

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 343

(Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Departmental - Ethics
Commission, State)

Education, Health, and Environmental Affairs

Environment and Transportation

Public Ethics - Advisory Bodies - Advisory Opinions and Informal Advice

This departmental bill authorizes an advisory body in the State to issue informal advice instead of an advisory opinion, if requested to do so. Any information related to informal advice must be confidential and is not subject to the publication requirements for advisory opinions.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: None. The bill codifies existing practice.

Local Effect: None.

Small Business Effect: The State Ethics Commission has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law:

Advisory Bodies

The Maryland Public Ethics Law sets out requirements, prohibitions, and procedures that affect State 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 appearance of improper influence of government.

The Public Ethics Law is generally administered and implemented by the State Ethics Commission with two exceptions. First, the Joint Ethics Committee must administer and implement 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 and implement provisions related to conflicts of interest and financial disclosure as they apply to State officials of the Judicial Branch.

Advisory Opinions

Advisory bodies in the State *must* issue an advisory opinion if a written request is submitted by a State public official. If a request is submitted by any other entity, the advisory body *may* issue an advisory opinion, but it is not required to do so.

All advisory opinions must be in writing and published in the Maryland Register. Before an advisory opinion is made public, the advisory body must delete the name of the entity that is the subject of the opinion, as well as any other information that may identify the entity. The identity of this entity may not be revealed.

Ethics Commission Regulations

State Ethics Commission regulations specify the circumstances and process by which the commission may provide informal advice instead of a formal opinion. When an advisory opinion request presents facts or raises issues that have been addressed in previously issued opinions, the commission may provide the prior opinion as an expedited informal response. Although an official may request informal advice, the requestor also has the option of seeking a formal advisory opinion.

Background: The State Ethics Commission advises that, in recent years, it has primarily used an informal advice process, instead of advisory opinions, to perform its advisory function. The commission reports that it has not issued an advisory opinion in two years and issued only one opinion per year between 2008 and 2012. However, between 2011 and 2013, informal advice was issued more than 400 times annually.

Under existing regulations, informal advice may be rendered by commission staff if a request for an advisory opinion presents facts and raises issues that have been addressed in a previously issued opinion of the commission. The commission may then provide informal advice when it determines, based on the facts of the situation, that formal advice

is not required. The commission advises, therefore, that the bill simply codifies a practice the commission has already implemented using its regulatory authority.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Ethics Commission, Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2015
min/kdm

Analysis by: Richard L. Duncan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Public Ethics – Advisory Bodies – Informal Advice

BILL NUMBER: SB 343

PREPARED BY: State Ethics Commission

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON
MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no economic impact on small businesses.