

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 970

(Senator Washington)

Education, Health, and Environmental Affairs

Environment and Transportation

Public Ethics - Disclosures and Fines and Penalties - Revisions

This bill (1) increases, from \$5,000 to \$15,000, the maximum fine the State Ethics Commission (SEC) may impose for a violation of lobbying provisions under the Maryland Public Ethics Law; (2) increases daily and maximum total fees for late-filed lobbying reports and financial disclosure statements; (3) alters reporting requirements related to gifts of tickets and free admissions; (4) increases, from \$5,000 to \$15,000, the maximum fine the court may impose for any violation of the Ethics Law; and (5) increases, from \$10,000 to \$30,000, the maximum misdemeanor fine that may be assessed for a knowing and willful violation of the lobbying provisions of the Ethics Law. The bill requires each member of the General Assembly to provide an annual notice to the Presiding Officer of the member's house indicating whether the member met with the Counsel to the Joint Committee on Legislative Ethics for the purpose of fulfilling specified individual meeting requirements.

Fiscal Summary

State Effect: General fund expenditures for SEC increase by \$30,000 in FY 2021 only. General fund and Fair Campaign Financing Fund revenues increase minimally beginning in FY 2021 as a result of the bill's penalty provisions.

Local Effect: The bill does not materially affect local government finances.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires a financial disclosure statement filed with SEC to include *each* ticket or free admission extended to an *elected constitutional officer* by the person sponsoring or conducting the event, regardless of value; under current law, a statement need only include the acceptance of two or more such gifts with a cumulative value of at least \$100 extended to a member of the General Assembly from one entity during the applicable period.

Similarly, the bill repeals an exemption under which an activity report filed with SEC by a regulated lobbyist need not allocate and report by name the individual recipients of specified tickets and free admissions extended to members of the General Assembly unless a recipient received from the regulated lobbyist two or more such gifts with a cumulative value of at least \$100. Accordingly, an activity report must allocate and report by name the individual recipients of such gifts.

In addition, the bill increases the daily and maximum total fees for late-filed lobbying reports from \$10 to \$30 and from \$1,000 to \$3,000, respectively. Daily and maximum total fees for late-filed financial disclosure statements increase from \$5 to \$15 and from \$500 to \$1,500, respectively.

Current Law:

Complaint Procedures and Sanctions for Ethics Violations

Complaints: Any entity may file a complaint with SEC alleging a violation of the Ethics Law. In addition, SEC may, on its own motion, issue a complaint alleging a violation. For further action, SEC must promptly refer a complaint to the (1) Commission on Judicial Disabilities, if the complaint concerns a judge; (2) the Joint Committee on Legislative Ethics, if the complaint alleges a violation of conflict of interest provisions by a State official of the Legislative Branch; or (3) staff counsel, if the complaint concerns any other entity.

Sanctions: For a complaint retained by SEC, if SEC determines that the respondent has violated any provision of the Ethics Law, SEC may (1) issue an order of compliance directing the respondent to cease and desist from the violation; (2) issue a reprimand; or (3) recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if authorized by law. For violations of lobbying provisions, SEC may (1) require a regulated lobbyist to file additional reports or information, as specified; (2) impose a fine of up to \$5,000 for each violation; or (3) suspend the registration of a regulated lobbyist.

For late-filed lobbying reports, a regulated lobbyist must pay a fee of \$10 for each late day up to a maximum total of \$1,000. For late-filed financial disclosure statements, a filer must pay a fee of \$5 for each late day up to a maximum total of \$500.

Monetary penalties assessed by SEC are distributed to the Fair Campaign Financing Fund.

Enforcement by the Court

SEC may petition the circuit court to compel compliance with an order or seek other relief authorized under State law. The court may compel compliance with an SEC order by issuing an order to cease and desist from the violation or granting other injunctive relief. The court may also impose a fine of up to \$5,000 for a violation of the Ethics Law, with each day that the violation occurs being a separate offense. Monetary penalties assessed by the court are deposited in the general fund. Under specified circumstances, the court may void an official act of an official or employee arising from a prohibited conflict of interest.

Criminal Penalties

Except as specified, a person who knowingly and willfully violates the lobbying provisions of the Ethics Law is guilty of a misdemeanor and subject to a maximum fine of \$10,000 and/or imprisonment for up to one year.

Financial Disclosure Statements

With specified exceptions, a public official, State official, or candidate for office as a State official must file an annual financial disclosure statement with SEC. Statements generally must disclose (1) interests in real property; (2) interests in corporations and partnerships; (3) interests in and employment by business entities doing business with the State; (4) debts owed to entities doing business with or regulated by an individual's governmental unit; (5) family members employed by the State; (6) sources of earned income; and (7) gifts, as specified.

Disclosure of Gifts: With specified exceptions, a statement must disclose each gift with a value of more than \$20 and each of two or more gifts with a cumulative value of at least \$100 received during the applicable period from or on behalf of an entity that is a regulated lobbyist, regulated by the State, or otherwise an entity doing business with the State. For each gift subject to disclosure, the statement must include (1) the nature and value of the gift and (2) the identity of the entity from which the gift was received, whether directly or indirectly.

The statement need not disclose a ticket or free admission extended to a member of the General Assembly by the person sponsoring or conducting the event, as a courtesy or

ceremony to the office, to attend a charitable, cultural, or political event to which all members of a legislative unit were invited, unless the member received two or more such gifts with a cumulative value of at least \$100 from one entity during the applicable period.

Lobbying Activity Reports

A regulated lobbyist must file semiannual activity reports with SEC that include specified total expenditures in connection with influencing executive or legislative action, including gifts to or for officials, employees, or immediate family members of officials or employees.

With specified exceptions, reports must include the name of each official, employee, or immediate family member of an official or employee who has benefited from one or more gifts with a cumulative value of \$75 during the reporting period from the regulated lobbyist, regardless of whether the gift is attributable to more than one entity or given in connection with lobbying activity.

A regulated lobbyist need not allocate and report by name the individual recipients of tickets and free admission extended to members of the General Assembly, as a courtesy or ceremony to the office, to attend charitable, cultural, or political events sponsored or conducted by the reporting entity, unless the recipient received two or more such gifts with a cumulative value of at least \$100 during the reporting period.

Counsel to the Joint Committee on Legislative Ethics

The Counsel to the Joint Committee on Legislative Ethics is appointed by the Executive Director of the Department of Legislative Services, subject to the approval of the Presiding Officers of the General Assembly. The counsel is generally responsible for staffing the committee and counseling individual legislators regarding the application of the Ethics Law. The counsel must meet individually with each member of the General Assembly at least once each year.

Assistance of the counsel to members of the General Assembly is subject to attorney-client privilege, and communications are confidential unless the member chooses to make them public.

State Revenues: The bill increases the maximum fine SEC may impose for a violation of specified lobbying provisions and the daily and maximum total fines for late-filed lobbying reports and financial disclosure statements. Monetary penalties assessed by SEC accrue to the Fair Campaign Financing Fund. Accordingly, special fund revenues increase beginning in fiscal 2021. Any such impact is likely to be minimal.

In addition, the bill increases the maximum fine the court may impose for a violation of the Ethics Law; such fines accrue to the general fund. The bill also increases the misdemeanor fine for a knowing and willful violation of the lobbying provisions of the Ethics Law. Accordingly, general fund revenues increase beginning in fiscal 2021. Any such impact is likely to be minimal.

State Expenditures: SEC advises that contractual services are needed to upgrade its (1) financial disclosure and lobbying reporting systems and (2) online training programs for officials and employees and for lobbyists to reflect the bill's changes. SEC estimates total contractual costs at \$30,000. Accordingly, general fund expenditures for SEC increase by \$30,000 in fiscal 2021 only.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

Fiscal Note History: First Reader - February 18, 2020
rh/lgc Third Reader - March 14, 2020
Revised - Amendment(s) - March 14, 2020

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