

**Department of Legislative Services**  
Maryland General Assembly  
2019 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 617 (Delegate Miller)  
Environment and Transportation

---

**Public Ethics - Meals and Receptions - Governmental Unit That Employs an Individual Regulated Lobbyist**

---

This bill expands the meaning of “entity” as it applies to provisions of the Maryland Public Ethics Law pertaining to the acceptance of gifts by specified officials and employees to include a governmental unit that employs an individual regulated lobbyist.

---

**Fiscal Summary**

**State Effect:** The bill does not materially affect governmental operations or finances.

**Local Effect:** The bill does not materially affect local government operations or finances.

**Small Business Effect:** None.

---

**Analysis**

**Current Law:**

*Acceptance of Gifts by Officials or Employees*

Under the Maryland Public Ethics Law, an official or employee generally may not knowingly accept a gift, directly or indirectly, from an entity that the official or employee knows or has reason to know (1) does or seeks to do business of any kind with the official’s or employee’s governmental unit; (2) engages in an activity that is regulated or controlled by the official’s or employee’s governmental unit; (3) has a financial interest that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official’s or employee’s official duties; or

(4) is a regulated lobbyist with respect to matters within the jurisdiction of the official or employee.

A governmental unit is not considered an “entity” as it applies to provisions of the Maryland Public Ethics Law pertaining to the acceptance of gifts by an official or employee.

An official or employee may, however, accept specified gifts as long as the gift (1) does not tend to impair the official’s or employee’s impartiality and independent judgment and, (2) as to a gift of significant value, does not give *the appearance of* impairing the impartiality and independent judgment of the official or employee, or the official or employee does not believe or have reason to believe that the gift is designed to impair his or her impartiality and independent judgment.

*Defined Terms under the Maryland Public Ethics Law*

“Employee” means an individual who is employed by an executive unit, by the Legislative Branch, or in the Judicial Branch. Employee does not include a public official or State official.

“Entity” means a person, or a government or instrumentality of government.

“Gift” means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration. A gift, in this context, does not include the solicitation, acceptance, receipt, or regulation of a political contribution that is regulated in accordance with the Election Law Article or any other State law regulating the conduct of elections or the receipt of political contributions.

“Governmental unit” means a department, agency, commission, board, council, or other body of State government that is established by law.

“Official” means either a State official or a public official.

“Public official” means an individual determined to be a public official as specified in § 5-103 of the General Provisions Article. In most cases, whether an individual in an executive unit is a public official is determined by the State Ethics Commission (SEC) according to criteria generally relating to the individual’s pay grade, decision-making authority, and/or role as an advisor to a person with decision-making authority. An individual in the Legislative Branch is a public official if the individual receives a specified level of compensation and is designated as a public official by order of the Presiding Officers of the General Assembly.

“Regulated lobbyist” is any person or entity required to register with SEC because the person or entity has, generally, incurred expenditures and/or received compensation to influence legislative or specified executive action.

“State official” means a constitutional officer or officer-elect in an executive unit; a member or member-elect of the General Assembly; a judge or judge-elect of a court under Article IV, § 1 of the Maryland Constitution; a judicial appointee as defined in Maryland Rule 18-200.3; a State’s Attorney, clerk of the circuit court, register of wills, or sheriff.

### *The Maryland Public Ethics Law, Generally*

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

The law is generally administered and implemented by SEC, with two statutory exceptions under existing provisions. First, the Joint Committee on Legislative Ethics 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.

**Background:** Restrictions on gifts to General Assembly members are further discussed in an opinion of the Joint Committee on Legislative Ethics (Ethics Opinion #7, *Gifts*). The committee has determined that gifts offered by governmental entities are not regulated by the Maryland Public Ethics Law.

---

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Ethics Commission; Maryland Automobile Insurance Fund; cities of Rockville, Takoma Park, and Westminster; Charles, Prince George’s, and Queen Anne’s counties; Maryland Municipal League; Department of Legislative Services

**Fiscal Note History:** First Reader - February 20, 2019  
mm/kdm

---

Analysis by: Elizabeth J. Allison

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