

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 570 (Senator Lam)
 Education, Health, and Environmental Affairs

**Public Ethics – Former Secretary, Deputy Secretary, or Assistant Secretary of a
 Principal Department – Employment Restrictions**

This bill prohibits a former deputy secretary or assistant secretary of a principal department in the Executive Branch from assisting or representing another party for compensation in a matter that is the subject of legislative action for one calendar year from the date the official leaves State office. The bill also prohibits a former secretary, deputy secretary, or assistant secretary of a principal department from assisting or representing another party for compensation if, within one year before the official leaves office, the person was a party to one or a combination of sales, purchases, leases, or contracts to, from, or with the State or any unit of the State, involving consideration of at least \$5,000 on a cumulative basis during the calendar year, regardless of when the consideration is to be paid.

Fiscal Summary

State Effect: General fund expenditures for the State Ethics Commission (SEC) increase by \$25,000 in FY 2023 only, as discussed below. Any increase in the assessment of existing fines applicable to Ethics Law violations does not materially affect State revenues.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	25,000	0	0	0	0
Net Effect	(\$25,000)	\$0	\$0	\$0	\$0

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

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

Small Business Effect: None.

Analysis

Current Law:

Maryland Public Ethics Law, Generally

The Maryland Public 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 generally administered by SEC; the Joint Committee on Legislative Ethics and the Commission on Judicial Disabilities administer specified provisions of the Ethics Law as they apply to members of the General Assembly and State officials of the Judicial Branch, respectively.

Restrictions on Compensated Representation or Assistance

The Ethics Law prohibits a former member of the General Assembly or a former Governor, Lieutenant Governor, Attorney General, Comptroller, State Treasurer, or secretary of a principal department in the Executive Branch from assisting or representing another party for compensation in a matter that is the subject of legislative action for one calendar year from the date the official leaves State office. However, the limitation does not apply to representation of a municipal corporation, county, or State government entity. "Legislative action," as defined under the Ethics Law, means an official action or nonaction relating to (1) a bill, a resolution, an amendment, a nomination, an appointment, a report, or any other matter within the jurisdiction of the General Assembly; (2) a bill presented to the Governor for signature or veto; or (3) testimony or other advocacy in an official capacity as a member of the General Assembly before a unit of State or local government. It includes introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, and veto.

The Ethics Law further prohibits a former official or employee, other than a former member of the General Assembly, from assisting or representing a party, other than the State, in a case, contract, or any other specific matter for compensation if (1) the matter involves State government and (2) the former official employee participated significantly in the matter as an official or employee.

Violations of the Ethics Law

Any entity may file a complaint with SEC alleging a violation of the Ethics Law, and 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 specified violation by a State official of the Legislative Branch; or (3) staff counsel, if the complaint concerns any other entity. For a complaint retained by SEC, if SEC determines that the respondent has violated any provision of the Ethics Law, SEC may, among other things, issue an order of compliance directing the respondent to cease and desist from the violation.

Enforcement by the Court

SEC may petition the circuit court to compel compliance with an order or seek other specified relief. 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.

State Expenditures: SEC advises that the bill's changes necessitate modifications to its online ethics training module. Based on previous experience with modifications to this system, SEC estimates related one-time costs of \$25,000. Thus, general fund contractual expenditures for SEC increase by an estimated \$25,000 in fiscal 2023 only.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); State Ethics Commission; Department of Legislative Services

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