

SB 283 - Common Cause MD - Favorable

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Position: FAV

February 20, 2020

Testimony on SB 283
Ethics and Accountability in Government Act
Education, Health, and Environmental Affairs

Position: Favorable

Common Cause Maryland supports SB 283 and appreciates the attention to ethics reform this legislative session. Recent events have led to a loss of trust in and respect for the legislative process and we believe the renewed focus on ethics will send a message to Marylanders that their concerns have been heard and illegal behavior will not be tolerated.

Strong ethics and transparency laws are essential to building a strong foundation of trust in government action and provides the public with the tools for oversight. SB 283 provides a variety of straightforward ethics reforms that we believe will help to build greater accountability within the General Assembly.

- SB 283 provide for increased minimum and maximum penalties for bribery, the minimum fine being increased from \$1,000 to \$10,000, and the maximum fine increased from \$10,000 to \$100,000. Maryland is fortunate that ethics violations, such as bribery or acting for personal gain, are rare in the Statehouse. When corruption or collusion occurs, it deserves a strong, and we believe the increase in fines will help to dissuade this unethical behavior in the future.
- SB 283 authorizes the State Ethics Board to impose maximum fines for violations to public ethics laws, helping to address disregard for our ethics laws and moving us toward creating an ethical and clean government that works in the public's interest.
- SB 283 expands the definition of qualifying crime as applied to forfeiture of pensions to include any felony or misdemeanor committed in the course of public duties or responsibilities, while in a role of authority, or when a crime of moral turpitude is committed.
- It also ensures former officials or employees are prohibited from using confidential information for personal economic benefit or for the benefit of another.

While we take no position regarding the forfeiture of legislative pensions of any member or former member found guilty of a crime, we do support providing voters with the opportunity to decide what should happens in these instances. Over the last few months, we have heard from a number of members of the public who have expressed frustration and anger after discovering that those officials who have engaged in unethical behavior and are no longer in office still have their pensions. If this legislation is passed, we urge the administration to ensure a robust public education plan is put in place to ensure voters understand the constitutional amendment before voting in the general election.

Legislators and officials at all levels must be held to the highest standards of public conduct. SB 283 is an important reform for our ethics code and overall accountability in Maryland.

We recommend a favorable report.



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SB 283 Ethics & Accountability in Government Act

**Senate Education, Health, and Environmental Matters
February 20, 2020**

Ali Keane, Governor's Legislative Office

This legislation will strengthen and toughen the state ethics laws in an effort to help restore the public's trust and bring further transparency, accountability, and honesty.

A summary of the bill's provisions includes:

Tougher Penalties for Bribery

- This legislation will expand the penalties for bribery of a public officer by 1,000%, ranging from a minimum of \$10,000 and a maximum of \$100,000. These penalties will apply both to those who bribe or attempt to bribe a public official and to those who demand or receive a reward to influence the performance of their duties.

Pension Forfeiture for Convicted Lawmakers

- The legislation will codify in statute that members of the General Assembly and state employees who are found guilty, plead guilty, or enter a plea of nolo contendere for a qualifying crime committed in the course of their duties are subject to total forfeiture of their pension benefits. This expands a provision the General Assembly passed in 2016 for the state's constitutional officers.

Expanded Prohibitions on Misuse of Confidential Information

- The legislation will expand prohibitions on misuse of confidential information by current state officials and employees to include the misuse of confidential information acquired during state service by former officials and employees.

Stronger Authority for Ethics Commission to Impose Penalties

- The legislation will expand the Ethics Commission's current authority to impose a fine up to \$5,000 for each violation of the Public Ethics Law by a regulated lobbyist. The expansion will allow the Commission to assess \$5,000 fines for State employees, without having to go through a court to assess the fine.

MD State Ethics Comm._Michael Lord_FAV_SB0283

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February 20, 2020

Senate Bill 283 – Ethics and Accountability in Government Act

Testimony before the Education, Health, and Environmental Affairs Committee

The State Ethics Commission supports two specific provisions of SB 283 – Ethics and Accountability in Government Act, both of which amend the Public Ethics Law and are found in Section Three of the bill. The Commission takes no position on the remaining provisions of the bill as they address other laws not under the jurisdiction of the Commission.

With respect to the two changes affecting the Ethics Law, the bill proposes to do the following: 1) authorize the Commission to impose a fine not exceeding \$5,000 for each violation of the Ethics Law; and 2) apply the Law's prohibition on disclosing confidential information to former officials and employees. Both of these changes have been recommended by the Commission in one form or another in each of its Annual Reports for more than twenty years.

The Law currently authorizes the Commission to impose a fine not exceeding \$5,000 for each violation of the Public Ethics Law by a regulated lobbyist¹. The Commission has had this authority since 2001. However, with respect to State employees and officials, the Commission's ability to directly impose sanctions for violations of the conflicts of interest provisions is quite limited. The Commission 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 if that discipline is authorized by law. In addition to the foregoing, the Commission may petition a circuit court with venue over the proceeding to impose a fine not exceeding \$5,000 per violation.

Providing the Commission with authority to directly assess civil penalties against State employees and public officials would offer a formal alternative to expensive and extended court proceedings and would give the Commission authority equal to the authority it presently has with regard to violations committed by lobbyists. Furthermore, it would provide an immediate sanction for conflicts of interest violations that would give the Commission a meaningful

¹ With respect to lobbyists, the Commission also has the authority in appropriate cases to suspend or revoke a lobbyist's registration.

deterrent that does not exist among the sanctions currently available to it.

As for the second issue, the Ethics Law prohibits current officials and employees from disclosing or using confidential information (defined as information acquired by reason of the official's or employee's public position and not available to the public) for personal economic benefit or for the economic benefit of another. While the Law contains a prohibition on certain post-employment situations for former officials and employees subsequent to their leaving the State, it does not extend the prohibition on the use of confidential information. If the concern is that individuals should not profit, or allow others to profit, from information not available to the entire public, that concern should apply to all officials and employees, current and former, who attempt to profit or allow others to profit in a similar way.

The Commission believes that making the two changes to the Law as discussed above will strengthen the Law by adding a meaningful option to the Commission's enforcement authority and providing consistency to the Law's prohibition on the use of confidential information by applying it to all who could violate it.