

SENATE BILL 447

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By: ~~Senator Conway~~ Senators Conway and Dyson

Introduced and read first time: January 24, 2014

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 18, 2014

CHAPTER _____

1 AN ACT concerning

2 **Public Ethics – Members of the General Assembly – Presumption of a Conflict**
3 **– Clients**

4 FOR the purpose of altering the definition of “close economic association” in the Public
5 Ethics Law to include the client of a legislator or a client of a partnership,
6 limited liability partnership, or limited liability corporation in which the
7 legislator knowingly has invested capital or owns an interest; and generally
8 relating to public ethics, members of the General Assembly, and presumptions
9 of conflicts.

10 BY repealing and reenacting, with amendments,

11 Article – General Provisions

12 Section 5–512

13 Annotated Code of Maryland

14 (As enacted by Chapter ____ (H.B. 270) of the Acts of the General Assembly of
15 2014)

16 BY repealing and reenacting, without amendments,

17 Article – General Provisions

18 Section 5–513(a)

19 Annotated Code of Maryland

20 (As enacted by Chapter ____ (H.B. 270) of the Acts of the General Assembly of
21 2014)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – General Provisions**

4 5–512.

5 (a) (1) In this section, “close economic association” means the association
6 between a legislator and:

7 (i) the legislator’s:

8 1. employer;

9 2. employee; [or]

10 3. partner in a business or professional enterprise; **OR**

11 **4. CLIENT, INCLUDING A CLIENT OF A PARTNERSHIP,**
12 **LIMITED LIABILITY PARTNERSHIP, OR LIMITED LIABILITY CORPORATION IN**
13 **WHICH THE LEGISLATOR KNOWINGLY HAS INVESTED CAPITAL OR OWNS AN**
14 **INTEREST;**

15 (ii) a partnership, limited liability partnership, or limited
16 liability company in which the legislator has invested capital or owns an interest;

17 (iii) a corporation in which the legislator owns the lesser of:

18 1. 10% or more of the outstanding capital stock; or

19 2. capital stock with a cumulative value of \$25,000 or
20 more; and

21 (iv) a corporation in which the legislator is an officer, a director,
22 or an agent.

23 (2) “Close economic association” does not include a legislator’s
24 ownership of stock directly through a mutual fund, a retirement plan, or any other
25 similar commingled investment vehicle the individual investments of which the
26 legislator does not control or manage.

27 (b) (1) An interest of a member of the General Assembly conflicts with the
28 public interest if the legislator’s interest tends to impair the legislator’s independence
29 of judgment.

1 (2) The conflict disqualifies the legislator from participating in any
2 legislative action, or otherwise attempting to influence any legislation, to which the
3 conflict relates.

4 (c) It is presumed that an interest disqualifies a legislator from participating
5 in legislative action whenever the legislator:

6 (1) has or acquires a direct interest in an enterprise that would be
7 affected by the legislator's vote on proposed legislation, unless the interest is common
8 to all members of:

9 (i) a profession or occupation of which the legislator is a
10 member; or

11 (ii) the general public or a large class of the general public;

12 (2) benefits financially from a close economic association with a person
13 whom the legislator knows has a direct interest in an enterprise or interest that would
14 be affected by the legislator's participation in legislative action, differently from other
15 like enterprises or interests;

16 (3) benefits financially from a close economic association with a person
17 who is lobbying for the purpose of influencing legislative action; or

18 (4) solicits, accepts, or agrees to accept a loan, other than a loan from a
19 commercial lender in the normal course of business, from a person who would be
20 affected by or has an interest in an enterprise that would be affected by the legislator's
21 participation in legislative action.

22 5–513.

23 (a) (1) Except as provided in paragraph (2) of this subsection, the
24 disqualification arising under § 5–512 of this subtitle is suspended if a legislator with
25 an apparent or presumed conflict files with the Joint Ethics Committee a sworn
26 statement that:

27 (i) describes the circumstances of the apparent or presumed
28 conflict and the legislation or class of legislation to which it relates; and

29 (ii) asserts that the legislator is able to participate in legislative
30 action relating to the legislation fairly, objectively, and in the public interest.

31 (2) (i) Except as provided in subparagraph (ii) of this paragraph,
32 the disqualification arising under § 5–512 of this subtitle may not be suspended if the
33 conflict is direct and personal to:

34 1. the legislator;

SENATE BILL 447

1 2. a member of the legislator’s immediate family; or

2 3. the legislator’s employer.

3 (ii) This paragraph does not apply to a vote on:

4 1. the annual operating budget bill, in its entirety; or

5 2. the annual capital budget bill, in its entirety.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2014.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.