

HOUSE BILL 1330

G2

8lr1872

By: ~~Delegates McMillan, Clark, and Knotts~~ Delegate McMillan

Introduced and read first time: February 9, 2018

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2018

CHAPTER _____

1 AN ACT concerning

2 **Public Ethics Law – Conflicts of Interest – Political Consulting**

3 FOR the purpose of designating a contractual or temporary employee of a State’s Attorney
4 paid over a certain level per year as a public official for a certain purpose; prohibiting
5 an official or employee from being employed by or having a financial interest in an
6 entity that provides political consulting services to State or local officials or
7 candidates; altering the requirement to file a financial disclosure statement to
8 exclude certain employees; and generally relating to public ethics, conflicts of
9 interest, employment, and financial interests.

10 BY repealing and reenacting, without amendments,
11 Article – General Provisions
12 Section 5–101(a) and (n) and 5–601(a)
13 Annotated Code of Maryland
14 (2014 Volume and 2017 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – General Provisions
17 Section 5–103(b) ~~and~~, 5–502, and 5–601(c)
18 Annotated Code of Maryland
19 (2014 Volume and 2017 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – General Provisions

1
2 5–101.

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

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

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

6 (n) “Financial interest” means:

7 (1) ownership of an interest as the result of which the owner has received
8 within the past 3 years, is currently receiving, or in the future is entitled to receive, more
9 than \$1,000 per year; or

10 (2) (i) ownership of more than 3% of a business entity by:

11 1. an official;

12 2. an employee; or

13 3. the spouse of an official or employee; or

14 (ii) ownership of securities of any kind that represent, or are
15 convertible into, ownership of more than 3% of a business entity by:

16 1. an official;

17 2. an employee; or

18 3. the spouse of an official or employee.

19 5–103.

20 (b) Except as provided in subsection (f) of this section, the following individuals
21 in executive units are public officials:

22 (1) an individual who receives compensation at a rate equivalent to at least
23 State grade level 16, or who is appointed to a board, if the Ethics Commission determines
24 under § 5–208 of this title that:

25 (i) the individual, acting alone or as a member of an executive unit,
26 has decision-making authority or acts as a principal advisor to an individual with
27 decision-making authority:

28 1. in making State policy in an executive unit; or

1 2. in exercising quasi-judicial, regulatory, licensing,
2 inspecting, or auditing functions; and

3 (ii) the individual's duties are not essentially administrative and
4 ministerial;

5 (2) any other individual in an executive unit if the Ethics Commission
6 determines that the individual, acting alone or as a member of the executive unit, has
7 decision-making authority or acts as a principal advisor to an individual with
8 decision-making authority in drafting specifications for, negotiating, or executing contracts
9 that commit the State or an executive unit to spend more than \$10,000 in a year;

10 (3) a member, appointee, or employee of the Maryland Stadium Authority;

11 (4) a member, appointee, or employee of the Canal Place Preservation and
12 Development Authority;

13 (5) a member of the Emergency Medical Services Board; [and]

14 (6) except in counties in which a county council or board of county
15 commissioners sits as a board of license commissioners or a liquor control board, a member
16 or employee of a board of license commissioners or a liquor control board; AND

17 **(7) A CONTRACTUAL OR TEMPORARY EMPLOYEE OF A STATE'S**
18 **ATTORNEY COMPENSATED AT A RATE EQUIVALENT TO AT LEAST STATE GRADE**
19 **LEVEL 16.**

20 5-502.

21 (a) This section does not apply to members of the General Assembly.

22 (b) Except as provided in subsections (c) and (d) of this section, an official or
23 employee may not:

24 (1) be employed by or have a financial interest in:

25 (i) an entity subject to the authority of that official or employee or
26 of the governmental unit with which the official or employee is affiliated; [or]

27 (ii) an entity that is negotiating or has entered a contract with that
28 governmental unit or an entity that is a subcontractor on a contract with that governmental
29 unit; or

30 **(III) AN ENTITY THAT PROVIDES POLITICAL CONSULTING**
31 **SERVICES TO STATE OR LOCAL OFFICIALS OR CANDIDATES; OR**

1 (2) hold any other employment relationship that would impair the
2 impartiality and independent judgment of the official or employee.

3 (c) The prohibitions of subsection (b) of this section do not apply:

4 (1) to employment or a financial interest allowed by regulation of the
5 Ethics Commission if:

6 (i) the employment does not create a conflict of interest or the
7 appearance of a conflict of interest; or

8 (ii) the financial interest is disclosed;

9 (2) to a public official who is appointed to a regulatory or licensing unit in
10 accordance with a statutory requirement that entities subject to the jurisdiction of the unit
11 be represented in appointments to it;

12 (3) as allowed by regulations adopted by the Ethics Commission, to an
13 employee whose government duties are ministerial, if the private employment or financial
14 interest does not create a conflict of interest or the appearance of a conflict of interest; or

15 (4) to a member of a board who holds the employment or financial interest
16 when appointed if the employment or financial interest is disclosed publicly to the
17 appointing authority, the Ethics Commission, and, if applicable, the Senate of Maryland
18 before Senate confirmation.

19 (d) (1) Subject to paragraph (2) of this subsection, the Ethics Commission may
20 exempt a public official of an executive unit or an employee of an executive unit from the
21 prohibitions of subsection (b) of this section if the Ethics Commission determines that:

22 (i) failure to grant the exemption would limit the ability of the State
23 to:

24 1. recruit and hire highly qualified or uniquely qualified
25 professionals for public service; or

26 2. assure the availability of competent services to the public;
27 and

28 (ii) the number of exemptions granted under this subsection has not
29 eroded the purposes of subsection (b) of this section or other provisions of this title.

30 (2) (i) The Ethics Commission may grant an exemption under
31 paragraph (1) of this subsection only:

32 1. in extraordinary situations; and

