

Bill No. 2-18
Concerning: Ethics – Conflicts of Interest
– Financial Disclosure – Lobbying -
Amendments
Revised: April 12, 2018 Draft No. 7
Introduced: February 6, 2018
Enacted: April 17, 2018
Executive: April 24, 2018
Effective: July 24, 2018
Sunset Date: None
Ch. 7, Laws of Mont. Co. 2018

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the request of the Ethics Commission

AN ACT to:

- (1) limit the participation of a public employee in any matter affecting a party who the employee was hired to lobby for in the prior year;
- (2) prohibit a person serving as County Executive or Councilmember from certain lobbying for one year after leaving office;
- (3) require the Ethics Commission to redact the home address of a public employee from a financial disclosure statement made available for inspection or copying;
- (4) require a public employee to disclose income from certain lobbying on a financial disclosure statement;
- (5) repeal the requirement for a regulated lobbyist to submit an authorization to lobby from the individual or organization hiring the lobbyist;
- (6) modify the financial disclosure requirements for officers and employees of the Arts and Humanities Council and a community media organization;
- (7) establish certain exceptions to the restrictions on outside employment of certain police officers and fire/rescue employees; and
- (8) generally amend the law governing conflicts of interest, financial disclosure, and lobbying.

By amending

Montgomery County Code
Chapter 5A, Arts and Humanities
Section 5A-4
Chapter 8A, Cable Communications
Section 8A-32
Chapter 19A, Ethics
Sections 19A-11, 19A-12, 19A-13, 19A-18, 19A-19, 19A-21, 19A-22, and 19A-23

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

- 28 (1) any matter that affects, in a manner distinct from its effect on the
29 public generally, any:
- 30 (A) property in which the public employee holds an economic
31 interest;
- 32 (B) business in which the public employee has an economic
33 interest; or
- 34 (C) property or business in which a relative has an economic
35 interest, if the public employee knows about the relative's
36 interest;

37 * * *

38 (3) any case, contract, or other specific matter affecting a party for
39 whom, in the prior year, the public employee was required to
40 register to engage in lobbying activity under this Chapter.

41 (b) *Exceptions.*

- 42 (1) If a disqualification under subsection (a) leaves less than a
43 quorum capable of acting, or if the disqualified public employee
44 is required by law to act or is the only person authorized to act,
45 the disqualified public employee may participate or act if the
46 public employee discloses the nature and circumstances of the
47 conflict.
- 48 (2) Subsection (a) does not apply to an administrative or ministerial
49 duty that does not affect an agency's decision on a matter.
- 50 (3) Paragraph (a)(1) does not apply to a public employee who is
51 appointed to a regulatory or licensing body under a statutory
52 provision that persons subject to the jurisdiction of the body may
53 be represented in appointments to the body.

54 (4) Subparagraph (a)(2)(A) does not apply to a public employee, if
 55 the County Executive or the County Council appoints the public
 56 employee to serve as an officer, director, or trustee of a business
 57 to represent the public interest.

58 (5) Subparagraph (a)(2)(A) does not apply to a public employee who
 59 is an officer, director, or trustee of an organization, if the public
 60 employee discloses the relationship, is not compensated by the
 61 organization, and has no:

62 (A) managerial responsibility or fiduciary duty to the
 63 organization;

64 (B) authority to approve the organization's budget;

65 (C) authority to select any officer or employee of the
 66 organization; or

67 (D) authority to vote on matters as a member of the governing
 68 body of the organization.

69 (6) If expressly authorized by regulation, subsection (a) does not
 70 apply to:

71 (A) a police officer's exercise of the officer's police authority
 72 during approved outside employment; or

73 (B) a police officer or fire/rescue employee who is exercising
 74 the employee's official duties in an emergency affecting a
 75 business or property in which the employee or a relative
 76 of the employee has an economic interest.

77 **19A-12. Restrictions on other employment and business ownership.**

78 * * *

79 (b) *Specific restrictions.* Unless the Commission grants a waiver under
 80 subsection 19A-8(b), a public employee must not:

- 81 (1) be employed by, or own more than one percent of, any business
 82 that:
 83 (A) is regulated by the County agency with which the public
 84 employee is affiliated; or
 85 (B) negotiates or contracts with the County agency with which
 86 the public employee is affiliated; or
 87 (2) hold any employment relationship that could reasonably be
 88 expected to impair the impartiality and independence of
 89 judgment of the public employee.

90 (c) *Exceptions.*

- 91 (1) Subsections (a) and (b) do not apply to:

92 ~~[(1)]~~ (A) a public employee who is appointed to a regulatory
 93 or licensing body under a statutory provision that persons
 94 subject to the jurisdiction of the body may be represented
 95 in appointments to it;

96 ~~[(2)]~~ (B) a public employee whose government duties are
 97 ministerial, if the employment does not create a conflict of
 98 interest;

99 ~~[(3)]~~ (C) a member of a board, commission, or similar body
 100 in regard to employment held when the member was
 101 appointed if the employment was publicly disclosed
 102 before appointment to the appointing authority, and to the
 103 County Council when confirmation is required. The
 104 appointing authority must forward a record of the
 105 disclosure to the Commission, which must keep a record
 106 of the disclosure on file; or

133 Commission may charge reasonable fees and adopt procedures to
 134 examine and copy statements.

135 * * *

136 **19A-19. Content of financial disclosure statement.**

137 (a) Each financial disclosure statement filed under Section 19A-17(a) must
 138 disclose the following:

139 * * *

140 (9) Income for lobbying activity. The statement must list the name and
 141 address of any entity that has hired the filer's spouse to lobby under
 142 this Chapter.

143 (10) The statement may also include any additional interest or
 144 information that the filer wishes to disclose.

145 * * *

146 **19A-21. Who must register as a lobbyist; exceptions.**

147 * * *

148 (d) [Except for the authorization required by Section 19A-22, an] An
 149 individual or organization is exempt from the reporting requirements of
 150 this Article if the individual or organization:

- 151 (1) compensates one or more lobbyists;
- 152 (2) reasonably believes that each lobbyist will timely register and
 153 report all expenditures required to be reported; and
- 154 (3) engages in no other lobbying.

155 If a lobbyist fails to report timely any information required under this Article,
 156 the lobbyist's employer is immediately subject to the reporting requirements of
 157 this Article.

158 **19A-22. [Authorization to lobby] Certification of authority.**

159 [Every employer of a lobbyist must sign an authorization to act, which the
 160 lobbyist must file with the Commission at registration. If the employer is a
 161 corporation, an authorized officer or agent other than the lobbyist must sign the
 162 written authorization. The authorization must include:

- 163 (a) the full legal name and business address of both the employer and the
 164 lobbyist;
- 165 (b) the period of time during which the lobbyist is authorized to act, unless
 166 sooner terminated; and
- 167 (c) each legislative proposal or subject upon which the lobbyist is authorized
 168 to act.]

169 (a) Certification. Each lobbyist required to register under this Article must
 170 certify under oath or affirmation that the lobbyist is authorized to lobby
 171 for the individual or organization who hired the lobbyist.

172 (b) Contents of certification. the written certification must include:

- 173 (1) the full legal name and business address of the individual or
 174 organization;
- 175 (2) for an individual, the full name and contact information for the
 176 individual;
- 177 (3) for an organization, the name, contact information, and official title
 178 of the representative of the organization who authorized the hiring
 179 of the lobbyist;
- 180 (4) the full legal name and business address of the regulated lobbyist;
- 181 (5) the period during which the regulated lobbyist is authorized to act;
 182 and
- 183 (6) the proposal or subject on which the regulated lobbyist represents
 184 the individual or organization.

185 **19A-23. How and when to register as a lobbyist.**

186 (a) Every person required to register with the Commission under Section
187 19A-21 must disclose the following information on a form provided by
188 the Commission:

- 189 (1) the lobbyist's name and permanent address;
190 (2) the name and permanent address of any person who will lobby on
191 behalf of the lobbyist;
192 (3) the name, address, and nature of business of any person who
193 compensates the lobbyist [, with the written authorization required
194 under Section 19A-22]; and
195 (4) the identification, by formal designation if known, of each matter
196 on which the lobbyist expects to lobby or employs someone to
197 lobby.

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