

SENATE BILL 246

P4, G1

8lr0922

By: **Senator Waugh**

Introduced and read first time: January 19, 2018

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel – Maryland Hatch Act**

3 FOR the purpose of providing that a State employee may take part in political management
4 or in political campaigns, subject to certain exceptions; prohibiting certain employees
5 of the State Board of Elections or a local board of elections from requesting from,
6 receiving from, or giving to certain individuals a political contribution; prohibiting
7 certain employees of certain government agencies from holding certain leadership
8 positions in a campaign finance entity; providing that certain provisions of this Act
9 do not prohibit a State employee from exercising the right to vote or not vote or
10 express an opinion on candidates and issues; prohibiting an employee, except under
11 certain circumstances, from engaging in political activities while on duty, in the
12 employee's workplace, attired in official uniform or other official insignia, or using
13 an official vehicle owned or leased by the State; prohibiting a person from
14 intimidating, threatening, commanding, or coercing or attempting to intimidate,
15 threaten, command, or coerce an employee of the State or local government to engage
16 in or not to engage in certain political activity; establishing certain penalties;
17 defining certain terms; making conforming changes; and generally relating to the
18 Maryland Hatch Act.

19 BY repealing and reenacting, with amendments,
20 Article – State Personnel and Pensions
21 Section 2–304
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2017 Supplement)

24 BY adding to
25 Article – State Personnel and Pensions
26 Section 2–304.1 through 2–304.4
27 Annotated Code of Maryland
28 (2015 Replacement Volume and 2017 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 – State Personnel and Pensions**

4 2–304.

5 (a) (1) Employment by the State does not affect any right or obligation of a
6 citizen under the Constitution and laws of the United States or under the Constitution and
7 laws of the State.

8 (2) Except as otherwise provided in this section or by federal law, a State
9 employee:

10 (i) may freely participate in any political activity and express any
11 political opinion; and

12 (ii) may not be required to provide any political service.

13 (b) Notwithstanding any other law of the State effective on or before June 30,
14 1973, [the restrictions imposed by subsection (c) of this section are] the only restrictions on
15 the political activities of an employee[, except for] **ARE:**

16 (1) the restrictions imposed on employees of a local board of elections by §
17 2–301 of the Election Law Article; [and]

18 (2) the restrictions imposed on employees of the Department of Legislative
19 Services by guidelines adopted under § 2–1205 of the State Government Article; **AND**

20 **(3) THE RESTRICTIONS IMPOSED ON EMPLOYEES UNDER §§ 2–304.1**
21 **AND 2–304.2 OF THIS SUBTITLE.**

22 [(c) An employee may not:

23 (1) engage in political activity while on the job during working hours; or

24 (2) advocate the overthrow of the government by unconstitutional or
25 violent means.

26 (d) (1) In this subsection, “political contribution” means a contribution as
27 defined in § 1–101 of the Election Law Article.

28 (2) A public official or an employee of the State may not require any State
29 employee to make a political contribution.]

30 **2–304.1.**

1 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (2) “CAMPAIGN FINANCE ENTITY” HAS THE MEANING STATED IN §
4 1-101 OF THE ELECTION LAW ARTICLE.

5 (3) “CAMPAIGN MANAGER” HAS THE MEANING STATED IN § 1-101 OF
6 THE ELECTION LAW ARTICLE.

7 (4) “CANDIDATE” HAS THE MEANING STATED IN § 1-101 OF THE
8 ELECTION LAW ARTICLE.

9 (5) “ELECTION” HAS THE MEANING STATED IN § 1-101 OF THE
10 ELECTION LAW ARTICLE.

11 (6) “EMPLOYEE ORGANIZATION” HAS THE MEANING STATED IN §
12 3-101 OF THIS ARTICLE.

13 (7) “POLITICAL COMMITTEE” HAS THE MEANING STATED IN § 1-101
14 OF THE ELECTION LAW ARTICLE.

15 (8) “POLITICAL CONTRIBUTION” MEANS A CONTRIBUTION AS
16 DEFINED IN § 1-101 OF THE ELECTION LAW ARTICLE.

17 (9) “TREASURER” HAS THE MEANING STATED IN § 1-101 OF THE
18 ELECTION LAW ARTICLE.

19 (B) EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) OF THIS SECTION
20 AND SUBJECT TO § 2-304.2 OF THIS SUBTITLE, AN EMPLOYEE MAY TAKE AN ACTIVE
21 PART IN POLITICAL MANAGEMENT OR IN POLITICAL CAMPAIGNS.

22 (C) AN EMPLOYEE MAY NOT:

23 (1) USE THE EMPLOYEE’S OFFICIAL AUTHORITY OR INFLUENCE FOR
24 THE PURPOSE OF INTERFERING WITH OR AFFECTING THE RESULT OF AN ELECTION;

25 (2) KNOWINGLY SOLICIT, ACCEPT, OR RECEIVE A POLITICAL
26 CONTRIBUTION FROM ANY PERSON UNLESS:

27 (I) THE PERSON IS A MEMBER OF THE SAME EMPLOYEE
28 ORGANIZATION FOR STATE OR LOCAL EMPLOYEES OR A MEMBER OF AN EMPLOYEE
29 ORGANIZATION FOR STATE OR LOCAL EMPLOYEES THAT HAS A MULTICANDIDATE

1 POLITICAL COMMITTEE;

2 (II) THE PERSON IS NOT A SUBORDINATE EMPLOYEE; AND

3 (III) THE SOLICITATION IS FOR A POLITICAL CONTRIBUTION TO
4 THE MULTICANDIDATE POLITICAL COMMITTEE;

5 (3) RUN FOR THE NOMINATION OR AS A CANDIDATE FOR ELECTION TO
6 A PARTISAN POLITICAL OFFICE; OR

7 (4) KNOWINGLY SOLICIT OR DISCOURAGE THE PARTICIPATION IN ANY
8 POLITICAL ACTIVITY OF ANY PERSON WHO:

9 (I) HAS AN APPLICATION FOR ANY COMPENSATION, GRANT,
10 CONTRACT, RULING, LICENSE, PERMIT, OR CERTIFICATE PENDING BEFORE THE
11 EMPLOYING OFFICE OF THE EMPLOYEE; OR

12 (II) IS THE SUBJECT OF OR A PARTICIPANT IN AN ONGOING
13 AUDIT, INVESTIGATION, OR ENFORCEMENT ACTION BEING CARRIED OUT BY THE
14 EMPLOYING OFFICE OF THE EMPLOYEE.

15 (D) (1) (I) EXCEPT FOR A BOARD MEMBER APPOINTED BY THE
16 GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, THIS PARAGRAPH
17 APPLIES ONLY TO AN EMPLOYEE OF:

18 1. THE STATE BOARD OF ELECTIONS; OR

19 2. A LOCAL BOARD OF ELECTIONS.

20 (II) AN EMPLOYEE MAY NOT REQUEST FROM, RECEIVE FROM,
21 OR GIVE TO ANOTHER STATE OR LOCAL GOVERNMENT EMPLOYEE, A MEMBER OF
22 THE GENERAL ASSEMBLY, AN ELECTED OFFICER OF A LOCAL GOVERNMENT, OR AN
23 OFFICER OF A UNIFORMED SERVICE, A POLITICAL CONTRIBUTION.

24 (2) (I) EXCEPT FOR A BOARD MEMBER OR AN EMPLOYEE
25 APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE,
26 THIS PARAGRAPH APPLIES ONLY TO AN EMPLOYEE OF:

27 1. THE OFFICE OF THE ATTORNEY GENERAL;

28 2. THE STATE BOARD OF ELECTIONS;

29 3. A LOCAL BOARD OF ELECTIONS;

1 4. THE STATE ETHICS COMMISSION; OR

2 5. A STATE OR LOCAL LAW ENFORCEMENT AGENCY.

3 (ii) AN EMPLOYEE MAY NOT ACT AS THE CAMPAIGN MANAGER
4 OR TREASURER OF A CAMPAIGN FINANCE ENTITY OR IN ANY OTHER POSITION THAT
5 EXERCISES GENERAL OVERALL RESPONSIBILITY FOR THE CONDUCT OF A CAMPAIGN
6 FINANCE ENTITY.

7 (e) THIS SECTION DOES NOT PROHIBIT AN EMPLOYEE FROM:

8 (1) EXERCISING THE RIGHT TO VOTE OR NOT VOTE AS THE EMPLOYEE
9 CHOOSES; OR

10 (2) EXPRESSING AN OPINION ON CANDIDATES AND ISSUES OF
11 POLITICAL DEBATE.

12 **2-304.2.**

13 (a) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN
14 EMPLOYEE MAY NOT ENGAGE IN POLITICAL ACTIVITY:

15 (1) WHILE THE EMPLOYEE IS ON DUTY;

16 (2) IN ANY ROOM OR BUILDING OCCUPIED IN THE DISCHARGE OF
17 OFFICIAL DUTIES BY AN INDIVIDUAL EMPLOYED OR HOLDING OFFICE IN STATE
18 GOVERNMENT OR ANY AGENCY OF THE STATE GOVERNMENT;

19 (3) WHILE WEARING A UNIFORM OR AN OFFICIAL INSIGNIA
20 IDENTIFYING THE OFFICE OR POSITION OF THE EMPLOYEE IN THE STATE
21 GOVERNMENT; OR

22 (4) WHILE USING ANY VEHICLE OWNED OR LEASED BY THE STATE
23 GOVERNMENT OR ANY AGENCY OF THE STATE GOVERNMENT.

24 (b) (1) THIS SUBSECTION APPLIES ONLY TO AN EMPLOYEE:

25 (i) THE DUTIES AND RESPONSIBILITIES OF WHOSE POSITION
26 CONTINUE OUTSIDE NORMAL DUTY HOURS AND WHILE AWAY FROM THE
27 EMPLOYEE'S USUAL DUTY POST; AND

28 (ii) WHO IS PAID FROM AN APPROPRIATION FOR THE OFFICE OF

1 THE GOVERNOR.

2 (2) AN EMPLOYEE SUBJECT TO THIS SUBSECTION MAY ENGAGE IN
3 POLITICAL ACTIVITY OTHERWISE PROHIBITED BY SUBSECTION (A) OF THIS SECTION
4 IF THE COSTS ASSOCIATED WITH THAT POLITICAL ACTIVITY ARE NOT PAID FOR BY
5 MONEY DERIVED FROM THE TREASURY OF THE STATE OR A LOCAL GOVERNMENT
6 OF THE STATE.

7 2-304.3.

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (2) "CANDIDATE" HAS THE MEANING STATED IN § 1-101 OF THE
11 ELECTION LAW ARTICLE.

12 (3) "ELECTION" HAS THE MEANING STATED IN § 1-101 OF THE
13 ELECTION LAW ARTICLE.

14 (4) "POLITICAL CONTRIBUTION" MEANS A CONTRIBUTION AS
15 DEFINED IN § 1-101 OF THE ELECTION LAW ARTICLE.

16 (B) A PERSON MAY NOT INTIMIDATE, THREATEN, COMMAND, OR COERCE,
17 OR ATTEMPT TO INTIMIDATE, THREATEN, COMMAND, OR COERCE, ANY EMPLOYEE
18 OF THE STATE OR A LOCAL GOVERNMENT TO ENGAGE IN OR NOT TO ENGAGE IN ANY
19 POLITICAL ACTIVITY, INCLUDING:

20 (1) VOTING OR REFUSING TO VOTE FOR ANY CANDIDATE OR MEASURE
21 IN ANY ELECTION;

22 (2) MAKING OR REFUSING TO MAKE A POLITICAL CONTRIBUTION; OR

23 (3) VOLUNTEERING OR WORKING OR REFUSING TO VOLUNTEER OR
24 WORK ON BEHALF OF ANY CANDIDATE.

25 2-304.4.

26 A PERSON WHO VIOLATES § 2-304, § 2-304.1, § 2-304.2, OR § 2-304.3 OF THIS
27 SUBTITLE IS SUBJECT TO:

28 (1) REMOVAL;

29 (2) REDUCTION IN GRADE;

1 **(3) DEBARMENT FROM STATE OR LOCAL EMPLOYMENT FOR A PERIOD**
2 **NOT TO EXCEED 5 YEARS;**

3 **(4) SUSPENSION;**

4 **(5) REPRIMAND; OR**

5 **(6) A CIVIL PENALTY, IMPOSED BY THE SECRETARY, NOT TO EXCEED**
6 **\$1,000.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2018.