

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 10-0446

Introduced by: Councilmembers Cole, Kraft, Curran, Henry, Branch, Clarke, Spector,
Middleton, Reisinger, President Rawlings-Blake, Councilmembers Young, Conaway,
Holton, Welch

Introduced and read first time: January 25, 2010

Assigned to: Judiciary and Legislative Investigations Committee

Committee Report: Favorable, with amendments

Council action: Adopted

Read second time: March 8, 2010

AN ORDINANCE CONCERNING

**Public Ethics Law –
Clarifications and Expanded Coverage**

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2
3 FOR the purpose of redefining and clarifying certain terms as applicable to certain prohibited
4 acts, required disclosures, and other ethics regulation; clarifying and expanding the scope of
5 those to whom certain prohibitions apply; correcting, conforming, and clarifying related
6 provisions; providing for a special effective date; and generally relating to ethics in the
7 public sector.

8 BY authority of
9 Article VII - Executive Departments
10 Section(s) 110
11 Baltimore City Charter
12 (1996 Edition)

13 BY repealing and reordaining, without amendments
14 Article 8 - Ethics
15 Section(s) 1-2 and 2-16
16 Baltimore City Code
17 (Edition 2000)

18 BY repealing and reordaining, with amendments
19 Article 8 - Ethics
20 Section(s) 2-5, 2-22, 6-6(3)(i), (ii), and (v) to (viii), 6-26(a), ~~and 6-27~~, and 7-23(b)
21 Baltimore City Code
22 (Edition 2000)

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

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by
amendment or deleted from existing law by amendment.

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Baltimore City Code

Article 8. Ethics

Subtitle 1. Findings; Policy; Short Title

§ 1-2. Goals; purpose.

To guard against improper influence or even the appearance of improper influence, and to ensure public trust in the government, the Mayor and City Council of Baltimore enacts this article to:

- (1) set minimum ethical standards of conduct for City officials and employees;
- (2) require certain officials and employees to disclose their financial interests;
- (3) require persons engaged in lobbying activities to register and disclose those activities;
and
- (4) generally protect the public welfare.

Subtitle 2. Definitions; General Provisions

§ 2-5. “Business with City”.

(a) *In general.*

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

(1) THAT ARE MADE:

(i) to, from, or with the City or [any] AN agency [that:] OF THE CITY; OR

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

[(1) is made or entered into during the reporting period for which a disclosure statement is required by Subtitle 7 {“Financial Disclosure”} of this article;] and

(2) [involves] INVOLVE consideration of \$5,000 or more on a cumulative basis.

(b) *Determining consideration.*

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

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1 **§ 2-16. “Financial interest”.**

2 “Financial interest” means ownership of:

- 3 (1) more than 3% of a business entity;
- 4 (2) securities of any kind that represent or are convertible into ownership of more than
5 3% of a business entity; or
- 6 (3) any interest as the result of which the owner:
 - 7 (i) received more than \$1,000 in any 1 of the preceding 3 calendar years; or
 - 8 (ii) is entitled to receive more than \$1,000 in the current or any subsequent
9 calendar year.

10 **§ 2-22. “Person”.**

11 “Person” means:

- 12 (1) an individual;
- 13 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY KIND;
- 14 (3) a receiver, trustee, guardian, personal representative, fiduciary, or representative of
15 any kind;
- 16 [(3) a partnership, firm, association, corporation, or other entity of any kind;] and
- 17 (4) except as used in Subtitle 9 {“Enforcement”} of this article for the imposition of
18 criminal penalties, a governmental entity or an instrumentality or unit of a
19 governmental entity.

20 **Subtitle 6. Conflicts of Interest**

21 ***Part II. Restrictions on Participation***

22 **§ 6-6. Prohibited participation.**

23 Except as otherwise provided in this Part II, a public servant may not participate in and must
24 disqualify himself or herself from any matter if:

25

- 26 (3) any of the following is a party to the matter:
 - 27 (i) any business entity in which:
 - 28 (A) the public servant has a [direct] financial interest of which the public
29 servant might reasonably be expected to know; or

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(B) to the public servant’s knowledge, a disqualifying relative has a [direct] financial interest;

(ii) any business entity in which:

(A) the public servant is [an] A PARTNER, officer, director, trustee, [partner, or] employee, OR AGENT; or

(B) to the public servant’s knowledge, a disqualifying relative is [an] A PARTNER, officer, director, trustee, [partner, or] employee, OR AGENT;

.....

(v) any business entity in which a [direct] financial interest is held by another business entity in which the public servant has a [direct] financial interest, if the public servant might reasonably be expected to know of both financial interests;

(vi) any business entity in which a [direct] financial interest is held by another business entity in which a disqualifying relative has a [direct] financial interest, if the public servant knows of both financial interests;

(vii) any business entity that has a [direct] financial interest in another business entity in which the public servant also has a [direct] financial interest, if the public servant might reasonably be expected to know of both financial interests;

(viii) any business entity that has a [direct] financial interest in another business entity in which a disqualifying relative also has a [direct] financial interest, if the public servant knows of both financial interests; or

.....

Part IV. Gifts

§ 6-26. Solicitation prohibited.

(a) *In general.*

Except as permitted under subsection (b) of this section, a public servant may not solicit or facilitate the solicitation of a gift, whether on the public servant’s own behalf or on behalf of another person, from any person ~~who~~ THAT THE PUBLIC SERVANT KNOWS OR HAS REASON TO KNOW:

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

(i) with the public servant’s agency; or

(ii) WITH ANOTHER PERSON IN CONNECTION WITH OR IN FURTHERANCE OF A CONTRACT THAT IS BEING NEGOTIATED OR HAS BEEN ENTERED INTO BY

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1 THE OTHER PERSON WITH THE PUBLIC SERVANT’S AGENCY [if the public
2 servant is a member or employee of the City Council, with the City
3 Council];

4 (2) engages in an activity that is regulated or controlled by the public servant’s
5 agency;

6 (3) IS A LOBBYIST WITH RESPECT TO MATTERS WITHIN THE JURISDICTION OF THE
7 PUBLIC SERVANT;

8 (4) [(3)] has a financial interest that might be substantially and materially affected, in
9 a manner distinguishable from the public generally, by the performance or
10 nonperformance of the public servant’s official duties; or

11 (5) [(4)] is [a lobbyist with respect to matters within the jurisdiction of the public
12 servant] AN OWNER, PARTNER, OFFICER, DIRECTOR, TRUSTEE, EMPLOYEE, OR
13 AGENT OF ANY PERSON DESCRIBED IN ITEMS (1) THROUGH (4) OF THIS SUBSECTION.

14 **§ 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
21 CONTRACT THAT IS BEING NEGOTIATED OR HAS BEEN ENTERED INTO BY
22 THE OTHER PERSON WITH THE PUBLIC SERVANT’S AGENCY [if the public
23 servant is a member or employee of the City Council, with the City
24 Council];

25 (2) engages in an activity that is regulated or controlled by the public servant’s
26 agency;

27 (3) IS A LOBBYIST WITH RESPECT TO MATTERS WITHIN THE JURISDICTION OF THE
28 PUBLIC SERVANT;

29 (4) [(3)] has a financial interest that might be substantially and materially affected, in
30 a manner distinguishable from the public generally, by the performance or
31 nonperformance of the public servant’s official duties; or

32 (5) [(4)] is [a lobbyist with respect to matters within the jurisdiction of the public
33 servant] AN OWNER, PARTNER, OFFICER, DIRECTOR, TRUSTEE, EMPLOYEE, OR
34 AGENT OF ANY PERSON DESCRIBED IN ITEMS (1) THROUGH (4) OF THIS SECTION.

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Subtitle 7. Financial Disclosure

§ 7-23. Gifts.

(b) In general.

The statement must include a schedule of each significant gift that was, at any time during the reporting period:

(1) accepted by the public servant or by any other person at the direction of the public servant; and

(2) given by or on behalf of, directly or indirectly, any person that THE PUBLIC SERVANT KNOWS OR HAS REASON TO KNOW was:

(i) a lobbyist;

(ii) a person regulated by the City; or

(iii) a person doing business with the City.

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

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect the later of (i) the date this Ordinance is enacted, and (ii) the date on which this Ordinance is approved by the State Ethics Commission.

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Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City