

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1386

(Delegate Lisanti, *et al.*)

Environment and Transportation and
Economic Matters

Education, Health, and Environmental Affairs

Maryland Public Ethics Law - Members and Employees of Boards of License
Commissioners and Liquor Control Boards

This bill applies the requirements of the Maryland Public Ethics Law to members and employees of local boards of license commissioners and local liquor control boards by designating that these individuals are “public officials” subject to the Maryland Public Ethics Law. Accordingly, the bill also adds the local liquor control boards of Somerset and Wicomico counties to those local entities that are subject to the Maryland Public Ethics Law. The bill does not apply in counties in which the county councils or board of county commissioners sit as a board of license commissioners or liquor control board. Accordingly, the bill does not apply in Dorchester, Howard, and Kent counties, where the legislative body sits as a board of license commissioners or a liquor control board.

Fiscal Summary

State Effect: The State Ethics Commission can handle the bill’s requirements within existing budgeted resources.

Local Effect: Local governments can implement the bill with existing resources.

Small Business Effect: None.

Analysis

Current Law:

Boards of License Commissioners, Liquor Control Boards, and the Maryland Public Ethics Law

The boards of license commissioners generally are “local officials” in each county and Baltimore City who are responsible for issuing alcoholic beverages licenses (the Comptroller’s Office also issues some licenses) and generally administering the Alcoholic Beverages Article for their respective local jurisdictions. As local officials, they are generally not subject to the Maryland Public Ethics Law, except as otherwise specified. Some provisions of State law specify that certain boards of license commissioners are subject to the Maryland Public Ethics Law.

The liquor control board for Somerset County is specifically defined as an “executive unit” and, as such, is subject to the Maryland Public Ethics Law. Members of the Harford County liquor control board are also required to file financial disclosure forms in accordance with the Maryland Public Ethics Law.

According to an August 2009 Attorney General opinion, local liquor control boards are government agencies authorized to perform certain liquor wholesaling functions and to operate liquor dispensaries. Somerset and Wicomico counties issue alcoholic beverage licenses through local liquor control boards, and, as such, are subject to the Maryland Public Ethics Law.

However, In Dorchester, Howard, and Kent counties, the county councils or the county commissioners (in the case of Kent County) sit as the local board of license commissioners and are not subject to the Maryland Public Ethics Law. Montgomery and Worcester counties are also not subject to the Maryland Public Ethics Law, as they maintain “departments” of liquor control under the control of their county governments that do not operate as autonomous liquor control boards.

Local Ethics Generally

The Maryland Public Ethics Law generally requires each county, municipality, and local school board to enact provisions governing the public ethics of local officials related to conflicts of interest, financial disclosure, and lobbying. The law distinguishes between “local officials” and “elected local officials.” For “local officials,” a local jurisdiction must enact laws pertaining to conflicts of interest and financial disclosure that are *similar* to provisions in the State Public Ethics law. A more stringent standard is required for “elected local officials”; conflict of interest and financial disclosure provisions must be *equivalent*

to or exceed the requirements of State Public Ethics Law. Provisions enacted by local jurisdictions pertaining to lobbying must be *substantially similar* to State law. In each case, local jurisdictions may modify local public ethics law (for both local officials and elected local officials) to the extent necessary to make its provisions relevant to the individual jurisdiction.

“Elected local official” includes (1) an individual who holds an elective office of a county or municipal corporation and (2) a candidate for elective office as a local official of a county or municipal corporation. “Local official” is defined to apply to officials, members, employees, inspectors, and administrators, as specified, in Baltimore City, and the counties of Baltimore, Montgomery, Prince George’s, and St. Mary’s.

Chapter 201 of 2016 clarified that the public ethics requirements adopted or modified by a county, municipality, or local school board must be made in accordance with regulations adopted by the State Ethics Commission and consistent with the intent of the Public Ethics Law.

State Ethics Requirements for Public Officials

Generally, a State employee, State official, or public official may not participate in a matter if the employee or official encounters a conflict of interest, with specified exceptions. Most public officials, all State officials, and all candidates for State office are also required to file financial disclosure statements on an annual basis. This statement must be filed under oath with the State Ethics Commission before April 30 of each year, and it covers the calendar year that precedes the filing.

Under State ethics law, the following individuals in executive units are public officials, except as otherwise specified:

- an individual who receives compensation at a specified rate or who is appointed to a board and has decision-making authority or acts as a principal advisor to an individual with decision-making authority under specified circumstances;
- any other individual in an executive unit if the Ethics Commission determines that the individual has decision-making authority or acts as a principal advisor to an individual with decision-making authority, with regard to negotiating or executing contracts, as specified;
- a member, appointee, or employee of the Maryland Stadium Authority;
- a member, appointee, or employee of the Canal Place Preservation and Development Authority; and

- a member of the Emergency Medical Services Board.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County; Maryland Association of Counties; City of Bowie; Maryland Municipal League; Office of the Attorney General; Department of Labor, Licensing, and Regulation; State Ethics Commission; Department of Legislative Services

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