

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1006
Ways and Means

(Delegate McDonough)

Elections - Public Official in Executive Unit - Elected Public Office

This bill prohibits a public official of an executive unit from becoming a candidate for a public office while the individual holds a position in an executive unit. “Public official of an executive unit” and “executive unit” are defined in accordance with the definition of those terms under the Maryland Public Ethics Law.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: The bill is not expected to materially affect local government finances.

Small Business Effect: None.

Analysis

Current Law/Background:

Public Official of an Executive Unit

Under the Maryland Public Ethics Law, “executive unit” means a department, agency, commission, board, council, or other body of State government that is established by law and is not in the Legislative Branch or the Judicial Branch of State government. “Executive unit” also includes certain specifically identified units, such as the office of the sheriff and office of the State’s Attorney in each county.

Subject to certain exceptions, including constitutional officers, sheriffs, and State's Attorneys, a public official in an executive unit includes:

- an individual who receives compensation at a rate equivalent to at least State grade level 16, or who is appointed to a board, if the State Ethics Commission determines that the individual, acting alone or as a member of an executive unit, has decision-making authority or acts as a principal advisor to an individual with decision-making authority, in making State policy in an executive unit or in exercising quasi-judicial, regulatory, licensing, inspecting, or auditing functions;
- any other individual in an executive unit if the commission determines that the individual, acting alone or as a member of the executive unit, has decision-making authority or acts as a principal advisor to an individual with decision-making authority in drafting specifications for, negotiating, or executing contracts that commit the State or an executive unit to spend more than \$10,000 in a year;
- a member, appointee, or employee of the Maryland Stadium Authority;
- a member, appointee, or employee of the Canal Place Preservation and Development Authority; and
- a member of the Emergency Medical Services Board.

Running for Office while Serving as a State Employee or Official

The State Ethics Commission indicates that generally the Maryland Public Ethics Law and other State laws have been interpreted to allow State employees and officials to run for public office provided they do not use State time, facilities, equipment, or otherwise misuse their State position or confidential information.

Under conflict of interest provisions of the Maryland Public Ethics Law, an official or employee is prohibited from intentionally using the prestige of office or public position for that official's or employee's private gain or that of another. The State Ethics Commission, which administers the Maryland Public Ethics Law, has, in advisory opinions, discussed the application of the prestige of office provision to campaigning and fundraising. In one opinion the commission stated: "With regard to political campaigning and fundraising ... the Commission has advised individuals of the continuing application of the [prestige of office provision] and the need to avoid circumstances where a person's position may figure in private campaigning. Individuals are consistently advised to take care in campaign activities about soliciting campaign funds or assistance from individuals who are subject to the agency's authority or that are vendors or likely vendors to the individual's agency employer."

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections; State Ethics Commission; Department of Budget and Management; Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2017
mm/hlb

Analysis by: Scott D. Kennedy

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