

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 289

(Senators Hough and Young)

Education, Health, and Environmental Affairs

Environment and Transportation

Frederick County - Ethics and Campaign Activity - Governing Body, County
Board and Commission Members, and Board of License Commissioners

This bill requires specified board and commission members in Frederick County to vacate their position on the board or commission after opening a campaign account under State campaign finance law. The bill also makes specified “agents” of applicants for specified zoning or land use changes subject to a prohibition against making a political contribution of \$100 or more to a member of the governing body of Frederick County during the pendency of the application. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: None.

Local Effect: None. The bill does not materially affect Frederick County operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires an appointed member of the Frederick County Board of Zoning Appeals, the Frederick County Ethics Commission, the Frederick County Planning Commission, or the Board of License Commissioners for Frederick County to vacate the member’s position on the board or commission within 48 hours after opening a campaign account through a campaign finance entity established under State campaign finance law.

The bill also expands the applicability of existing provisions that prohibit an applicant for specified zoning or land use changes from making a political contribution of \$100 or more to a member of the governing body of Frederick County during the pendency of the application. The prohibition is expanded to apply also to an agent of a business entity applicant. “Agent” is defined as a person that (1) is hired or retained, by a business entity that is an applicant with an application before the governing body, to provide services, for compensation, relating to the application and (2) is an attorney, an architect (or a landscape architect), a traffic consultant, an engineer, or a traffic engineer.

Current Law/Background:

Boards and Commissions Affected by the Bill

The Frederick County Planning Commission consists of seven members appointed by the county executive and confirmed by the county council to five-year terms. The commission’s responsibilities include approving site plans and subdivision plats and making recommendations on zoning amendments and comprehensive plans.

The Frederick County Board of Zoning Appeals consists of five members and one alternate appointed by the county council to three-year terms. The board’s responsibilities include (1) hearing and deciding appeals of administrative zoning actions; (2) hearing and deciding special exceptions authorized in the zoning ordinance; and (3) authorizing, upon appeal in specific cases, variances from the zoning ordinance.

The Frederick County Ethics Commission consists of seven members and one alternate appointed by the county executive, subject to confirmation by the county council, to three-year terms. The commission’s responsibilities include making determinations on alleged violations of the ethics ordinance, granting or denying exceptions to the ordinance, giving advisory opinions on the application of the ordinance, and recommending ordinance changes to the county governing body.

The Board of License Commissioners for Frederick County consist of three members appointed by the Governor to five-year terms. The board regulates the sale and distribution of alcoholic beverages within Frederick County, enforcing State law and the county alcoholic beverages regulations.

Prohibition on Campaign Contributions to Members of the County Governing Body

An “applicant” for specified zoning or land use changes is prohibited from making a “contribution” to a member of the governing body of Frederick County during the pendency of the application.

“Application” includes (1) an application for a zoning map amendment as part of a piecemeal or floating zone rezoning proceeding; (2) a formal application for a comprehensive map planning change or zoning change during the county comprehensive land use plan update; (3) an application for a map amendment to the county water and sewerage plan; (4) a request to change the zoning classification of annexed land; or (5) an application to create a district or an easement or any other interest in real property as part of an agricultural land preservation program.

“Applicant” is defined to include persons with specified ownership or other interests or control in relation to the land that is the subject of an application. “Applicant” specifically does not include a person who is hired or retained as an accountant, an attorney, an architect, an engineer, a land use consultant, an economic consultant, a real estate agent, a real estate broker, a traffic consultant, or a traffic engineer.

“Contribution” is defined as a payment or transfer of money or property worth at least \$100, calculated cumulatively during the pendency of the application, to a candidate or a treasurer or political committee of a candidate.

A knowing and willful violation of the prohibition is a misdemeanor punishable by up to six months imprisonment and/or up to a \$1,000 fine. A violation can also be grounds, in an action for judicial review of an application, for the case to be remanded to the governing body for reconsideration. With the exception of a comprehensive zoning or rezoning proceeding, a member of the governing body who received a contribution from the applicant during the pendency of an application may not vote or participate in any way in the proceedings on the application.

Campaign Finance Entity

Unless otherwise expressly authorized by law, all campaign finance activity for an election under the Election Law Article of the Annotated Code must be conducted through a campaign finance entity (defined as a political committee established under Title 13 of the Election Law Article). An individual may not file a certificate of candidacy or a declaration of intent until the individual establishes, or causes to be established, an authorized candidate campaign committee (a campaign finance entity authorized by the candidate to promote the candidate’s candidacy). Campaign finance entities must have a chairman (which the candidate may be) and treasurer (which the candidate may not be) as responsible officers; must have one or more designated campaign accounts; and are subject to reporting, recordkeeping, and other requirements under the Election Law Article.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Ethics Commission; Frederick County; Department of Legislative Services

Fiscal Note History: First Reader - January 26, 2018
md/hlb Third Reader - February 16, 2018

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