

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1404 (Delegate Stewart, *et al.*)
 Environment and Transportation

Public Ethics – Financial Disclosure – Requirements
(Conflicts of Interest Act)

This bill requires the Governor, the Lieutenant Governor, the Attorney General, and the Comptroller to place specified interests into a blind trust approved by the State Ethics Commission (SEC) or divest private assets and holdings to resolve likely or potential conflicts of interest. A specified State official who establishes a blind trust under the bill may not appoint specified relatives as trustees or receive communications from trustees regarding the management of or income from the trust during the official’s term of office. The bill expands the types of interests attributable to an individual for purposes of financial disclosure and requires financial disclosure statements filed by specified State officials to include additional information relating to the officials’ interests. In addition, the bill requires the Governor to send a copy of a disclosure of a conflict of interest to the Presiding Officers of the General Assembly and to SEC.

Fiscal Summary

State Effect: General fund expenditures for SEC increase by \$20,000 in FY 2021 only. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	20,000	0	0	0	0
Net Effect	(\$20,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Beginning October 1, 2022, before taking the oath of office, a State official specified above must (1) place an interest in a business entity, real property, and other investments into a blind trust that is approved by SEC in accordance with regulations adopted by SEC and that is operated in compliance with those regulations or (2) divest private assets and holdings to resolve likely or potential conflicts of interest with the individual's public duties, as determined by SEC. This provision does not, however, apply to an individual's home.

If a specified State official establishes a blind trust under the bill, the official may not (1) appoint the spouse, an adult child, a dependent child, a parent, or a sibling of the official as trustee of the trust or (2) receive communications from the trustees regarding management of or income from the trust as a trustor or beneficiary of the trust at any time during the official's term of office.

Financial Disclosure Statements

To the extent not already disclosed, a financial disclosure statement filed by the Governor, Lieutenant Governor, Attorney General, or Comptroller must include each source, not including the individual's government salary, from which the individual received earned income or unearned income during the applicable period. If the individual holds a 10% or greater interest in a for-profit entity at any time during the applicable period, the statement must disclose (1) the name of each individual who holds a 10% interest or greater in the same business entity and (2) if the interest is not held in a blind trust or has not been divested, the name of each client of the business entity that paid \$5,000 or more to the entity during the applicable period and the nature of the client's business with the entity.

In addition, the bill expands the types of interests that any filer generally must disclose to include a business entity in which the individual held a 10% interest or greater (under current law, a filer must disclose a business entity in which the individual held a 30% interest or greater). In addition, specified interests of business entities in which the individual has at least a 10% interest are considered interests attributable to the individual for purposes of financial disclosure.

Disclosure of Conflicts of Interest by the Governor

If the Governor discloses, in accordance with the Maryland Public Ethics Law, the nature and circumstances of a conflict of interest in a matter in which he or she would otherwise be disqualified from participation, the Governor must send a copy of the disclosure to the Presiding Officers of the General Assembly and SEC.

Current Law: “Interest,” as defined under the Ethics Law, means a legal or equitable economic interest that is owned or held wholly or partly, jointly or severally, or directly or indirectly, whether or not the economic interest is subject to an encumbrance or condition. It does not include an interest held in the capacity of agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter, among other specified exclusions.

Participation Restrictions

An official or employee generally may not participate in a matter if (1) the official or employee or a qualifying relative has an interest in the matter and the official or employee knows of the interest or (2) if a business entity with a specified relationship to the official or employee is a party to the matter.

An official or employee who otherwise would be disqualified from participation in a matter must disclose the nature and circumstances of the conflict and may participate or act if (1) the disqualification would leave a body with less than a quorum capable of acting; (2) the disqualified official or employee is required by law to act; or (3) the disqualified official or employee is the only individual authorized to act.

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.

A filer must disclose an interest held by (1) a spouse or child of an individual, if the interest was controlled, directly or indirectly, by the individual at any time during the applicable period; (2) a business entity in which the individual held a 30% or greater interest at any time during the applicable period; or (3) a trust or estate in which, at any time during the applicable period, the individual held a reversionary interest, was a beneficiary, or was a settlor, if a revocable trust.

Background: The Ethics Law sets out requirements, prohibitions, and procedures that affect officials in the Legislative, Executive, and Judicial branches of government for the purpose of maintaining people’s trust in government and protecting against the improper influence and the appearance of improper influence of government.

The law is generally administered by SEC, with two statutory exceptions. First, the Joint Committee on Legislative Ethics must administer provisions related to conflicts of interest as they apply to members of the General Assembly. Second, the Commission on Judicial Disabilities, or another body designated by the Court of Appeals, must administer provisions related to conflicts of interest and financial disclosure as they apply to State officials of the Judicial Branch.

State Expenditures: SEC advises that it must update its financial disclosure system to reflect the bill's changes. SEC estimates related contractual costs at \$20,000. Accordingly, general fund expenditures for SEC increase by approximately \$20,000 in fiscal 2021 only.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Comptroller's Office; Governor's Office; State Ethics Commission; Department of Legislative Services

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rh/lgc

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