

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 854 (Senator Madaleno, *et al.*)
Education, Health, and Environmental Affairs

Departmental Secretaries - Campaign and Working Hour Activities

This bill prohibits a Secretary of a principal department of the Executive Branch of State government from (1) engaging in specified campaign finance activity or (2) being a candidate for a public elective office while serving as Secretary. If the State Board of Elections (SBE) finds that a Secretary has violated those prohibitions, SBE must refer the matter to the State Ethics Commission for review and a determination whether the Secretary has intentionally used the prestige of office or public position for the Secretary's private gain or that of another, in violation of the Maryland Public Ethics Law. The bill also requires that the Secretary of each principal department disclose (1) all events and meetings attended by the Secretary outside the office during regular working hours (when the Secretary is not on leave); (2) all travel by the Secretary, inside or outside the State, that is paid for by the State or takes place during regular working hours (when not on leave); and (3) how each activity described relates to the work of the department. The information must be updated monthly and be accessible through a link from the homepage of the department's website.

The bill takes effect July 1, 2017.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The campaign finance activity that a Secretary is prohibited from engaging in under the bill is soliciting, accepting, transmitting, or depositing in a campaign account contributions or donations for the benefit of a candidate or political party. “Solicit” includes (1) the authorized use of the name, image, or title of a Secretary in campaign material or (2) being a featured speaker at a campaign fundraising event. The bill does not prohibit a Secretary from making a personal political contribution, informing any person of a position taken by a candidate or official, or engaging in other activities not specifically prohibited by the bill.

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 and is subject to a civil penalty of up to \$1,000 plus the amount of the contribution or donation. Civil penalties are deposited in the Fair Campaign Financing Fund (FCFF).

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: HB 1230 of 2016, a similar bill, passed with amendments in the House and was referred to the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

Cross File: HB 303 (Delegate Turner, *et al.*) - Ways and Means.

Information Source(s): Governor's Office; Department of Budget and Management; State Board of Elections; State Ethics Commission, Opinion No. 00-02; Department of Legislative Services

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md/hlb

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