

SENATE BILL 920

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CF 2lr2536

By: **Senators Raskin, Ferguson, Getty, McFadden, Miller, Ramirez, Robey,
and Simonaire**

Introduced and read first time: February 10, 2012

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Ethics Online Disclosure Act of 2012**

3 FOR the purpose of requiring that certain ethics statements and reports be made
4 available to the general public on the Internet; requiring that certain ethics
5 statements and reports be submitted in an electronic format; altering certain
6 procedures relating to the availability of ethics statements and reports; altering
7 provisions relating to the review of certain ethics statements by the Joint
8 Committee on Legislative Ethics; requiring the State Ethics Commission to
9 adopt certain regulations; providing that counties, municipal corporations, and
10 boards of education are not required to post financial disclosure information on
11 the Internet or to require that financial disclosure statements be filed
12 electronically; providing for the delayed implementation of certain provisions of
13 this Act; and generally relating to the revision of the Maryland Public Ethics
14 Law.

15 BY repealing and reenacting, with amendments,
16 Article – State Government
17 Section 15–512, 15–513(c), 15–602, 15–606, 15–805, and 15–813
18 Annotated Code of Maryland
19 (2009 Replacement Volume and 2011 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – State Government
22 Section 15–513(b)
23 Annotated Code of Maryland
24 (2009 Replacement Volume and 2011 Supplement)

25 BY adding to
26 Article – State Government
27 Section 15–513(d)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2009 Replacement Volume and 2011 Supplement)

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

5 **Article – State Government**

6 15–512.

7 (a) (1) (i) Except as provided in subparagraph (ii) of this paragraph,
8 the disqualification arising under § 15–511 of this subtitle may not be suspended if the
9 conflict is direct and personal to:

- 10 1. the legislator;
- 11 2. a member of the legislator’s immediate family; or
- 12 3. the legislator’s employer.
- 13 (ii) This paragraph does not apply to a vote on:
- 14 1. the annual operating budget bill, in its entirety; or
- 15 2. the annual capital budget bill, in its entirety.

16 (2) As to any other conflict, **AND SUBJECT TO A DETERMINATION BY**
17 **THE JOINT ETHICS COMMITTEE UNDER SUBSECTION (B) OF THIS SECTION**, the
18 disqualification arising under § 15–511 of this subtitle is suspended if a legislator with
19 an apparent or presumed conflict files with the Joint Ethics Committee a sworn
20 statement that describes the circumstances of the apparent or presumed conflict and
21 the legislation or class of legislation to which it relates and asserts the legislator is
22 able to vote and otherwise participate in action relating to the legislation, fairly,
23 objectively, and in the public interest.

24 (b) (1) Whenever a legislator files a statement for the suspension of the
25 disqualification, the Joint Ethics Committee [on its own motion may issue a
26 statement] **SHALL MAKE A DETERMINATION** concerning the propriety of the
27 legislator’s participation in the particular legislative action[, with reference to the
28 applicable ethical standards of this matter].

29 [(2) The suspension of the disqualification by the filing of the
30 statement is subject to further action by the Joint Ethics Committee if the question of
31 conflict comes before it as to the same circumstances and the same legislator.]

1 **(2) IF THE JOINT ETHICS COMMITTEE DETERMINES THAT THE**
2 **LEGISLATOR'S PARTICIPATION IS IMPROPER:**

3 **(I) THE COMMITTEE SHALL NOTIFY THE LEGISLATOR OF**
4 **THAT DETERMINATION IN WRITING, WITH REFERENCE TO THE APPLICABLE**
5 **ETHICAL STANDARDS OF THE MATTER; AND**

6 **(II) THE LEGISLATOR SHALL BE DISQUALIFIED FROM**
7 **PARTICIPATING IN LEGISLATIVE ACTION TO WHICH THE DETERMINATION**
8 **APPLIES.**

9 (c) A member who is disqualified from participating in legislative action
10 under subsection (a)(1) of this section, or who chooses to be excused from participating
11 in legislative action on a bill or class of bills because of the appearance or presumption
12 of a conflict, shall file in a timely manner a statement with the Joint Ethics Committee
13 that describes the circumstances of the apparent or presumed conflict.

14 (d) **[(1)] All statements filed under this section shall be:**

15 **(1) FILED ELECTRONICALLY ON A FORM PRESCRIBED BY THE**
16 **JOINT ETHICS COMMITTEE; AND**

17 **(2) MAINTAINED AS a matter of public record AS PRESCRIBED IN**
18 **SUBSECTION (E) OF THIS SECTION.**

19 **[(2) The Joint Ethics Committee shall develop procedures under which**
20 **a statement filed under this section may be filed electronically without any additional**
21 **cost to the legislator.]**

22 **(E) (1) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:**

23 **(I) COMPILE THE STATEMENTS FILED UNDER THIS**
24 **SECTION;**

25 **(II) MAKE THE STATEMENTS AVAILABLE FOR PUBLIC**
26 **INSPECTION AS PROVIDED IN THE PUBLIC INFORMATION ACT; AND**

27 **(III) AS TO STATEMENTS FILED ON OR AFTER JANUARY 1,**
28 **2013, MAKE THE STATEMENTS FREELY AVAILABLE TO THE PUBLIC BY**
29 **PROMPTLY POSTING THE INFORMATION ON THE INTERNET.**

30 **(2) AS TO EACH STATEMENT, THE INTERNET POSTING SHALL**
31 **INDICATE:**

1 **(I) WHETHER THE JOINT ETHICS COMMITTEE HAS MADE A**
2 **DETERMINATION UNDER SUBSECTION (B) OF THIS SECTION;**

3 **(II) THE DETERMINATION MADE, IF ANY; AND**

4 **(III) THE DATE, IF ANY, ON WHICH THE DETERMINATION WAS**
5 **MADE.**

6 15-513.

7 (b) A legislator shall report the following information in writing to the Joint
8 Ethics Committee at the times and in the manner required by the Joint Ethics
9 Committee:

10 (1) if representing a person for compensation before a State or local
11 government agency, except in a judicial proceeding or in a quasi-judicial proceeding,
12 the name of the person represented, the services performed, and the consideration.
13 The Joint Ethics Committee may adopt procedures to keep confidential the name of
14 the person represented if that information is privileged or confidential pursuant to any
15 provision of law governing proceedings before that State agency.

16 (2) if representing a State or local government agency for
17 compensation, the name of the agency, the services performed, and the consideration.

18 (3) the name of any business enterprise subject to regulation by a
19 State agency in which the legislator and a member of the legislator's immediate family
20 (spouse and children living with the legislator), together or separately, have:

21 (i) the lesser of:

22 1. 10 percent or more of the capital stock of any
23 corporation; or

24 2. capital stock of any corporation with a cumulative
25 value of \$25,000 or more; and

26 (ii) any interest in a partnership, limited liability partnership,
27 or limited liability company.

28 (4) details of any contractual relationship with the State or a State
29 agency, or a local government in the State, including the subject matter and the
30 consideration.

31 (5) details of any transaction with the State, or a local government in
32 the State, involving a monetary consideration.

1 (c) [(1)] All reports filed under this section shall be:

2 (1) FILED ELECTRONICALLY ON A FORM REQUIRED BY THE JOINT
3 ETHICS COMMITTEE; AND

4 (2) MAINTAINED AS a matter of public record AS REQUIRED IN
5 SUBSECTION (D) OF THIS SECTION.

6 [(2) The Joint Ethics Committee shall develop procedures under which
7 a report required under this section may be filed electronically without any additional
8 cost to the legislator.]

9 (D) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:

10 (1) COMPILE THE REPORTS FILED UNDER THIS SECTION;

11 (2) MAKE THE REPORTS AVAILABLE FOR PUBLIC
12 INSPECTION AS PROVIDED IN THE PUBLIC INFORMATION ACT; AND

13 (3) AS TO REPORTS FILED ON OR AFTER JANUARY 1, 2013,
14 MAKE THE REPORTS FREELY AVAILABLE TO THE PUBLIC BY PROMPTLY
15 POSTING THE INFORMATION ON THE INTERNET.

16 15-602.

17 (a) Except as otherwise provided in this subtitle, a statement filed under §
18 15-601, § 15-603, § 15-604, or § 15-605 of this subtitle shall:

19 (1) be filed ELECTRONICALLY with the Ethics Commission;

20 (2) be filed under oath;

21 (3) be filed on or before April 30 of each year;

22 (4) cover the calendar year immediately preceding the year of filing;
23 and

24 (5) contain the information required in § 15-607 of this subtitle.

25 (b) [Notwithstanding subsection (a)(1) of this section, a] THE ETHICS
26 COMMISSION SHALL PROMPTLY TRANSMIT TO THE JOINT ETHICS COMMITTEE
27 THE TEXT OF A statement filed by a member of the General Assembly [shall be filed
28 in duplicate with the Joint Ethics Committee].

1 (c) (1) In addition to the statement filed under § 15–601 of this subtitle, a
2 member of the General Assembly shall file **ELECTRONICALLY** a preliminary
3 disclosure on or before the seventh day of the regular legislative session if there will be
4 a substantial change in the statement covering the calendar year immediately
5 preceding the year of filing, as compared to the next preceding calendar year.

6 (2) A member of the General Assembly whose statement under
7 § 15–601 of this subtitle will not contain a substantial change is not required to file a
8 preliminary disclosure under paragraph (1) of this subsection.

9 (3) The Joint Ethics Committee shall:

10 (i) prescribe the form of a preliminary disclosure under this
11 subsection; and

12 (ii) determine which aspects of financial disclosure are subject
13 to this subsection.

14 (4) A preliminary disclosure shall be filed [and], maintained, and
15 [may be disclosed,] **POSTED ON THE INTERNET** in the same manner prescribed for a
16 statement filed under § 15–601 of this subtitle.

17 (d) (1) The Ethics Commission shall develop procedures [under which]
18 **FOR THE ELECTRONIC FILING OF** a statement under this subtitle [may be filed
19 electronically and without additional cost to the individual who files the statement].

20 (2) (i) To comply with the requirement of paragraph (1) of this
21 subsection, the Ethics Commission may adopt regulations to modify the format for
22 disclosure of information required under § 15–607 of this subtitle.

23 **(II) THE ETHICS COMMISSION SHALL ADOPT PROCEDURES**
24 **TO ALLOW THE ETHICS COMMISSION TO GRANT EXCEPTIONS TO THE**
25 **REQUIREMENT THAT ALL STATEMENTS BE FILED ELECTRONICALLY.**

26 **[(ii)] (III)** The regulations adopted under this paragraph shall
27 be consistent with the intent of this title.

28 (e) (1) If the financial disclosure statement filed electronically under
29 subsection (d) of this section is required to be made under oath or affirmation, the oath
30 or affirmation shall be made by an electronic signature that:

31 (i) is in the financial disclosure statement or attached to and
32 made part of the financial disclosure statement; and

33 (ii) is made expressly under the penalties for perjury.

1 (2) An electronic signature made under paragraph (1) of this
2 subsection subjects the individual making it to the penalties for perjury to the same
3 extent as an oath or affirmation made before an individual authorized to administer
4 oaths.

5 15–606.

6 (a) (1) The Ethics Commission [and the Joint Ethics Committee] shall:

7 (I) maintain the statements submitted under this subtitle [and,
8 during normal office hours,];

9 (II) make the statements available to the public for examination
10 and copying;

11 (III) **BEGINNING JULY 1, 2013, MAKE FREELY AVAILABLE TO**
12 **THE PUBLIC, BY PROMPTLY POSTING THE INFORMATION ON THE INTERNET,**
13 **THE STATEMENTS FILED ON OR AFTER JANUARY 1, 2013, BY:**

14 1. **A MEMBER OR MEMBER–ELECT OF THE GENERAL**
15 **ASSEMBLY;**

16 2. **A STATE OFFICIAL OR STATE OFFICIAL–ELECT;**

17 3. **THE HEAD OF EACH CABINET–LEVEL AGENCY OF**
18 **THE EXECUTIVE BRANCH; AND**

19 4. **THE HEAD OF EACH INDEPENDENT AGENCY OF**
20 **THE EXECUTIVE BRANCH THAT THE ETHICS COMMISSION DETERMINES IS**
21 **COMPARABLE TO A CABINET–LEVEL AGENCY; AND**

22 (IV) **BEGINNING JULY 1, 2015, MAKE FREELY AVAILABLE TO**
23 **THE PUBLIC, BY PROMPTLY POSTING THE INFORMATION ON THE INTERNET, ALL**
24 **STATEMENTS FILED ON OR AFTER JANUARY 1, 2015.**

25 (2) The Ethics Commission [and the Joint Ethics Committee] may
26 charge a reasonable fee and adopt administrative procedures for the examination and
27 copying of a statement.

28 [(b) (1) The Ethics Commission and the Joint Ethics Committee shall
29 maintain a record of:

30 (i) the name and home address of each individual who
31 examines or copies a statement under this section; and

1 (ii) the name of the individual whose statement was examined
2 or copied.

3 (2) On the request of the individual whose statement was examined or
4 copied, the Ethics Commission or the Joint Ethics Committee shall forward a copy of
5 that record to that individual.]

6 **(B) THE JOINT ETHICS COMMITTEE AND THE DEPARTMENT OF**
7 **LEGISLATIVE SERVICES SHALL COMPILE AND MAINTAIN THE STATEMENTS**
8 **FILED BY MEMBERS OF THE GENERAL ASSEMBLY AND POST THE INFORMATION**
9 **ON THE INTERNET IN THE SAME MANNER AS REPORTS AND STATEMENTS ARE**
10 **FILED UNDER §§ 15-512 AND 15-513 OF THIS TITLE.**

11 15-805.

12 (a) (1) In this section the following words have the meanings indicated.

13 (2) “Elected local official” includes:

14 (i) any individual who holds an elective office of a county or
15 municipal corporation; and

16 (ii) a candidate for elective office as a local official of a county or
17 municipal corporation.

18 (3) “Local official” includes an individual, designated as a local official,
19 whose position is funded wholly or partly by the State.

20 (b) (1) Except as provided in paragraph (2) of this subsection and
21 subsection (c) of this section, the financial disclosure provisions enacted by a county or
22 municipal corporation under § 15-803 of this subtitle shall be similar to the provisions
23 of Subtitle 6 of this title, but shall be modified to the extent necessary to make the
24 provisions relevant to the prevention of conflicts of interest in that jurisdiction.

25 (2) The financial disclosure provisions for elected local officials enacted
26 by a county or municipal corporation under § 15-803 of this subtitle shall be
27 equivalent to or exceed the requirements of Subtitle 6 of this title, but shall be
28 modified to the extent necessary to make the provisions relevant to the prevention of
29 conflicts of interest in that jurisdiction.

30 (c) (1) This subtitle does not compel the governing body of a county or
31 municipal corporation to require a local official to file a financial disclosure statement
32 except:

1 (i) when the personal interest of the local official will present a
2 potential conflict with the public interest in connection with an anticipated public
3 action of the local official; and

4 (ii) at least annually to report on gifts received by the local
5 official.

6 (2) The provisions shall require:

7 (i) that a statement filed under paragraph (1)(i) of this
8 subsection be filed sufficiently in advance of the action to provide adequate disclosure
9 to the public; and

10 (ii) a statement filed by an elected local official under subsection
11 (b)(2) of this section to be filed on or before April 30 of each year.

12 **(3) THE GOVERNING BODY OF A COUNTY OR MUNICIPAL**
13 **CORPORATION IS NOT REQUIRED TO:**

14 **(I) POST INFORMATION FROM FINANCIAL DISCLOSURE**
15 **STATEMENTS ON THE INTERNET; OR**

16 **(II) REQUIRE A LOCAL ELECTED OFFICIAL OR LOCAL**
17 **OFFICIAL TO FILE STATEMENTS ELECTRONICALLY.**

18 (d) Financial disclosure provisions applicable to a candidate shall be
19 consistent with the provisions applicable to an incumbent holding the office involved.

20 15-813.

21 (a) (1) In accordance with this section, a school board:

22 (i) may adopt financial disclosure regulations applicable to
23 officials and employees of that school system; and

24 (ii) shall adopt financial disclosure regulations applicable to
25 members of the school board.

26 (2) (i) The regulations adopted under paragraph (1)(i) of this
27 subsection shall apply to:

28 1. the superintendent of that school system; and

29 2. subject to subparagraph (iii) of this paragraph, those
30 other officials and employees of that school system designated by the school board.

1 (ii) The regulations adopted under paragraph (1)(ii) of this
2 subsection shall apply to:

3 1. each member of the school board; and

4 2. if the school board is an elected board under Title 3,
5 Subtitle 1, Part III of the Education Article, each candidate for election to the school
6 board.

7 (iii) The regulations may not apply to a classroom teacher unless
8 the teacher has additional duties, not normally expected of classroom teachers, that
9 cause the teacher for other reasons to be covered by the financial disclosure
10 regulations.

11 (b) (1) Except as provided in subsection (c) of this section, the regulations
12 adopted under subsection (a)(1)(i) of this section shall be similar to the provisions of
13 Subtitle 6 of this title, but may be modified to the extent necessary to make the
14 regulations relevant to the prevention of conflicts of interest in that school system.

15 (2) The regulations adopted under subsection (a)(1)(ii) of this section
16 shall be equivalent to or exceed the requirements of Subtitle 6 of this title, but may be
17 modified to the extent necessary to make the regulations relevant to the prevention of
18 conflicts of interest in that school system.

19 (c) (1) (i) This paragraph does not compel a school board to require an
20 individual to file a financial disclosure statement except:

21 1. when the personal interest of the individual will
22 present a potential conflict with the public interest in connection with an anticipated
23 public action of the individual; and

24 2. at least annually to report on gifts received by the
25 individual.

26 (ii) The regulations adopted under subsection (a)(1)(i) of this
27 section shall require that a statement filed under subparagraph (i)1 of this paragraph
28 be filed sufficiently in advance of the public action to provide adequate disclosure to
29 the public.

30 (2) The regulations adopted under subsection (a)(1)(ii) of this section
31 shall require that a statement filed by a member of a board of education be filed on or
32 before April 30 of each year.

33 **(3) A SCHOOL BOARD IS NOT REQUIRED TO:**

34 **(I) POST INFORMATION FROM FINANCIAL DISCLOSURE**
35 **STATEMENTS ON THE INTERNET; OR**

1 **(II) REQUIRE A MEMBER OF THE SCHOOL BOARD OR A**
2 **CANDIDATE FOR ELECTION TO THE SCHOOL BOARD TO FILE FINANCIAL**
3 **DISCLOSURE STATEMENTS ELECTRONICALLY.**

4 (d) Except as provided for a member of a board of education under this Part
5 II, unless a school board adopts and maintains financial disclosure regulations under
6 this subtitle, the provisions enacted by the county under § 15-805 of this subtitle shall
7 apply to:

8 (1) the superintendent of that school system; and

9 (2) the other officials and employees of the school system that the
10 governing body of that county designates.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2012.