

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 363

(Delegate Lierman)

Environment and Transportation

Education, Health, and Environmental Affairs

Public Ethics - Officials and Employees - Acceptance of Gifts and Prohibited
Retaliation

This bill prohibits an official or employee from retaliating against an individual for reporting or participating in an investigation of a potential violation of the Maryland Public Ethics Law. In addition, the bill generally prohibits an official or employee from knowingly accepting a gift, directly or indirectly, from an entity that the official or employee knows or has reason to know is an association, or any entity acting on behalf of an association, that is engaged only in representing counties or municipal corporations, subject to existing exceptions. **The bill takes effect June 1, 2021.**

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

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

Small Business Effect: None.

Analysis

Current Law: “Employee,” as it applies to the Ethics Law, means an individual who is employed by an executive unit, by the Legislative Branch, or in the Judicial Branch. “Official” includes a public or State official as defined under the Ethics Law.

The Maryland Public Ethics Law, Generally

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 Ethics Law is administered by the State Ethics Commission (SEC) with the Joint Committee on Legislative Ethics (JCLE) and the Commission on Judicial Disabilities.

Review of Complaints

Ethics Law provisions govern the review of complaints by SEC and JCLE and set forth various notice, hearing, and other procedural requirements. SEC and JCLE may issue subpoenas to require the attendance of witnesses and the production of records. Information and proceedings related to complaints are generally confidential. If, during review of a complaint, SEC or JCLE finds that there are reasonable grounds to believe that the respondent may have committed a crime, SEC or JCLE must refer to the matter to an appropriate prosecuting authority.

Investigations of Violations of General Assembly Anti-harassment Policies

Under the General Assembly's anti-harassment policy and procedures, retaliation against a covered individual for making or participating in the investigation of a harassment complaint is prohibited. For a complaint alleging that a member of the General Assembly has (1) violated the anti-harassment policy and procedures of the General Assembly or (2) retaliated against an individual for reporting or participating in the investigation of a violation of the anti-harassment policy and procedures of the General Assembly, JCLE must refer the complaint to an outside, independent investigator, unless the alleged victim objects.

Acceptance of Gifts by Officials or Employees

An official or employee generally may not knowingly accept a gift, directly or indirectly, from an entity that the official or employee knows or has reason to know (1) does or seeks to do business of any kind with the official's or employee's governmental unit; (2) engages in an activity that is regulated or controlled by the official's or employee's governmental unit; (3) has a financial interest that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official's or employee's official duties; or (4) is a regulated lobbyist with respect to matters within the jurisdiction of the official or employee.

An official or employee may, however, accept specified gifts as long as the gift (1) does not tend to impair the official's or employee's impartiality and independent judgment and (2) as to a gift of significant value, does not give the appearance of impairing the impartiality and independent judgment of the official or employee, or the official or employee does not believe or have reason to believe that the gift is designed to impair his or her impartiality and independent judgment.

Sanctions for Ethics Law Violations

SEC may impose various specified sanctions for violations of the Ethics Law, including the issuance of an order of compliance or a reprimand. For findings of JCLE, the committee may issue any recommendations to the appropriate presiding officer or to the full house of the accused legislator, including any recommendations for appropriate sanctions.

SEC may petition the circuit court to compel compliance with an order or seek other relief authorized under State law. In addition to any other authorized penalty, a public official or employee found by SEC or a court to have violated the Ethics Law may be removed or subjected to other disciplinary action and, if subject to an order of SEC or a court directing compliance, may not receive salary or other compensation until the individual complies fully with the order.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 4 (Senator Edwards, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): Judiciary (Administrative Office of the Courts); Register of Wills; Department of Budget and Management; Maryland Department of Transportation; State Ethics Commission; Baltimore City; Kent, Montgomery, and Worcester counties; Department of Legislative Services

Fiscal Note History: First Reader - January 19, 2021
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