

**CITY OF BALTIMORE
COUNCIL BILL 12-0142
(First Reader)**

Introduced by: The Council President

At the request of: The Administration (Office of the Inspector General and Ethics Board)

Introduced and read first time: September 24, 2012

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Board of Ethics, Office of the Inspector General, Department of Legislative Reference, Department of Finance, Department of Human Resources

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Public Ethics Law – Conflicts of Interest**

3 FOR the purpose of clarifying and expanding the provisions that prohibit certain employment and
4 financial interests to encompass employment by or interests in persons having or negotiating
5 certain “blanket” and other contracts with the City or with any agency of the City; clarifying
6 and expanding the provisions that prohibit certain gifts to encompass gifts from persons that
7 a public servant knows or has reason to know have recently been lobbyists with respect to
8 matters within the jurisdiction of the public servant; consolidating certain exemptions for
9 gifts related to the payment of expenses for a speaking engagement or participation on a
10 panel; correcting, clarifying, and conforming related provisions; providing for a special
11 effective date; and generally relating to ethics in the public sector.

12 BY repealing

13 Article 8 - Ethics
14 Section(s) 2-5 and 6-30
15 Baltimore City Code
16 (Edition 2000)

17 BY repealing and reordaining, with amendments

18 Article 8 - Ethics
19 Section(s) 6-11, 6-26(a), 6-27, and 6-28
20 Baltimore City Code
21 (Edition 2000)

22 BY adding

23 Article 8 - Ethics
24 Section(s) 7-1
25 Baltimore City Code
26 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 BY renumbering
2 Article 8 - Ethics
3 Section(s) 7-1
4 to be
5 Section(s) 7-1.1
6 Baltimore City Code
7 (Edition 2000)

8 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
9 Laws of Baltimore City read as follows:

10 **Baltimore City Code**

11 **Article 8. Ethics**

12 **Subtitle 2. Definitions; General Provisions**

13 **[§ 2-5. “Business with City”.**

14 (a) *In general.*

15 “Business with the City” means any 1 or combination of sales, purchases, leases, or
16 contracts:

17 (1) that are made:

18 (i) to, from, or with the City or an agency of the City; or

19 (ii) to, from, or with another person in connection with or in furtherance of a
20 contract that is being negotiated or has been entered into by the other
21 person with the City or an agency of the City; and

22 (2) involve consideration of \$5,000 or more on a cumulative basis.

23 (b) *Determining consideration.*

24 For purposes of this section, the total consideration committed to be paid as of the award
25 or execution of a contract or lease, to the extent then ascertainable, is included, regardless
26 of the period over which payments are to be made.]

27 **Subtitle 6. Conflicts of Interest**

28 **§ 6-11. Prohibited employment, interests.**

29 [(a) *In general.*]

30 Except as otherwise provided in this Part III, a public servant may not:

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1 (1) be employed by or have a financial interest in any person that is subject to the
2 authority of that public servant or of the City agency with which the public servant is
3 affiliated;

4 (2) be employed by or have a financial interest in any person that is negotiating or has
5 entered into:

6 (i) a contract with the CITY OR ANY AGENCY OF THE CITY, IF:

7 (A) THE CONTRACT IS WITH, FOR THE BENEFIT OF, OR TO BE ADMINISTERED
8 BY THE City agency with which the public servant is affiliated;

9 (B) THE PUBLIC SERVANT’S DUTIES FOR THE CITY INCLUDE MATTERS
10 SUBSTANTIALLY RELATING TO OR AFFECTING THE SUBJECT MATTER OF
11 THE CONTRACT AND THE CONTRACT BINDS OR PURPORTS TO BIND THE
12 CITY TO PAY MORE THAN \$1,000; OR

13 (C) FOR ANY OTHER CONTRACT, THE PUBLIC SERVANT FAILS TO TIMELY
14 DISCLOSE TO THE ETHICS BOARD AND THE PROCURING AGENCIES, AS
15 REQUIRED BY RULE OR REGULATION OF THE ETHICS BOARD, HIS OR HER
16 EMPLOYMENT BY OR FINANCIAL INTEREST IN THE PERSON WHO IS
17 NEGOTIATING OR HAS ENTERED INTO THE CONTRACT; or

18 (ii) a subcontract on a contract [that is being negotiated or has been entered into
19 with that City agency] DESCRIBED IN THIS ITEM (2); or

20 (3) hold any other employment relationship that would impair the impartiality and
21 independent judgment of the public servant.

22 [(b) *Entities contracting with City.*

23 A public servant may not be employed by an entity that is a party to a contract that binds
24 or purports to bind the City if:

25 (1) the public servant’s duties for the City include matters substantially relating to or
26 affecting the subject matter of the contract; and

27 (2) the contract binds or purports to bind the City to pay more than \$1,000.]

28 **§ 6-26. Solicitation prohibited.**

29 (a) *In general.*

30 Except as permitted under subsection (b) of this section, a public servant may not solicit
31 or facilitate the solicitation of a gift, whether on the public servant’s own behalf or on
32 behalf of another person, from any person that the public servant knows or has reason to
33 know:

34 (1) does or seeks to do business of any kind, regardless of amount:

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- 1 (i) with the public servant’s agency; or
- 2 (ii) with another person in connection with or in furtherance of a contract that
- 3 is being negotiated or has been entered into by the other person with the
- 4 public servant’s agency;
- 5 (2) engages OR SEEKS TO ENGAGE in an activity that is regulated or controlled by the
- 6 public servant’s agency;
- 7 (3) is OR, WITHIN THE PRECEDING 12 MONTHS, HAS BEEN a lobbyist with respect to
- 8 matters within the jurisdiction of the public servant;
- 9 (4) has a financial interest that might be substantially and materially affected, in a
- 10 manner distinguishable from the public generally, by the performance or
- 11 nonperformance of the public servant’s official duties; or
- 12 (5) is an owner, partner, officer, director, trustee, employee, or agent of any person
- 13 described in items (1) through (4) of this subsection.

§ 6-27. Acceptance prohibited.

15 Except as otherwise provided in this Part IV, a public servant may not knowingly accept any

16 gift, directly or indirectly, from any person that the public servant knows or has reason to

17 know:

- 18 (1) does or seeks to do business of any kind, regardless of amount:
 - 19 (i) with the public servant’s agency; or
 - 20 (ii) with another person in connection with or in furtherance of a contract that is
 - 21 being negotiated or has been entered into by the other person with the public
 - 22 servant’s agency;
- 23 (2) engages OR SEEKS TO ENGAGE in an activity that is regulated or controlled by the
- 24 public servant’s agency;
- 25 (3) is OR, WITHIN THE PRECEDING 12 MONTHS, HAS BEEN a lobbyist with respect to matters
- 26 within the jurisdiction of the public servant;
- 27 (4) has a financial interest that might be substantially and materially affected, in a manner
- 28 distinguishable from the public generally, by the performance or nonperformance of
- 29 the public servant’s official duties; or
- 30 (5) is an owner, partner, officer, director, trustee, employee, or agent of any person
- 31 described in items (1) through (4) of this subsection.

§ 6-28. Qualified exemptions.

33 Subject to § 6-29 {“Exemption limitations”} of this subtitle, the prohibitions in § 6-27

34 {“Acceptance prohibited”} of this subtitle do not apply to the unsolicited receipt of:

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- 1 (1) food or beverages received and consumed by the recipient in the presence of the
2 donor or sponsoring entity;
- 3 (2) gifts or awards that have insignificant monetary value, as defined by rule or regulation
4 of the Board;
- 5 (3) in return for a speaking engagement or participation on a panel at a meeting,
6 reasonable expenses, ACTUALLY INCURRED AND VERIFIABLE, for food, travel, lodging,
7 CHILD OR DEPENDANT CARE, and scheduled entertainment of the public servant, but
8 only if:
 - 9 (i) the expenses are associated with the meeting; and
 - 10 (ii) to the extent the expenses are anticipated to exceed \$500, the public servant
11 has notified the Ethics Board before attending the meeting;
- 12 (4) tickets or free admission given to an elected official to attend a specific charitable,
13 cultural, sporting, or political event, if given by the person sponsoring or conducting
14 the event as a courtesy or ceremony to the office;
- 15 (5) a specific gift or class of gifts that the Ethics Board exempts on a written finding that
16 acceptance of the gift or class of gifts would not be detrimental to the impartial
17 conduct of City business; OR
- 18 (6) gifts from a spouse, parent, child, or sibling[]; or
- 19 (7) honoraria, to the extent provided in § 6-30 {"Honoraria"} of this subtitle].

20 [§ 6-30. Honoraria.

21 (a) *"Honorarium" defined.*

- 22 (1) "Honorarium" means the payment of money or anything of value for:
 - 23 (i) speaking to, participating in, or attending a meeting or other function; or
 - 24 (ii) writing an article that has been or is intended to be published.
- 25 (2) "Honorarium" does not include payment for writing a book that has been or is
26 intended to be published.

27 (b) *Permitted honoraria.*

28 Subject to § 6-29 {"Exemption limitations"} of this subtitle, a public servant may accept
29 an honorarium if:

- 30 (1) the honorarium consists of gifts described in § 6-28(2) of this subtitle; or
- 31 (2) the honorarium is limited to reasonable expenses, actually incurred and verifiable,
32 for:

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1 (i) the public servant’s meals, travel, and lodging; and

2 (ii) care for a child or dependent adult.

3 (c) *Prohibited honoraria.*

4 Other than as allowed by subsection (b) of this section, a public servant may not accept an
5 honorarium, even if not otherwise disqualified under § 6-29 {“Exemption limitations”} of
6 this subtitle, if:

7 (1) the payor of the honorarium has an interest that might be affected substantially
8 and materially, in a manner distinguishable from the public generally, by the
9 performance or nonperformance of the public servant’s official duties; and

10 (2) the offer of the honorarium is in any way related to the public servant’s official
11 duties.]

12 **Subtitle 7. Financial Disclosure**

13 **§ 7-1. “BUSINESS WITH CITY”.**

14 (a) *In general.*

15 IN THIS SUBTITLE, “BUSINESS WITH THE CITY” MEANS ANY 1 OR COMBINATION OF SALES,
16 PURCHASES, LEASES, OR CONTRACTS:

17 (1) THAT ARE MADE:

18 (I) TO, FROM, OR WITH THE CITY OR AN AGENCY OF THE CITY; OR

19 (II) TO, FROM, OR WITH ANOTHER PERSON IN CONNECTION WITH OR IN
20 FURTHERANCE OF A CONTRACT THAT IS BEING NEGOTIATED OR HAS BEEN
21 ENTERED INTO BY THE OTHER PERSON WITH THE CITY OR AN AGENCY OF
22 THE CITY; AND

23 (2) INVOLVE CONSIDERATION OF \$5,000 OR MORE ON A CUMULATIVE BASIS.

24 (B) *DETERMINING CONSIDERATION.*

25 FOR PURPOSES OF THIS SECTION, THE TOTAL CONSIDERATION COMMITTED TO BE PAID AS
26 OF THE AWARD OR EXECUTION OF A CONTRACT OR LEASE, TO THE EXTENT THEN
27 ASCERTAINABLE, IS INCLUDED, REGARDLESS OF THE PERIOD OVER WHICH PAYMENTS ARE
28 TO BE MADE.

29 **§ 7-1.1. [§ 7-1.] Certifications.**

30 (a) *When made.*

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1 The certifications required by this section must be made on or before February 1 of each
2 year.

3 (b) *Individuals required to file.*

4 Each agency head must annually certify to the Ethics Board the names of all public
5 servants in that agency who are required to file statements with the Ethics Board under:

- 6 (1) § 7-7 {“Elected officials and staff”};
- 7 (2) § 7-8 {“Agency officials and staff”};
- 8 (3) § 7-9 {“Procurement, legislative liaison, and enforcement personnel”}; or
- 9 (4) § 7-10 {“Person filing with State”}.

10 (c) *Procurement, legislative liaison, and enforcement positions.*

11 The Director of Human Resources must annually certify to the Ethics Board:

- 12 (1) all positions of the types described in § 7-9 {“Procurement, legislative liaison, and
13 enforcement personnel”} of this subtitle; and
- 14 (2) the agencies in which those positions are found.

15 (d) *Entities doing business with City.*

- 16 (1) The Finance Director must annually certify to the Ethics Board a list of all business
17 entities doing business with the City.
- 18 (2) The Ethics Board must keep this list on file and available to all persons subject to this
19 subtitle.

20 (e) *Registered lobbyists.*

- 21 (1) The Ethics Board must annually certify a list of all lobbyists registered with it.
- 22 (2) The Ethics Board must keep this list on file and available to all persons subject to this
23 subtitle.

24 **SECTION 2. AND BE IT FURTHER ORDAINED,** That City Code Article 8, § 6-11(2), as
25 amended by this Ordinance, does not prohibit continued employment or financial interest if:

- 26 (1) the employment or financial interest was entered into prior to the enactment of this
27 Ordinance; and
- 28 (2) immediately prior to the enactment of this Ordinance, the employment or financial
29 interest did not violate then § 6-11 and conformed to all other then-applicable laws,
30 rules, and standards of conduct.

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1 **SECTION 3. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
2 are not law and may not be considered to have been enacted as a part of this or any prior
3 Ordinance.

4 **SECTION 4. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect the later of
5 (i) the date this Ordinance is enacted, and (ii) the date on which this Ordinance is approved by
6 the State Ethics Commission.