

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



BOARD OF ETHICS
OF BALTIMORE CITY

LINDA B. "LU" PIERSON, Chair
AVERY AISENSTARK, Director
626 City Hall
Baltimore, Maryland 21202

December 3, 2012

The Honorable President and Members
of the Baltimore City Council
Fourth Floor, City Hall
Baltimore, Maryland 21202
c/o Karen Randle, Executive Secretary

Re: Bill 12-142 {"Public Ethics Law – Conflicts of Interest"}

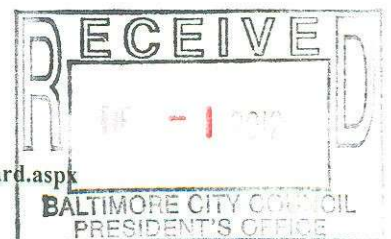
You have referred Bill 12-142 {"Public Ethics Law – Gifts to Elected Officials"} to the Ethics Board for its comments. As stated in the Title to Bill 12-142, the bill's primary purposes are to:

clarif[y] and expan[d] the provisions that prohibit certain employment and financial interests to encompass employment by or interests in [entities] having or negotiating certain "blanket" and other contracts with the City or with any agency of the City; [and] clarif[y] and expan[d] the provisions that prohibit certain gifts to encompass gifts from persons that a public servant knows or has reason to know have recently been lobbyists with respect to matters within the jurisdiction of the public servant ...

This bill arose out of recent discoveries by the Ethics Board and the Office of the Inspector General of attempts to take undue advantage of certain gaps in the Ethics Code. The two agencies have worked together to devise a bill that, we believe, would close those and other gaps.

One incident, for example, involved a prominent lobbyist who, in January of this year, offered a gift to a member of the City Council. The current law (Ethics Code § 6-27) prohibits the acceptance of a gift "from any person that the [councilmember] knows or has reason to know ... is a lobbyist with respect to matters within the jurisdiction of the [councilmember]". In this case, the lobbyist had been registered in 2011 and 2010 for various matters, including one well-publicized matter that almost certainly would (and, in fact, later did) come up again in 2012. As it happens, though, the lobbyist was not yet re-registered when the gift was offered in January – presumably, to extend the benefit of a doubt, because the lobbyist had not yet become active in the new year so as to require registration for 2012. Should the proffered gift be allowed simply because of a short interregnum between registrations? We think not. Bill 12-142, therefore,

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would amend the law to apply more broadly to a person who “is OR, WITHIN THE PRECEDING 12 MONTHS, HAS BEEN a lobbyist ...”.

The other incident involved the section that prohibits a public servant from being employed by or having a financial interest in any entity that is negotiating or has entered into “a contract with the City agency with which the public servant is affiliated”. Assume, for example, that “John Doe” is an employee of the Department of Transportation. Doe also runs a business, “Doe Auto Clean”, that provides specialized car-cleaning services. Doe Auto Clean and the Department of General Services enter into a “blanket” contract to provide the company’s services to city agencies that might need them. The Department of Transportation, the agency with which John Doe is affiliated, seeks to avail itself of that service. Should this be allowed even though *the underlying contract* was not with Transportation itself? Again, we think not. Bill 12-142, therefore, would amend the law to apply to “a contract with the CITY OR ANY AGENCY OF THE CITY, IF [among other things] ... THE CONTRACT IS WITH, FOR THE BENEFIT OF, OR TO BE ADMINISTERED BY THE City agency with which the public servant is affiliated”.*

This, then, is to respectfully request your consideration and approval of Bill 12-142.

Very truly yours,



Avery Aisenstark

xc: The Honorable James B. Kraft
David N. McClintock, Inspector General
Ms. Angela Gibson

* Another change proposed by this Bill (and by Bill 12-110) is in Ethics Code §§ 6-26 and 6-27. These sections prohibit a public servant from soliciting or (subject to certain exceptions) accepting a gifts from, among others, any person who “engages in an activity ... regulated or controlled by the public servant’s agency”. To conform to usage elsewhere, and plug a potential loophole, the Ethics Board proposes to amend this clause to refer to a person who “engages OR SEEKS TO ENGAGE” in the regulated or controlled activity.