

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 159 (Chair, Environment and Transportation Committee)(By
Request - Departmental - State Ethics Commission)

Environment and Transportation Education, Health, and Environmental Affairs

**State Ethics Commission – Determination of Public Official in an Executive Unit
– Information From Units of State Government**

This departmental bill requires (1) the secretary of a principal department in the Executive Branch; (2) the president of a public senior higher education institution; and (3) a unit of State government to provide, in a timely manner, on request of the State Ethics Commission (SEC), any information necessary to make a determination as to whether an individual in an executive unit is a public official for purposes of the Maryland Public Ethics Law.

Fiscal Summary

State Effect: None. The bill generally codifies existing practice, as discussed below.

Local Effect: None.

Small Business Effect: SEC 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:

Definitions

Public Official of an Executive Unit

“Public official,” as it applies to the Maryland Public Ethics Law, means an individual determined to be a public official under § 5-103 of the General Provisions Article and includes specified individuals in executive units and in the Legislative and Judicial branches. “Executive unit” means a department, agency, commission, board, council, or other body of State government that is (1) established by law and (2) is not in the Legislative or Judicial Branch of State government. Generally, an individual in an executive unit is a public official for purposes of the Maryland Public Ethics Law upon a determination by SEC in accordance with specified criteria pertaining to the individual’s compensation, decision-making authority, and/or advisory role to an individual with decision-making authority.

Public Senior Higher Education Institution

“Public senior higher education institution,” as it applies to Division III of the Education Article (“Higher Education”), means the constituent institutions of (1) the University System of Maryland and the University of Maryland Center for Environmental Science; (2) Morgan State University; and (3) St. Mary’s College of Maryland.

Required Determination by SEC

SEC, with advice from the Secretary of Budget and Management, is responsible for determining whether an individual in an executive unit is a public official for purposes of the Maryland Public Ethics Law in accordance with specified criteria, as discussed above. The Secretary must provide advice to SEC in making such determinations (1) annually and (2) at any other time on request of SEC.

Financial Disclosure

With specified exceptions, a public official, State official, or candidate for office as a State official generally must file an annual financial disclosure statement with the State Ethics Commission.

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 by SEC, with two statutory exceptions. First, the Joint Committee on Legislative Ethics must administer 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 provisions related to conflicts of interest and financial disclosure as they apply to State officials of the Judicial Branch.

Background/State Fiscal Effect: SEC advises that it currently relies on the voluntary assistance of State agencies in identifying (1) positions that satisfy criteria for designation as public officials and (2) individuals occupying designated positions for purposes of administering financial disclosure provisions under the Maryland Public Ethics Law. SEC advises that while most governmental units provide the assistance the commission requires, some do not. By making such assistance mandatory, the bill is intended to enhance the financial disclosure process.

To the extent that State agencies do not currently provide SEC with requested information in a consistent and timely manner, the bill's requirements may minimally impact administrative activities. Any such impact, however, does not materially affect State agencies.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Baltimore City Community College; University System of Maryland; St. Mary's College of Maryland; Department of Budget and Management; Maryland Department of the Environment; Maryland Department of Health; Department of Natural Resources; Department of Public Safety and Correctional Services; Maryland Department of Transportation; State Ethics Commission; Department of Legislative Services

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md/lgc Third Reader - March 14, 2020

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Public Ethics – Ethics Commission Determination of Public Official in Executive Unit – Assistance by Units of State Government**

BILL NUMBER: HB 159

PREPARED BY: State Ethics Commission

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X 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 minimal economic impact on small businesses.