

COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND

2022 Legislative Session, Legislative Day No.: May 10, 2022

Bill No.: 1500

Expiration Date: July 14, 2022

Introduced by: Mr. Callahan, Mr. Divilio, Mr. Leshner, Ms. Price

A BILL TO AMEND CHAPTER 60 (ETHICS PROVISIONS) OF THE TALBOT COUNTY CODE FOR THE PURPOSES OF INCORPORATING AMENDMENTS ENACTED BY THE MARYLAND GENERAL ASSEMBLY PURSUANT TO HOUSE BILL 879 – CHAPTER 31, ACTS OF 2017, HOUSE BILL 363 – CHAPTER 252, ACTS OF 2021, AND HOUSE BILL 1058 – CHAPTER 425, ACTS OF 2021 AND PROVIDING THAT THE MEMBERS OF CERTAIN COUNTY BOARDS, COMMISSIONS, AND COMMITTEES SHALL BE SUBJECT TO CHAPTER 60 AS NONELECTED OFFICIALS

By the Council: May 10, 2022

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, June 14, 2022 at 6:30 p.m. at the Bradley Meeting Room, Talbot County Courthouse, South Wing, 11 North Washington Street, Easton, Maryland 21601.

By Order: 
Susan W. Moran, Secretary

A BILL TO AMEND CHAPTER 60 (ETHICS PROVISIONS) OF THE TALBOT COUNTY CODE FOR THE PURPOSES OF INCORPORATING AMENDMENTS ENACTED BY THE MARYLAND GENERAL ASSEMBLY PURSUANT TO HOUSE BILL 879 – CHAPTER 31, ACTS OF 2017, HOUSE BILL 363 – CHAPTER 252, ACTS OF 2021, AND HOUSE BILL 1058 – CHAPTER 425, ACTS OF 2021 AND PROVIDING THAT THE MEMBERS OF CERTAIN COUNTY BOARDS, COMMISSIONS, AND COMMITTEES SHALL BE SUBJECT TO CHAPTER 60 AS NONELECTED OFFICIALS

WHEREAS, pursuant to Md. Code Ann., Gen. Prov. § 5-804, et seq., and Title 19A, Subtitle 4 of the Code of Maryland Regulations (“COMAR”), the County Council of Talbot County (the “County Council”) is required to enact a local ethics law applicable to officials and certain employees of Talbot County, Maryland (the “County”); and

WHEREAS, in accordance with the foregoing statutory and regulatory authority, the County Council has enacted an ethics code applicable to elected officials and certain nonelected officials and employees of the County, which is codified in Chapter 60 (Ethics Provisions) of the Talbot County Code (the “County Code”); and

WHEREAS, pursuant to House Bill 879 – Chapter 31, Acts of 2017 (“HB 879”), House Bill 363 – Chapter 252, Acts of 2021 (“HB 363”), and House Bill 1058 – Chapter 425, Acts of 2021 (“HB 1058”), the Maryland General Assembly enacted certain changes to the Maryland Public Ethics Law, codified in Title 5 of the General Provisions Article of the Maryland Annotated Code which must be adopted by those local governments which are required to enact a local ethics law, including the County; and

WHEREAS, the County Council is desirous of incorporating the relevant provisions of HBs 879, 363, and 1058 into Chapter 60 of the County Code and to provide that members of certain County boards commissions, and committees shall be subject to Chapter 60 as nonelected officials; and

WHEREAS, pursuant to COMAR 19A.04.03.02, a municipality may submit proposed ethics provisions and amendments to the State Ethics Commission for review and comment prior to final enactment; and

WHEREAS, the amendments set forth herein have been submitted to the State Ethics Commission for review and comment, and the State Ethics Commission has returned a favorable recommendation.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND that:

SECTION ONE: Chapter 60 (Ethics Provisions) of the Talbot County Code shall be and is hereby amended as follows:

KEY	
Boldface	Heading or defined term
<u>Underlining</u>	Added to law by Bill
Strikethrough	Deleted from law by Bill
* * *	Existing law unaffected

* * *

§ 60-2 Definitions.

As used in this article, the following words have the meanings indicated:

* * *

NONELECTED OFFICIALS – The County Manager, County Attorney, county department heads, the Chief Code Compliance Officer, the Alcoholic Beverages Inspector, and members of the following Boards, Commissions, and Committees:

- A. The Electrical Board; ~~members of the~~
- B. The Board of Appeals; ~~members of the~~
- C. The Planning Commission;
- D. The Agricultural Resolution Board;
- E. The Ethics Commission;
- F. The Golf Board;
- G. The Airport Board;
- H. The Historic Preservation Commission;
- I. The Public Works Advisory Board;
- J. The Short Term Rental Review Board;
- K. The Parks and Recreation Advisory Board;
- L. The Police Accountability Board; and
- M. The Administrative Charging Committee.

* * *

QUASI-GOVERNMENTAL ENTITY – An entity created by State statute, that performs a public function, and that is supported in whole or in part by the State but is managed privately.

* * *

§ 60-5 Conflicts of interest, elected officials.

This section applies to elected officials.

A. Participation prohibitions. Except as permitted by Commission regulation or opinion, an elected official may not participate in:

* * *

(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.

* * *

§ 60-8. Post-employment limitations and restrictions.

A. A former official or employee 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.

B. Until the conclusion of the next regular session that begins after the elected official leaves office, a former elected official ~~member of the County Council~~ may not assist or represent another party for compensation in a matter that is the subject of legislative action.

C. 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.

D. A former elected official may not assist or represent another party for compensation in a matter that is the subject of legislative action for 1 calendar year from the date the official leaves office.

* * *

§ 60-10. Solicitation and acceptance of gifts.

* * *

C. 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.

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

(2) 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;

(3) Is engaged in an activity regulated or controlled by the official's or employee's department, board, or commission; ~~or~~

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

(5) Is an association, or any entity acting on behalf of an association that is engaged only in representing counties or municipal corporations.

* * *

§ 60-11. Disclosure of confidential information; retaliation.

A. Other than in the discharge of official duties, an official or employee or former 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 or former public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.

B. An official or employee may not retaliate against an individual for reporting or participating in an investigation of a potential violation of this chapter.

* * *

§ 60-13. Financial disclosure: elected officials and candidates.

* * *

D. Candidates.

* * *

(4) If a candidate fails to file a statement required by this section after written notice is provided by the Board of Election Supervisors at least ~~20~~ 8 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.

* * *

E. Public record.

* * *

(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.

(6) The Commission or office designated by the Commission shall not provide public access to information related to consideration received from:

(a) The University of Maryland Medical System;

(b) A governmental entity of the State or a local government in the State; or

(c) A quasi-governmental entity of the State or a local government in the State.

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

G. An individual who is required to disclose the name of a business under this section shall disclose any other names that the business is trading as or doing business as.

H. 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:

[1] The nature of the property and the location by street address, mailing address, or legal description of the property;

[2] The nature and extent of the interest held, including any conditions and encumbrances on the interest;

[3] The date when, the manner in which, and the identity of the person from whom the interest was acquired;

[4] 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;

[5] 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 [6] The identity of any other person with an interest in the property.

[6] The identity of any other person with an interest in the property.

* * *

(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 or from an association, or any entity acting on behalf of an association that is engaged only in representing counties or municipal corporations.

* * *

(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 minor 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 minor child.

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

(9) Relationship with University of Maryland Medical System, State or Local Government, or Quasi-Governmental Entity.

(a) An individual shall disclose the information specified in General Provisions Article § 5-607(j)(1), Annotated Code of Maryland, for any financial or contractual relationship with:

[1] The University of Maryland Medical System;

[2] A governmental entity of the State or a local government in the State; or

[3] A quasi-governmental entity of the State or local government in the State.

(b) For each financial or contractual relationship reported, the schedule shall include:

[1] A description of the relationship;

[2] The subject matter of the relationship; and

[3] The consideration.

(10) 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.

HI. For the purposes of § 60-13G(1), (2), and (3) of this chapter, 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.

(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.

(4) An interest held, at any time during the applicable period, by:

(a) A business entity in which the individual held a 10% or greater interest;

(b) A business entity described in section (a) of this subsection in which the business entity held a 25% or greater interest;

(c) A business entity described in section (b) of this subsection in which the business entity held a 50% or greater interest; and

(d) A business entity in which the individual directly or indirectly, through an interest in one or a combination of other business entities, holds a 10% or greater interest.

I. J. Commission review and enforcement.

- (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.

SECTION TWO: AND BE IT FURTHER ENACTED, that if any provision of this Bill or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Bill which can be given effect without the invalid provision or application, and for this purpose the provisions of this Bill are declared severable.

SECTION THREE: AND BE IT FURTHER ENACTED, that the Talbot County Office of Law, in consultation with and subject to the approval of the County Manager, may make non-substantive corrections to codification, style, capitalization, punctuation, grammar, spelling, and any internal or external reference or citation included in this Bill, as finally adopted, that are incorrect or obsolete, with no further action required by the County Council. All such corrections shall be adequately referenced and described in an editor's note following the section affected.

SECTION FOUR: AND BE IT FURTHER ENACTED, that this Bill shall take effect sixty (60) days from the date of its passage.

PUBLIC HEARING

Having been posted and Notice of time, date, and place of hearing, and Title of Bill No. __ having been published, a public hearing was held on _____ at _____ p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland.

BY THE COUNCIL

Read the third time.

ENACTED: _____

By Order _____
Susan W. Moran, Secretary

Callahan -

Divilio -

Leshner -

Price -

Pack -

EFFECTIVE DATE: _____