts with the
4 public interest if the legislator's interest tends to impair the legislator's independence of
5 judgment.

6 (2) The conflict disqualifies the legislator from participating in any
7 legislative action, or otherwise attempting to influence any legislation, to which the conflict
8 relates.

9 (c) It is presumed that an interest disqualifies a legislator from participating in
10 legislative action whenever the legislator:

11 (1) has or acquires a direct interest in an enterprise that would be affected
12 by the legislator's vote on proposed legislation, unless the interest is common to all
13 members of:

14 (i) a profession or occupation of which the legislator is a member; or

15 (ii) the general public or a large class of the general public;

16 (2) benefits financially from a close economic association with a person
17 whom the legislator knows has a direct interest in an enterprise or interest that would be
18 affected by the legislator's participation in legislative action, differently from other like
19 enterprises or interests;

20 (3) benefits financially from a close economic association with a person who
21 is lobbying for the purpose of influencing legislative action; or

22 (4) solicits, accepts, or agrees to accept a loan, other than a loan from a
23 commercial lender in the normal course of business, from a person who would be affected
24 by or has an interest in an enterprise that would be affected by the legislator's participation
25 in legislative action.

26 5-513.

27 (a) (1) Except as provided in paragraph (2) of this subsection, the
28 disqualification arising under § 5-512 of this subtitle is suspended if a legislator with an
29 apparent or presumed conflict files with the Joint Ethics Committee a sworn statement
30 that:

31 (i) describes the circumstances of the apparent or presumed conflict
32 and the legislation or class of legislation to which it relates; and

33 (ii) asserts that the legislator is able to participate in legislative
34 action relating to the legislation fairly, objectively, and in the public interest.

1 (2) (i) Except as provided in subparagraph (ii) of this paragraph, the
2 disqualification arising under § 5–512 of this subtitle may not be suspended if the conflict
3 is direct and personal to:

- 4 1. the legislator;
- 5 2. a member of the legislator’s immediate family; or
- 6 3. the legislator’s employer.

7 (ii) This paragraph does not apply to a vote on:

- 8 1. the annual operating budget bill, in its entirety; or
- 9 2. the annual capital budget bill, in its entirety.

10 5–514.

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

14 (i) subject to paragraph (2) of this subsection, if representing a
15 person for compensation before a State or local government agency, except in a judicial
16 proceeding or in a quasi-judicial proceeding, the name of the person represented, the
17 services performed, and the consideration;

18 (ii) if representing a State or local government agency for
19 compensation, the name of the agency, the services performed, and the consideration;

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

- 23 1. the lesser of:
 - 24 A. 10% or more of the capital stock of any corporation; or
 - 25 B. capital stock of any corporation with a cumulative value of
26 **[\$25,000] \$35,000** or more; and

27 2. any interest in a partnership, limited liability partnership,
28 or limited liability company;

1 (iv) details of any contractual relationship with a governmental
 2 entity of the State or a local government in the State, including the subject matter and the
 3 consideration;

4 (v) details of any transaction with a governmental entity of the State
 5 or a local government in the State involving a monetary consideration; [and]

6 (vi) [any primary employment or business interest and the employer
 7 of the legislator or the spouse of the legislator,] except for employment as a legislator, **THE**
 8 **NAME OF:**

9 **1. ANY PRIMARY EMPLOYER OF THE LEGISLATOR;**

10 **2. ANY PRIMARY EMPLOYER OF THE LEGISLATOR'S**
 11 **SPOUSE; AND**

12 **3. ANY BUSINESS FROM WHICH THE LEGISLATOR OR THE**
 13 **LEGISLATOR'S SPOUSE RECEIVES EARNED INCOME AS A RESULT OF AN OWNERSHIP**
 14 **INTEREST IN THE BUSINESS; AND**

15 **(VII) THE NAME OF ANY CLIENT OF THE LEGISLATOR OR A**
 16 **BUSINESS ENTITY IN WHICH THE LEGISLATOR HAS AN OWNERSHIP INTEREST IF THE**
 17 **LEGISLATOR:**

18 **1. IS ASSISTING THE CLIENT IN SEEKING A STATE OR**
 19 **LOCAL GOVERNMENT CONTRACT, LICENSE, OR OTHER COMPETITIVE AWARD; AND**

20 **2. WILL RECEIVE OR EXPECTS TO RECEIVE A DIRECT**
 21 **FINANCIAL BENEFIT AS A RESULT OF THE AWARD OF THE CONTRACT, LICENSE, OR**
 22 **OTHER COMPETITIVE AWARD TO THE CLIENT.**

23 5-601.

24 (a) Except as provided in subsections (b) and (c) of this section, and subject to
 25 subsections (d) and (e) of this section, each official and candidate for office as a State official
 26 shall file a statement as specified in §§ 5-602 through 5-608 of this subtitle.

27 5-602.

28 (c) (1) In addition to the statement filed under § 5-601 of this subtitle, a
 29 member of the General Assembly shall file a preliminary disclosure on or before the seventh
 30 day of the regular legislative session if there will be a substantial change in the statement
 31 covering the calendar year immediately preceding the year of filing, as compared to the
 32 next preceding calendar year.

1 (2) A member of the General Assembly whose statement under § 5–601 of
2 this subtitle will not contain a substantial change is not required to file a preliminary
3 disclosure under paragraph (1) of this subsection.

4 (3) The Joint Ethics Committee shall determine:

5 (i) the form of a preliminary disclosure under this subsection; and

6 (ii) which aspects of financial disclosure are subject to this
7 subsection.

8 (4) A preliminary disclosure shall be filed and maintained, and may be
9 disclosed, in the same manner required for a statement filed under § 5–601 of this subtitle.

10 5–606.

11 (a) (1) **(I)** The Ethics Commission and the Joint Ethics Committee shall
12 maintain the statements submitted under this subtitle and, during normal office hours,
13 make the statements available to the public for examination and copying.

14 **[(2)] (II)** The Ethics Commission and the Joint Ethics Committee may
15 charge a reasonable fee and adopt administrative procedures for the examination and
16 copying of a statement.

17 **(2) FOR STATEMENTS SUBMITTED ON OR AFTER JANUARY 1, 2018,**
18 **THE ETHICS COMMISSION SHALL MAKE FREELY AVAILABLE TO THE PUBLIC, BY**
19 **POSTING PROMPTLY ON THE INTERNET, A FINANCIAL DISCLOSURE STATEMENT**
20 **REQUIRED UNDER § 5–601(A) OF THIS SUBTITLE AND A PRELIMINARY DISCLOSURE**
21 **REQUIRED UNDER § 5–602(C) OF THIS SUBTITLE THAT IS FILED BY:**

22 **(I) A STATE OFFICIAL; OR**

23 **(II) A CANDIDATE FOR OFFICE AS A STATE OFFICIAL.**

24 (b) (1) The Ethics Commission and the Joint Ethics Committee shall maintain
25 a record of:

26 (i) the name and home address of each individual who examines or
27 copies a statement under **SUBSECTION (A)(1) OF** this section; and

28 (ii) the name of the individual whose statement was examined or
29 copied.

30 (2) On the request of the individual whose statement was examined or
31 copied, the Ethics Commission or the Joint Ethics Committee shall forward to that
32 individual a copy of the record specified in paragraph (1) of this subsection.

1 5-607.

2 (a) A statement that is required under § 5-601(a) of this subtitle shall contain
3 schedules disclosing the information and interests specified in this section, if known, for
4 the individual making the statement for the applicable period.

5 (g) (1) The statement shall include a schedule, to the extent the individual
6 may reasonably be expected to know, of each debt, excluding retail credit accounts, owed at
7 any time during the applicable period to entities doing business with [the State] **OR**
8 **REGULATED BY THE INDIVIDUAL'S GOVERNMENTAL UNIT:**

9 (i) by the individual; and

10 (ii) if the individual was involved in the transaction giving rise to the
11 debt, by any member of the immediate family of the individual.

12 (2) For each debt, the schedule shall include:

13 (i) the identity of the entity to which the debt was owed;

14 (ii) the date it was incurred;

15 (iii) the amount owed at the end of the applicable period;

16 (iv) the terms of payment;

17 (v) the extent to which the principal was increased or decreased
18 during the applicable period; and

19 (vi) any security given.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2017.