



Bill No. 18-14

Concerning: Amendment to Frederick County Code,

Chapter 1-7.1: Ethics

Introduced: April 17, 2018

Revised: \_\_\_\_\_ Draft No. \_\_\_\_\_

Enacted: \_\_\_\_\_

Effective: \_\_\_\_\_

Expires: July 16, 2018

Frederick County Code, Chapter 1-7.1

Section(s) 3, 5-8, 10 and Statement of Purpose

## COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President Bud Otis on behalf of County Executive Jan Gardner

**AN ACT** to: Restate the law’s purpose and intended construction; define certain terms, limit a former regulated lobbyist’s ability to work for the County on certain matters for one year after the lobbyist’s registration ends; expand the scope of the law’s “use of prestige of office” provision; modify the deadline for a candidate to file a financial disclosure statement before the candidacy is deemed withdrawn; provide for nondisclosure of home addresses on financial disclosure statements; modify the financial disclosure requirements for employment with or interests in entities doing business with the County, indebtedness to entities doing business with or regulated by one’s department or agency, and earned income received by a spouse who is a regulated lobbyist; increase late fees for failure to file a financial disclosure statement or a lobbyist registration or report by the filing deadline; and make certain housekeeping changes.

Executive: \_\_\_\_\_ Date Received: \_\_\_\_\_

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Vetoed: \_\_\_\_\_ Date: \_\_\_\_\_

By amending:

Frederick County Code, Chapter, 1-7.1 Section(s) 3, 5-8 and 10

Other: Statement of Purpose

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

Bill No. **18-14**

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend the County Code to: Restate the law's purpose and intended construction; define certain terms, limit a former regulated lobbyist's ability to work for the County on certain matters for one year after the lobbyist's registration ends; expand the scope of the law's "use of prestige of office" provision; modify the deadline for a candidate to file a financial disclosure statement before the candidacy is deemed withdrawn; provide for nondisclosure of home addresses on financial disclosure statements; modify the financial disclosure requirements for employment with or interests in entities doing business with the County, indebtedness to entities doing business with or regulated by one's department or agency, and earned income received by a spouse who is a regulated lobbyist; increase late fees for failure to file a financial disclosure statement or a lobbyist registration or report by the filing deadline; and make certain housekeeping changes.

NOW, THEREFORE, BE IT ENACTED, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

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Harold F. (Bud) Otis, President  
County Council of Frederick County,  
Maryland

## CHAPTER 1-7.1: ETHICS

### *Statement of purpose and policy.*

(A) Frederick County, recognizing that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained.

(B) It is evident that this confidence and trust is eroded when the conduct of the county's business is subject to improper influence and even the appearance of improper influence.

(C) For the purpose of guarding against improper influence, the county [governing body] enacts this law to require elected officials, officials, employees and individuals appointed to certain boards and commissions to disclose their financial affairs and to set minimum standards for the conduct of county business.

(D) It is the intent of the county that this chapter, except for its provisions for criminal sanctions, be construed liberally to accomplish this purpose.

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### § 1-7.1-3. DEFINITIONS.

The words used in this chapter have their normal accepted meanings except as set forth below:

#### ***BUSINESS ENTITY.***

(1) A corporation, general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit.

(2) ***BUSINESS ENTITY*** does not include a governmental entity.

***COMMISSION.*** The Frederick County Ethics Commission established pursuant to § 1-7.1-4 of this chapter.

***COMMITTEE.*** The Independent Ethics Commission Nominating Committee, established pursuant to § 1-7.1-4 of this chapter.

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***COMPENSATION.***

(1) Any money or thing of value, regardless of form, received or to be received by any individual covered by this chapter from an employer for service rendered.

(2) For the purposes of § 1-7.1-8 of this chapter, if lobbying is only a portion of a person's employment, compensation means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties.

***COUNCIL MEMBER.*** A member of the County Council.

***COUNTY COUNCIL.*** The County Council of Frederick County, Maryland.

***COUNTY EXECUTIVE.*** The County Executive of Frederick County, Maryland.

***DESIGNATED SECOND HOME.***

(1) If an individual owns one second home, the individual's second home; or

(2) If an individual owns more than one second home, any one second home the individual identifies to the Commission as the individual's designated second home.

***DOING BUSINESS WITH.***

(1) Having or negotiating a contract that involves the commitment, either in a single or combination of transactions of \$5,000 or more of county controlled funds;

(2) Being regulated by or otherwise subject to the authority of the county; or

(3) Being registered as a lobbyist under § 1-7.1-8 of this chapter.

***ELECTED OFFICIAL.*** An individual who holds elective office as the County Executive or a County Council member.

***GIFT.***

(1) The transfer of anything of economic value regardless of the form without adequate and lawful consideration.

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(2) **GIFT** does not include the solicitation, acceptance, receipt, or regulation of political campaign contributions regulated in accordance with the provisions of Election Law Art. §§ 13-101 *et seq.*, or any other provision of state or local law regulating the conduct of elections or the receipt of political campaign contributions.

**HOME ADDRESS.**

- (1) An individual's principal home; and
- (2) An individual's designated second home, if any.

**IMMEDIATE FAMILY.** A spouse and dependent children.

**INTEREST.**

(1) A legal or equitable economic interest, whether or not subject to an encumbrance or a condition, that is owned or held, in whole or in part, jointly or severally, directly or indirectly.

(2) For purposes of Sections 1-7.1-6 and 1-7.1-7 of this chapter, **INTEREST** includes any interest held at any time during the reporting period.

(3) **INTEREST** does not include:

(i) An interest held in the capacity of a personal agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter;

(ii) An interest in a time or demand deposit in a financial institution;

(iii) An interest in an insurance policy, endowment policy, or annuity-contract under which an insurer promises to pay a fixed amount of money either in a lump sum or periodically for life or a specified period;

(iv) A common trust fund or a trust that forms part of a pension or profit sharing plan that has more than 25 participants and has been determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code;

(v) A college savings plan under the Internal Revenue Code; or

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(vi) A mutual fund or exchange-traded fund that is publicly traded on a national scale unless the mutual fund or exchange-traded fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by the individual's department or agency.

**LOBBYING.**

(1) Communicating in the presence of a County official or employee with the intent to influence any official action of that official or employee; or

(2) Engaging in activities with the express purpose of soliciting others to communicate with a County official or employee with the intent to influence that official or employee.

**LOBBYIST.** A person required to register and report expenses related to lobbying under § 1-7.1-8 of this chapter.

**OFFICIAL.** This includes an elected official, an official appointed to a county position by the County Executive or the County Council, a county employee and a member of a county board or commission:

(1) Whether or not paid in whole or in part with County funds; and

(2) Whether or not compensated.

**PERSON.** Includes an individual or business entity.

**PRINCIPAL HOME.** The sole residential property that an individual occupies as the individual's primary residence, whether owned or rented by the individual.

**SECOND HOME.**

(1) A residential property that an individual occupies for some portion of the filing year; and

(2) Is not a rental property or a time share.

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**§ 1-7.1-5. CONFLICTS OF INTEREST.**

(A) In this section, *QUALIFIED RELATIVE* means a spouse, parent, child, or sibling.

(B) All elected officials [and], officials appointed to county boards and commissions, and employees are subject to this section.

(C) *Participation prohibitions.* Except as permitted by Commission regulation or opinion, an official or employee may not participate in:

(1) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee, or a qualified relative of the official or employee has an interest.

(2) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:

(a) A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;

(b) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

(c) A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating employment or has any arrangement concerning prospective employment;

(d) If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;

(e) An entity, doing business with the County, in which a direct

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financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or

(f) A business entity that:

(i) The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value and

(ii) As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.

(3) A person who is disqualified from participating under subparagraphs (1) or (2) of this paragraph shall disclose the nature and circumstances of the conflict and may participate or act if:

(a) The disqualification leaves a body with less than a quorum capable of acting;

(b) The disqualified official or employee is required by law to act; or

(c) The disqualified official or employee is the only person authorized to act.

(4) The prohibitions of subparagraphs (1) and (2) of this paragraph do not apply if participation is allowed by regulation or opinion of the Commission.

(5). A former regulated lobbyist who is or becomes subject to this chapter as an employee or official, other than an elected official or an appointed official, may not participate in a case, contract, or other specific matter as an employee or official, other than an elected official or appointed official, for one calendar year after the termination of the registration of the former regulated lobbyist if the former regulated lobbyist previously assisted or represented another party for compensation in the matter.

(D) *Employment and financial interest restrictions.*

(1) Except as permitted by regulation of the Commission when the interest is

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disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(a) Be employed by or have a financial interest in any entity:

(i) Subject to the authority of the official or employee or the County division, agency, or board or commission with which the official or employee is affiliated; or

(ii) That is negotiating or has entered into a contract with the division, agency, or board or commission with which the official or employee is affiliated; or

(b) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.

(2) This prohibition does not apply to:

(a) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;

(b) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Commission;

(c) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted by and in accordance with regulations adopted by the Commission; or

(d) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

(E) *Contracts with elected officials.*

(1) In order to avoid actual conflicts of interest or the appearance of conflicts of interest, the County may not knowingly enter into a contract where one or more of the contracting parties is one of the following:

(a) An elected official or a qualified relative of an elected official;

(b) A business entity in which an elected official or a qualified relative of an elected official holds a direct financial interest; or

(c) A business entity in which the elected official or a qualified relative of an elected official is an officer, director, trustee, partner or employee.

(2) It is a violation of this subparagraph for an elected official to enter into a contract prohibited in paragraph (E)(1) of this section.

(F) *Post-employment limitations and restrictions.*

(1) A former official or employee, including a former member of the Board of County Commissioners, may not assist or represent any party other than the county for compensation in a case, contract, or other specific matter involving the county if that matter is one in which the former official or employee significantly participated as an official or employee.

(2) For 1 year after the [member of the Board of County Commissioners or] elected official leaves office, the former [County Commissioner or] elected official may not assist or represent another party for compensation in a matter that is the subject of legislative action before the county governing body.

(G) *Contingent compensation.* Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the County.

(H) *Use of prestige of office.*

(1) An official or employee may not intentionally use the prestige of office or public position:

(a) \_\_\_\_\_ [for] For the private gain of that official or employee or the private gain of another[.]; or

(b) To influence, except as part of the official duties of the official or employee or as a usual and customary constituent service without additional compensation, the award of a state or local contract to a specific person.

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(2) An official may not directly or indirectly initiate a solicitation for a person to retain the compensated services of a particular regulated lobbyist or lobbying firm.

~~[(2)](3)~~ This paragraph does not prohibit the performance of usual and customary constituent services by an elected official without additional compensation.

(4) (a) An official, other than an elected official, or employee may not use public resources or the title of the official or employee to solicit a contribution as that term is defined in the Election Law Article.

(b) An elected official may not use public resources to solicit a contribution as that term is defined in the Election Law Article.

(I) *Solicitation and acceptance of gifts.*

(1) An official or employee may not solicit any gift.

(2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

(3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:

(a) Is doing business with or seeking to do business with the County division, agency, or board or commission with which the official or employee is affiliated;

(b) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;

(c) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or

(d) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.

(4) Subparagraph (5) of this paragraph does not apply to a gift:

(a) That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;

(b) Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or

(c) Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

(5) Notwithstanding subparagraph (3) of [this paragraph]subsection (I), an official or employee may accept the following:

(a) Meals and beverages consumed in the presence of the donor or sponsoring entity;

(b) Ceremonial gifts or awards that have insignificant monetary value;

(c) Unsolicited gifts of nominal value that do not exceed \$20 in cost or trivial items of informational value;

(d) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;

(e) Gifts of tickets or free admission extended to an elected official to attend a charitable, cultural, or political event, if the purpose of the gifts or admission is a courtesy or ceremony extended to the official's office;

(f) A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the County and that the gift is purely personal and private in nature;

(g) Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or

(h) An honorarium for speaking to or participating in a meeting, provided that the offering of the honorarium is in no way related to the official's or employee's official position.

(J) *Disclosure of confidential information.* Other than in the discharge of official duties, an official or employee may not disclose or use confidential information that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.

(K) *Participation in procurement.*

(1) An individual or a person that employs an individual who assists a County division or agency in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

(2) The Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring division or agency.

**§ 1-7.1-6. FINANCIAL DISCLOSURE; COUNTY ELECTED OFFICIALS, CANDIDATES TO BE ELECTED OFFICIALS AND OTHER DESIGNATED POSITIONS.**

(A) (1) This section applies to all elected officials, candidates to be elected officials and the following designated positions:

- (a) The Chief Administrative Officer;
- (b) The County Attorney;
- (c) The Directors appointed and confirmed pursuant to Section 412(a) of the County Charter;
- (d) Members of the Planning Commission; and
- (e) Members and alternate member of the Board of Zoning Appeals.

(2) Except as provided in paragraph (B) of this section, an elected official or a

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candidate to be an elected official shall file the financial disclosure statement required under this section:

- (a) On a form provided by the Commission;
- (b) Under oath or affirmation; and
- (c) With the Commission.

(3) *Deadlines for filing statements.*

(a) An incumbent elected official shall file a financial disclosure statement annually no later than April 30 of each year for the preceding calendar year.

(b) An individual who is appointed to fill an elected official vacancy and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within 30 days after appointment.

(c) (i) An elected official who, other than by reason of death, leaves office shall file a statement within 60 days after leaving office.

(ii) The statement shall cover:

a. The calendar year immediately preceding the year in which the elected official left office, unless a statement covering that year has already been filed and

b. The portion of the current calendar year during which the person held the office.

(B) *Candidates to be an elected official.*

(1) Except for an elected official who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be an elected official shall file a financial disclosure statement each year beginning with the year in which the certificate of candidacy is filed through the year of the election.

(2) A candidate to be an elected official shall file a statement required under this section:

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(a) In the year the certificate of candidacy is filed, no later than the filing of the certificate of candidacy;

(b) In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and

(c) In all other years for which a statement is required, on or before April 30.

(3) A candidate to be an elected official:

(a) May file the statement required under subparagraph (B)(2)(a) of this paragraph with the Frederick County Board of Elections with the certificate of candidacy or with the Commission prior to filing the certificate of candidacy; and

(b) Shall file the statements required under subparagraphs (B)(2)(b) and (c) of this paragraph with the Commission.

(4) [If a candidate fails to file a statement required by this section after written notice] If a statement that a candidate is required to file under this section is overdue and not filed within 8 days after written notice of the failure to file is provided by the Frederick County Board of Elections [at least 20 days before the last day for the withdrawal of candidacy], the candidate is deemed to have withdrawn the candidacy.

(5) The Frederick County Board of Elections may not accept any certificate of candidacy unless a statement has been filed in proper form.

(6) Within 30 days of the receipt of a statement required under this section, the Frederick County Board of Elections shall forward the statement to the Commission or the office designated by the Commission.

(C) *Public record.*

(1) The Commission or office designated by the Commission shall maintain all financial disclosure statements filed under this section.

(2) Financial disclosure statements shall be made available during normal office hours for examination and copying by the public subject to reasonable fees and administrative procedures established by the Commission.

(3) If an individual examines or copies a financial disclosure statement, the Commission or the office designated by the Commission shall record:

(a) The name and home address of the individual reviewing or copying the statement and

(b) The name of the person whose financial disclosure statement was examined or copied.

(4) Upon request by the official or employee whose financial disclosure statement was examined or copied, the Commission or the office designated by the Commission shall provide the official with a copy of the name and home address of the person who reviewed the official's financial disclosure statement.

(5) For statements filed after January 1, 2019, the Commission or the office designated by the Commission may not provide public access to an individual's home address that the individual has designated as the individual's home address.

(D) *Retention requirements.* The Commission or the office designated by the Commission shall retain financial disclosure statements for four years from the date of receipt.

(E) *Contents of statement.*

(1) *Interests in real property.*

(a) A statement filed under this section shall include a schedule of all interests in real property wherever located.

(b) For each interest in real property, the schedule shall include:

(i) The nature of the property and the location by street address, mailing address, or legal description of the property;

(ii) The nature and extent of the interest held, including any conditions and encumbrances on the interest;

(iii) The date when, the manner in which, and the identity of the person from whom the interest was acquired;

(iv) The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;

(v) If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and

(vi) The identity of any other person with an interest in the property.

(2) *Interests in corporations and partnerships.*

(a) A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the County.

(b) For each interest reported under this paragraph, the schedule shall include:

(i) The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;

(ii) The nature and amount of the interest held, including any conditions and encumbrances on the interest;

(iii) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and, if known, the identity of the person to whom the interest was transferred; and

(iv) With respect to any interest acquired during the reporting period:

a. The date when, the manner in which, and the identity of the person from whom the interest was acquired and

b. The nature and the amount of the consideration given in

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exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(c) An individual may satisfy the requirement to report the amount of the interest held under subparagraph (E)(2)(b)(ii) of this paragraph by reporting, instead of a dollar amount:

(i) For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held or

(ii) For an equity interest in a partnership, the percentage of equity interest held.

(3) *Interests in business entities doing business with the County.*

(a) A statement filed under this section shall include a schedule of all interests in any business entity that does business with the County, other than interests reported under paragraph (2) of this subparagraph.

(b) For each interest reported under this subparagraph, the schedule shall include:

(i) The name and address of the principal office of the business entity;

(ii) The nature and amount of the interest held, including any conditions to and encumbrances in the interest;

(iii) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest, and, if known, the identity of the person to whom the interest was transferred; and

(iv) With respect to any interest acquired during the reporting period:

a. The date when, the manner in which, and the identity of the person from whom the interest was acquired and

b. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(4) *Gifts.*

(a) A statement filed under this section shall include a schedule of each gift in excess of \$20 in value or a series of gifts totaling \$100 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with or is regulated by the County.

(b) For each gift reported, the schedule shall include:

(i) A description of the nature and value of the gift and

(ii) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

(5) *Employment with or interests in entities doing business with the County.*

(a) A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the County.

(b) For each position reported under this paragraph, the schedule shall include:

(i) The name and address of the principal office of the business entity;

(ii) The title and nature of the office, directorship, or salaried employment held and the date it commenced; and

(iii) The name of each County division or agency with which the entity is involved as indicated by identifying one or more of the three categories of “doing business” as defined in Section 1-7.1-3 of this chapter.

(6) *Indebtedness to entities doing business with [the County] or regulated by the official’s or employee’s department or agency.*

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(a) A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with or regulated by the [County]official's or employee's department or agency owed at any time during the reporting period:

(i) By the individual or

(ii) By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.

(b) For each liability reported under this paragraph, the schedule shall include:

(i) The identity of the person to whom the liability was owed and the date the liability was incurred;

(ii) The amount of the liability owed as of the end of the reporting period;

(iii) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and

(iv) The security given, if any, for the liability.

(7) Employment with the county. A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the County in any capacity at any time during the reporting period.

(8) *Sources of earned income.*

(a) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period.

(b) A child's employment or business ownership need not be disclosed if the County does not regulate, exercise authority over, or contract with the place of employment or business entity of the child.

(c) For a statement filed on or after January 1, 2019, if the individual's spouse is a lobbyist regulated by the County, the individual shall disclose the entity that has engaged the spouse for lobbying purposes.

(9) A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

(F) For the purposes of subparagraphs (E) (1), (2), and (3) of this section, the following interests are considered to be the interests of the individual making the statement:

(1) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual;

(2) An interest held by a business entity in which the individual held a 30% or greater interest at any time during the reporting period; and

(3) An interest held by a trust or an estate in which, at any time during the reporting period:

(a) The individual held a reversionary interest or was a beneficiary or

(b) If a revocable trust, the individual was a settlor.

(G) (1) The Commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.

(2) The Commission may take appropriate enforcement action to ensure compliance with this section.

#### **§ 1-7.1-7. FINANCIAL DISCLOSURE; EMPLOYEES AND APPOINTED OFFICIALS.**

(A) This section only applies to the following appointed officials and employees:

(1) *Officials and employees.*

(a) All employees who are classified on the Frederick County Government pay schedule at grade 14 or above and who are not covered by Section 1-7.1-6(A)(1) or by the state ethics statute;

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- (b) Board of License Commissioners and Inspectors; and
  - (c) All construction managers and inspectors.
- (2) *Members of the following boards and commissions.*\*
- (a) Affordable Housing Council.
  - (b) Agricultural Preservation Advisory Board.
  - (c) Board of Appeals, Building Code.
  - (d) Board of Gaming Appeals.
  - (e) Business Development Advisory Council.
  - (f) Ethics Commission.
  - (g) Insurance Committee.
  - (h) Interagency Internal Audit Authority.[\*]
  - (i) Public Library Board.
  - (j) Retirement Plan Committee.
  - (k) Small Business Revolving Loan Fund Review Committee.
  - (l) Solid Waste Advisory Committee.
  - (m) Technology Council of Frederick County.

\* [The Frederick Community College member of this authority is not covered under this chapter inasmuch as that member is covered under other provisions of law pertaining to that member.] Members who are required to file financial disclosure statements under other ethics laws are not required to file financial disclosure statements under this chapter.

(B) A statement filed under this section shall be filed with the Commission under oath or affirmation.

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(C) On or before April 30 of each year during which an official or employee holds office, an official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person that contracts with or is regulated by the County, including the name of the donor of the gift and the approximate retail value at the time of receipt.

(D) An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.

(E) The Commission shall maintain all disclosure statements filed under this section as public records available for public inspection and copying as provided in § 1-7.1-6(C) and (D) of this chapter.

(F) For statements filed after January 1, 2019, the Commission or the office designated by the Commission may not provide public access to an individual's home address that the individual has designated as the individual's home address.

#### **§ 1-7.1-8. LOBBYING.**

(A) Except as provided in paragraphs (B) and (C) of this section, a person or entity who engages in lobbying as defined in § 1-7.1-3 shall file a lobbying registration with the Commission if the person or entity, during the calendar year:

- (1) Expends, exclusive of personal travel and subsistence expenses, in excess of \$2,500 in furtherance of this activity;
- (2) Is compensated in excess of \$2,500 in connection with this activity; or
- (3) Spends \$100 or more cumulatively on gifts to or for officials or employees or their spouses or dependent children.

(B) The following activities are exempt from regulation under this section:

- (1) Professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending legislation when these services do not otherwise constitute lobbying activities;

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(2) Appearances before the County Council upon its specific invitation or request if the person or entity engages in no further or other activities in connection with the passage or defeat of County Council actions;

(3) Appearances before a County agency upon the specific invitation or request of the agency if the person or entity engages in no further or other activities in connection with the passage or defeat of any agency action;

(4) Appearance as part of the official duties of a duly elected or appointed official or employee of the State or a political subdivision of the State, or of the United States, and not on behalf of any other entity;

(5) Actions of a publisher or working member of the press, radio, or television in the ordinary course of the business of disseminating news or making editorial comment to the general public who does not engage in further or other lobbying that would directly and specifically benefit the economic, business, or professional interests of the person or entity or the employer of the person or entity;

(6) Appearances by an individual before the County Council at the specific invitation or request of a registered lobbyist if the person performs no other lobbying act and notifies the County Council that the person or entity is testifying at the request of the lobbyist;

(7) Appearances by an individual before a County agency at the specific invitation or request of a registered lobbyist if the person or entity performs no other lobbying act and notifies the agency that the person or entity is testifying at the request of the lobbyist;

(8) The representation of a bona fide religious organization solely for the purpose of protecting the right of its own members to practice the doctrine of the organization; and

(9) Appearance as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in lobbying for counties and municipalities and not on behalf of any other entity.

(C) *Limited exemption - employer of a lobbyist.*

(1) A person or entity who compensates one or more lobbyists and who would otherwise be required to register as a lobbyist is not required to file a registration and submit lobbying reports if the person or entity reasonably believes that all expenses incurred in connection with the lobbying activities will be reported by a properly registered person or entity

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acting on behalf of the person or entity.

(2) A person or entity exempted under this paragraph becomes subject to this section immediately upon failure of the lobbyist to report any information required under this section.

(D) (1) The registration filed under this section shall be filed on or before the later of the beginning of the calendar year in which the person or entity expects to lobby or within 5 days of first engaging in lobbying activities in the calendar year.

(2) The registration filed under this section:

(a) Shall be dated and on a form developed by the Commission;

(b) Shall include:

(i) The lobbyist's full and legal name and permanent address;

(ii) The name, address, and nature of business of any person or entity on whose behalf the lobbyist acts; and

(iii) The written authorization of any person or entity on whose behalf the lobbyist acts or an authorized officer or agent, who is not the lobbyist, of the person or entity on whose behalf the lobbyist acts;

(c) A statement of whether the person or entity on whose behalf the lobbyist acts is exempt from registration under paragraph (C) of this section;

(d) The identification, by formal designation, if known, of matters on which the lobbyist expects to act;

(e) Identification of the period of time within a single calendar year during which the lobbyist is authorized to engage in these activities, unless terminated sooner; and

(f) The full legal signature of the lobbyist and, when appropriate, the person or entity on whose behalf the lobbyist acts or an agent or authorized officer of the person or entity on whose behalf the lobbyist acts.

(E) A lobbyist shall file a separate registration for each person or entity that has engaged or employed the lobbyist for lobbying purposes.

(F) A lobbyist may terminate the lobbyist's registration by providing written notice to the Commission and submitting all outstanding reports and registrations.

(G) A person or entity may not engage in lobbying activities on behalf of another person or entity for compensation that is contingent upon the passage or defeat of any County Council action or the outcome of any County Executive action.

(H) *Activity report.*

(1) A lobbyist shall file with the Commission or the office designated by the Commission:

(a) By July 31, one report concerning the lobbyist's lobbying activities covering the period beginning January 1 through June 30; and

(b) By January 31, one report covering the period beginning July 1 through December 31.

(2) A lobbyist shall file a separate activity report for each person or entity on whose behalf the lobbyist acts.

(3) If the lobbyist is not an individual, an authorized officer or agent of the entity shall sign the form.

(4) The report shall include:

(a) A complete and current statement of the information required to be supplied with the lobbyist's registration form.

(b) Total expenditures on lobbying activities in each of the following categories:

(i) Total compensation paid to the lobbyist not including expenses reported under items (ii) - (ix) of this subparagraph;

(ii) Office expenses of the lobbyist;

(iii) Professional and technical research and assistance not reported in item (i) of this subparagraph;

(iv) Publications which expressly encourage persons to communicate with County officials or employees;

(v) Names of witnesses, and the fees and expenses paid to each witness;

(vi) Meals and beverages for County officials and employees;

(vii) Reasonable expenses for food, lodging, and scheduled entertainment of County officials or employees for a meeting which is given in return for participation in a panel or speaking engagement at the meeting;

(viii) Other gifts to or for officials or employees or their spouses or dependent children; and

(ix) Other expenses.

(I) *Special gift report.*

(1) (a) With the 6-month activity report required under paragraph (H) of this section, a lobbyist shall report, except for gifts reported in subparagraph (H)(4)(b)[(viii)](vii) of this section, gifts from the lobbyist with a cumulative value of \$75 or more during the reporting period to an official, employee, or member of the immediate family of an official or employee.

(b) The lobbyist shall report gifts under this paragraph regardless of whether the gift was given in connection with lobbying activities.

(2) The report shall include the date, beneficiary, amount or value, and nature of the gift.

(J) *Notification to official or employee and confidentiality.*

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(1) If any report filed under this section contains the name of an official or employee or a member of the immediate family of an official or employee, the Commission shall notify the official or employee within 30 days.

(2) The Commission shall keep the report confidential for 60 days following receipt by the Commission.

(3) Within 30 days of the notice required under subparagraph (1) of this paragraph, the official or employee may file a written exception to the inclusion in the report of the name of the official, employee, or member of the immediate family of the official or employee.

(K) The Commission may require a lobbyist to submit other reports the Commission determines to be necessary.

(L) The Commission or office designated by the Commission shall maintain all registrations and reports filed under this section.

(M) (1) The Commission shall review the registrations and reports filed under this section for compliance with this section and shall notify persons engaging in lobbying activities of any omissions or deficiencies.

(2) The Commission may take appropriate enforcement action to ensure compliance with this section.

(N) *Annual report.*

(1) The Commission shall compute and make available a subtotal under each of the ten required categories in subparagraph (H)(4)(b) of this section.

(2) The Commission shall compute and make available the total amount reported by all lobbyists for their lobbying activities during the reporting period.

(O) The Commission shall make lobbying registrations and reports available during normal business hours for examination and copying subject to reasonable fees and procedures established by the Commission.

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**§ 1-7.1-10. ENFORCEMENT.**

(A) The Commission may:

(1) Assess a late fee of \$[2]5 per day up to a maximum of \$[250]500 for a failure to timely file a financial disclosure statement required under § 1-7.1-6 and § 1-7.1-7 of this chapter;

(2) Assess a late fee of \$10 per day up to a maximum of \$[250]1,000 for a failure to file a timely lobbyist registration or lobbyist report required under § 1-7.1-8 of this chapter; and

(3) Issue a cease and desist order against any person found to be in violation of this chapter.

(B) (1) Upon a finding of a violation of any provision of this chapter, the Commission may:

(a) Issue an order of compliance directing the respondent to cease and desist from the violation;

(b) Issue a reprimand; or

(c) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by law.

(2) If the Commission finds that a respondent has violated § 1-7.1-8 of this chapter, the Commission may:

(a) Require a respondent who is a registered lobbyist to file any additional reports or information reasonably related to the information that is required under § 1-7.1-8 of this chapter;

(b) Impose a fine not exceeding \$5,000 for each violation; and

(c) Suspend the registration of an individual registered lobbyist if the Commission finds that the lobbyist has knowingly and willfully violated § 1-7.1-8 of this chapter or has been convicted of a criminal offense arising from lobbying activities.

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(C) (1) Upon request of the Commission, the County Attorney may file a petition for injunctive or other relief in the Circuit Court of Frederick County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this chapter.

(2) (a) The court may:

(i) Issue an order to cease and desist from the violation;

(ii) Except as provided in subparagraph (2)(b) of this paragraph, void an official action taken by an official or employee with a conflict of interest prohibited by this chapter when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public; or

(iii) Impose a fine of up to \$5,000 for any violation of the provisions of this chapter, with each day upon which the violation occurs constituting a separate offense.

(b) A court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligations.

(D) In addition to any other enforcement provisions in this chapter, a person who the Commission or a court finds has violated this chapter:

(1) Is subject to termination or other disciplinary action and

(2) May be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Commission or a court.

(E) A County official or employee found to have violated this chapter is subject to disciplinary or other appropriate personnel action, including removal from office, disciplinary action, suspension of salary, or other sanction.

(F) (1) Any person who knowingly and willfully violates § 1-7.1-8 of this chapter is guilty of a misdemeanor, and, upon conviction, is subject to a fine of not more than \$1,000 or imprisonment for not more than 1 year, or both.

(2) If the person is a business entity and not a natural person, each officer and

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partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and, upon conviction, is subject to the same penalties as the business entity.

(G) A finding of a violation of this chapter by the Commission is public information. If the Commission finds that an official or employee who was the subject of an ethics complaint has violated this chapter, the name of the official or employee is public information and must be included in the Commission's written decision.

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**Bill No. 18-14**



# FREDERICK COUNTY COUNCIL

## Local Government Fiscal and Policy Note

### CONTACT INFORMATION AND GENERAL INSTRUCTIONS

<b>Bill Number/Reference:</b>	18-14
<b>Bill Title:</b>	Amendment to Frederick County Code, Chapter 1-7.1: Ethics
<b>Local Government Agency:</b>	Frederick County Finance Division
<b>Prepared By:</b>	Erin White
<b>Title:</b>	Deputy Director, Finance Division
<b>Phone Number:</b>	301-600-1193
<b>E-Mail Address:</b>	<a href="mailto:ewhite@frederickcountymd.gov">ewhite@frederickcountymd.gov</a>
<b>Due Date:</b>	May 8, 2018
<b>Date Submitted:</b>	

# FREDERICK COUNTY COUNCIL

## Local Government Fiscal and Policy Note

<b>Date:</b>						
<p><b>Please respond to the questions below. If you prefer to provide responses or additional information in a separate file or document, send the file or document in a separate e-mail to <a href="mailto:rcherney@frederickcountymd.gov">rcherney@frederickcountymd.gov</a> with the bill number/reference in the subject line.</b></p>						
<b>1.</b>	Describe the impact of this proposed legislation on your agency (operations, revenues, expenditures, etc). If there is no impact, <u>please explain why.</u>					
This bill does not fiscally impact the County. This bill serves to strengthen the Ethics Ordinance only. Any additional tasks required under the proposed legislation will be managed by the existing staff of the County Attorney's Office.						
<b>2.</b>	Please indicate whether the proposed legislation will affect small businesses in Frederick County, and if it will, please provide any information you may have which could be useful in determining the economic impact on small businesses.					
This bill would have a positive impact on local businesses as it strengthens the Ethics Ordinance to meet citizen expectations that officials and employees will conform to the highest ethical standards when conducting County business. The proposed legislation will reduce and/or eliminate any real or perceived conflicts of interest concerning the County elected officials, employees and members of appointed boards, commissions and committees.						
<b>FISCAL IMPACT SUMMARY – SHOW (DECREASE) IN PARENTHESES</b>						
<b><u>REVENUES</u></b>						
<b>3.</b>	Analysis of <b>estimated increase (or decrease) in government revenues.</b> Please estimate below any anticipated increase (or decrease) in revenues resulting from this legislation. Please be aware of any delayed effective dates in the bill or other factors that may cause revenue increases/decreases to begin in later years.					
	<b><u>Source</u></b>	<b><u>FY 2018</u></b>	<b><u>FY 2019</u></b>	<b><u>FY 2020</u></b>	<b><u>FY 2021</u></b>	<b><u>FY 2022</u></b>
	N/A					
	<b>TOTAL \$</b>	\$	\$	\$	\$	\$
	<b>Please explain how the above estimated increase(s) or decrease(s) were arrived at, including any calculations and/or assumptions made. Please also explain any variation if the revenue increase(s)/decrease(s) are not constant.</b>					
N/A – It is not anticipated that this legislation would create additional revenue nor decrease any revenue of the County.						

# FREDERICK COUNTY COUNCIL

## Local Government Fiscal and Policy Note

<b><u>EXPENDITURES</u></b>						
<b>4.</b>	Analysis of <b>estimated increase (or decrease) in government expenditures</b> . Please estimate below any anticipated increase (or decrease) in expenditures resulting from this legislation. Please be aware of any delayed effective dates in the bill or other factors that may cause expenditure increases/decreases to begin in later years.					
<b>A. Salaries &amp; Wages</b>		<b><u>FY 2018</u></b>	<b><u>FY 2019</u></b>	<b><u>FY 2020</u></b>	<b><u>FY 2021</u></b>	<b><u>FY 2022</u></b>
FTE Employees - _____ # of positions						
Fringe Benefits						
<b>TOTAL (Salaries, wages &amp; benefits)</b>		\$	\$	\$	\$	\$
N/A	Please provide an explanation of the need for the number and type of any personnel listed above, including (1) what specific provision(s) of the bill necessitate additional staff; (2) what the duties of each type employee will be; and (3) why existing personnel cannot absorb the additional work. Please also certify the wage/salary rate and % fringe rate (if differing rates apply) for each personnel classification.					
<b>B. Other Operating Expenses</b>		<b><u>FY 2018</u></b>	<b><u>FY 2019</u></b>	<b><u>FY 2020</u></b>	<b><u>FY 2021</u></b>	<b><u>FY 2022</u></b>
Technical/Special Fees, Grants/Subsidies						
Communications-Phone, Postage						
Travel, Food, Auto, Fuel & Utilities						
Contractual Services						
Supplies						
Equipment-Replacement						
Equipment-Additional						
Land & Structures, Fixed Charges						
Other (Please Specify on Extra Page(s))						
<b>TOTAL (Expenditures)</b>		\$	\$	\$	\$	\$
	<b>On the next page, please provide brief descriptions/breakdowns of the above "Other Operating Expenses."</b>					
	<b>Please explain below any additional calculations or assumptions made in estimating the "Other Operating Expenses" that will help us to understand the amounts and timing of the expenses.</b>					
N/A – It is not anticipated that this legislation would create the need for additional staff or increase the operating expenses of the County.						

# FREDERICK COUNTY COUNCIL

## Local Government Fiscal and Policy Note

4. (cont'd)

### C. Operating Expense Descriptions/Breakdowns

Please provide below a short description of the specific purpose of each expense listed under 4B. If any amount(s) listed under 4B represent(s) a total of multiple expenses, provide a breakdown of the fiscal 2018 amount with a short description of each expense (for example, if \$2,500 is listed for Communications – Phone, Postage, a statement such as “\$1,500 for cellphone charges for two new inspectors and \$1,000 for postage for mailings to permittees to notify them of changes to inspection requirements.”)

#### Fiscal 2018 Expenditures

<b>Technical/Special Fees, Grants &amp; Subsidies</b> description/breakdown	\$
<b>Communications – Phone, Postage</b> description/breakdown	\$
<b>Travel, Food, Auto Operations, Fuel &amp; Utilities</b> description/breakdown	\$
<b>Contractual Services</b> description/breakdown	\$
<b>Supplies</b> description/breakdown	\$
<b>Equipment-Replacement</b> description/breakdown	\$
<b>Equipment-Additional</b> description/breakdown	\$
<b>Land &amp; Structures, Fixed Charges</b> description/breakdown	\$
<b>Other (Please Specify)</b> description/breakdown	\$





# FREDERICK COUNTY GOVERNMENT

## OFFICE OF THE COUNTY ATTORNEY

Jan H. Gardner  
County Executive

John S. Mathias, County Attorney  
Michael J. Chomel, Senior Assistant County Attorney  
Linda B. Thall, Senior Assistant County Attorney  
Wendy S. Kearney, Senior Assistant County Attorney  
Kathy L. Mitchell, Assistant County Attorney  
Sukanya Mukherjee, Assistant County Attorney

### MEMORANDUM

TO: Jan H. Gardner, County Executive

THROUGH: John S. Mathias, County Attorney *JSM*

FROM: Linda B. Thall, Senior Assistant County Attorney *Linda B. Thall*

DATE: March 14, 2018

SUBJECT: Amendment of the Ethics Law

### ISSUES:

Will the County Executive transmit the attached bill amending the Ethics Law to the County Council for introduction and enactment?

When should the County ask the State Ethics Commission to review the proposed changes to the County Ethics Law?

### BACKGROUND:

Last year, the State enacted the Public Integrity Act of 2017. This Act made numerous changes to various state laws, including the State Ethics Law. As the result of those changes, the State Ethics Commission notified Maryland counties and municipalities of the need for them to amend their local ethics laws. To assist in that effort, the State Ethics Commission revised the model ethics laws that it makes available to local entities for bringing their ethics laws into compliance with State law. By making the changes suggested in those models, the County will be in compliance with the State's requirements, as described below.

Under State law, counties and municipalities must have ethics laws that meet the following tests:

- Local elected officials – The conflict of interest and financial disclosure provisions for the County Executive and County Council Members must be *at least equivalent to* the provisions in the State Ethics Law.

- Candidates for County Executive and County Council – The financial disclosure requirements for these candidates must be *at least equivalent to* the State law.
- County employees and appointed officials – The conflict of interest and financial disclosure provisions applicable to them must be *similar to* the State law.
- Lobbying – The County’s law must be *substantially similar to* the State law.

Based on the changes to the model ethics laws, the attached bill has been drafted to make the following changes to the County Ethics Law:

1. The Statement of Purpose calls for the Ethics Law to be construed liberally to accomplish the purposes for which the law has been enacted. (The criminal sanctions in the law are exempt from this provision.)

2. The terms “home address,” “principal home,” “second home,” and “designated second home” are added to the definitions in § 1-7.1-3. These definitions will be necessary when the new provision protecting that portion of a financial disclosure statement containing the filer’s home address from being disclosed to the public becomes effective (see #7 below). A “home address” is both the person’s principal home and a designated second home identified as such in the financial disclosure statement.

3. The terms “doing business with” and “interest” are also added to the definitions in § 1-7.1-3 to help officials and employees determine what disclosures are required when completing their financial disclosure statements. Both terms have been a source of confusion in the past. The disclosure form calls for the disclosure of *interests* in businesses that *do business with* the County. The new definition of “interest” expressly identifies certain types of interests that are not covered and do not need to be disclosed. The term “doing business with” is defined as having or negotiating a contract for \$5,000 or more of County controlled funds, being regulated by or otherwise subject to the County’s authority or being a lobbyist who has registered with the County.

4. The conflict-of-interest provision in § 1-7.1-5(C)(5) applies to a person who has registered as a County lobbyist and then becomes a County official or employee, other than an elected official or an appointed official, after the lobbyist’s registration has ended. The law would make it a conflict of interest for that individual to participate in a case, contract or other specific matter for one calendar year after the lobbyist’s registration ends, if the former lobbyist assisted or represented another party for compensation on the matter.

5. The “use of prestige of office” provision in § 1-7.1-5(H) has been expanded to prohibit the intentional use of the prestige of an official’s or employee’s office or public position in four ways:

A. An official or employee may not intentionally use the prestige of his office or public position to influence the award of a state or local contract to a specific person, except when that is part of the person’s official duties or is a usual and customary constituent service performed without additional compensation.

B. An official is prohibited from directly or indirectly initiating a solicitation for a person to retain the compensated services of a particular regulated lobbyist or lobbying firm.

C. A non-elected official or an employee may not use public resources or his title to solicit a “contribution,” as that term is defined in the Election Law Article.

D. An elected official may not use public resources to solicit a “contribution,” as defined in the Election Law Article.

6. The financial disclosure requirement in § 1-7.1-6(B) for candidates running for County Executive or County Council Member is amended to provide that if the candidate fails to meet the deadline for filing the disclosure statement and does not file the disclosure statement within eight days after the Board of Elections gives written notice to the candidate, the candidate is deemed to have withdrawn the candidacy. This revises the existing deadline for a candidate to file the disclosure statement.

7. As of January 1, 2019, new provisions in §§ 1-7.1-6(C)(5) and 1-7.1-7(F) prohibit the disclosure of that portion of the financial disclosure statement containing the person’s home address (which includes a designated second home address, if there is one). (§ 1-7.1-6 describes the requirements for the more comprehensive financial disclosure form that is filed by County elected officials, candidates to be elected officials, the Chief Administrative Officer, the County Attorney, Division Directors, members of the Planning Commission and members and the alternate member of the Board of Zoning Appeals. The short financial disclosure form that other designated officials and employees are required to complete is contained in § 1-7.1-7.)

8. Persons who fill out the longer financial disclosure statement are currently required by § 1-7.1-6(E)(5) to disclose employment with or interests in entities doing business with the County. Under the proposed changes, the person filing the statement would not only need to identify the County division or agency with which the outside entity is involved, but would also need to state which of the three “doing business with” categories applies. (These categories are:

(a) having or negotiating a contract for \$5,000 or more, (b) being regulated by the County or being subject to the County's authority or (c) being a registered lobbyist.)

9. Persons who fill out the longer financial disclosure statement are currently required by § 1-7.1-6(E)(6) to disclose indebtedness to entities doing business with *the County*. The disclosure requirement would be changed to only require this disclosure when the entity does business with or is regulated by the person's *department or agency*.

10. Persons who fill out the longer financial disclosure statement are currently required by § 1-7.1-6(E)(8) to disclose sources of earned income. A new requirement effective as of January 1, 2019, would require an additional disclosure when the spouse of the person filing the statement is a lobbyist regulated by the County. The entity that employs the spouse will need to be identified on the disclosure statement.

11. Some of the fines in the enforcement section found in § 1-7.1-10 are increased. The fine for the late filing of a financial disclosure statement would rise from \$2 per day to \$5 per day, with the maximum fine allowed increasing from \$250 to \$500. The maximum fine for the late filing of a lobbying registration form or a lobbyist report would increase from \$250 to \$1,000.

There are also a few minor housekeeping changes included in the bill. References to the Board of County Commissioners and County Commissioner in § 1-7.1-5(F)(2) were removed, as those references are no longer needed. Cross-section references in the law have been updated.

The State requires that changes to the County Ethics Law be submitted to the State Ethics Commission for review and approval. In the past, this process has taken place before the changes are enacted. This enables the County to avoid having to go through the legislative process a second time if the State Ethics Commission does not approve the changes as enacted. The recent past practice has been to seek the State's approval after the bill has been transmitted to the Council but before the Council takes final action on the bill. An alternative approach would be for the County Executive to submit the bill to the State Ethics Commission for its review and approval at the same time that the bill is sent to the County Council. The latter approach could alleviate concerns resulting from Charter Section 305(f), which provides that any bill not enacted within ninety days of introduction is void. Depending on the timing of the submission to the State, it could take between thirty to sixty days to receive the State's response. This is because the State Ethics Commission only meets six times each year. (The next meeting of the State Ethics Commission is April 19, 2018. After that, the Commission does not meet again until June 21, 2018.)

State law further requires each local jurisdiction to submit an annual certification to the State Ethics Commission that its ethics law is in compliance with State requirements. The County's certification, which is made by the Chair of the County's Ethics Commission, is due by October 1, 2018. In order to meet the October 1 deadline, the revisions to the Ethics Law need to be effective on or before October 1. That would require the Council to enact the bill at least sixty

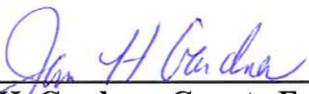
days before October 1, as the Charter provides that the bill would become effective sixty calendar days after the bill's enactment.

**RECOMMENDATION:**

Staff recommends that the County Executive approve the transmittal of the bill to the State Ethics Commission for that Commission's review and approval and that the County Executive transmit the attached bill amending the Ethics Law to the County Council for introduction and enactment.

The requested action would be to approve and transmit the attached bill to the County Council for introduction and enactment and authorize staff to send the proposed bill to the State Ethics Commission for review and approval.

Approve?     Yes     No

  
\_\_\_\_\_  
**Jan H. Gardner, County Executive**  
**Frederick County, Maryland**

**FUNDING IMPLICATION:** No

**ATTACHMENT(S):**

Attachment 1 - Bill