

HOUSE BILL 1006

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7lr2436

By: **Delegate McDonough**

Introduced and read first time: February 8, 2017

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Elections – Public Official in Executive Unit – Elected Public Office**

3 FOR the purpose of prohibiting a public official of an executive unit from being a candidate
4 for a public office while the individual holds a position in an executive unit; defining
5 certain terms; and generally relating to the candidacy for an elected public office by
6 a public official of an executive unit.

7 BY repealing and reenacting, without amendments,
8 Article – Election Law
9 Section 5–201
10 Annotated Code of Maryland
11 (2010 Replacement Volume and 2016 Supplement)

12 BY adding to
13 Article – Election Law
14 Section 5–206
15 Annotated Code of Maryland
16 (2010 Replacement Volume and 2016 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – General Provisions
19 Section 5–101(m) and (ff) and 5–103(a), (b), and (f)
20 Annotated Code of Maryland
21 (2014 Volume and 2016 Supplement)

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

24 **Article – Election Law**

25 5–201.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 An individual may become a candidate for a public or party office only if the
2 individual satisfies the qualifications for that office established by law and, in the case of a
3 party office, by party constitution or bylaws.

4 **5-206.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) "EXECUTIVE UNIT" HAS THE MEANING STATED IN § 5-101(M) OF
8 THE GENERAL PROVISIONS ARTICLE.

9 (3) "PUBLIC OFFICIAL OF AN EXECUTIVE UNIT" MEANS AN
10 INDIVIDUAL DESCRIBED IN § 5-103(B) OF THE GENERAL PROVISIONS ARTICLE.

11 (B) A PUBLIC OFFICIAL OF AN EXECUTIVE UNIT MAY NOT BECOME A
12 CANDIDATE FOR A PUBLIC OFFICE WHILE THE INDIVIDUAL HOLDS A POSITION IN AN
13 EXECUTIVE UNIT.

14 **Article – General Provisions**

15 5-101.

16 (m) (1) "Executive unit" means a department, agency, commission, board,
17 council, or other body of State government that:

18 (i) is established by law; and

19 (ii) is not in the Legislative Branch or the Judicial Branch of State
20 government.

21 (2) "Executive unit" includes:

22 (i) a county health department unless the officials and employees of
23 the department are expressly designated as local officials in § 5-801 of this title;

24 (ii) the office of the sheriff in each county;

25 (iii) the office of the State's Attorney in each county; and

26 (iv) the Liquor Control Board for Somerset County.

27 (ff) "Public official" means an individual determined to be a public official under
28 § 5-103 of this subtitle.

1 5–103.

2 (a) The determination of whether an individual is a public official for the purposes
3 of this title shall be made in accordance with this section.

4 (b) Except as provided in subsection (f) of this section, the following individuals
5 in executive units are public officials:

6 (1) an individual who receives compensation at a rate equivalent to at least
7 State grade level 16, or who is appointed to a board, if the Ethics Commission determines
8 under § 5–208 of this title that:

9 (i) the individual, acting alone or as a member of an executive unit,
10 has decision–making authority or acts as a principal advisor to an individual with
11 decision–making authority:

12 1. in making State policy in an executive unit; or

13 2. in exercising quasi–judicial, regulatory, licensing,
14 inspecting, or auditing functions; and

15 (ii) the individual’s duties are not essentially administrative and
16 ministerial;

17 (2) any other individual in an executive unit if the Ethics Commission
18 determines that the individual, acting alone or as a member of the executive unit, has
19 decision–making authority or acts as a principal advisor to an individual with
20 decision–making authority in drafting specifications for, negotiating, or executing contracts
21 that commit the State or an executive unit to spend more than \$10,000 in a year;

22 (3) a member, appointee, or employee of the Maryland Stadium Authority;

23 (4) a member, appointee, or employee of the Canal Place Preservation and
24 Development Authority; and

25 (5) a member of the Emergency Medical Services Board.

26 (f) The following are not public officials:

27 (1) a State official;

28 (2) an individual employed on a contractual basis unless the individual is:

29 (i) employed on a full–time basis for more than 6 months; and

30 (ii) designated as a public official under subsection (b)(1) or (c) of this
31 section; and

1 (3) a part–time or full–time faculty member at a State institution of higher
2 education:

3 (i) as to subsection (b)(2) of this section, only when the individual is
4 acting in the capacity of a faculty member; and

5 (ii) as to any other provision of this section, unless the individual
6 also:

7 1. is employed in another position that causes the individual
8 to be designated as a public official; or

9 2. directly procures, directly influences, or otherwise directly
10 affects the formation or execution of any State contract, purchase, or sale, as established
11 by regulations adopted by the Ethics Commission and approved by the Joint Committee on
12 Administrative, Executive, and Legislative Review.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2017.