



*Gregory J. Swain, County Attorney*

## **MEMORANDUM**

**To:** Council Members, Anne Arundel County Council

**From:** Gregory J. Swain, County Attorney /s/

**Date:** March 2, 2020

**Subject:** Bill No. 20-20: Ethics – Conflicts of Interest – Employment Restriction

---

### **Legislative Summary**

This summary was prepared by the Anne Arundel County Office of Law for use by members of the Anne Arundel County Council during consideration of Bill No. 20-20, a Bill that revises the standard for conflicts of interest when an employee is providing representation or assistance before County agencies.

#### **Purpose.**

The purpose of the Bill is to allow an employee to provide representation or assistance to third parties who are either appearing before a County body or are participating in a matter in which the County has an interest, provided the employee is not receiving contingent compensation.

#### **Background.**

Section 7-5-104 of the County Code prohibits an employee from representing or assisting third parties who are either appearing before a County body or participating in a matter in which the County has an interest. This provision has proved to be problematic for appointed members of Boards and Commissions, who are deemed “employees” under the County’s Ethics law but most of whom are engaged in full-time employment elsewhere that often involves either representing others before County Boards, such as the Board of Appeals, or representing client agencies who may receive grant funding from the County. A recent Opinion of the Ethics Commission (Opinion AO-20-07) confirmed that a Board member who represents an outside agency with regard to County grant funding presents a conflict of interest:

This commission finds that it is a conflict of interest for a member of any County board or commission to represent another person or entity in front of any County employee for the purposes of obtaining County resources.

Opinion AO-20-07, pg. 2.

State ethics law allows an employee to provide representation or assistance to third parties who are either appearing before a government body or are participating in a matter in which the government has an interest, provided the employee is not receiving contingent compensation:

Except as provided in paragraph (3) of this subsection, an official or employee may not, for contingent compensation, assist or represent a party in any matter before or involving any unit of the State or a political subdivision of the State.

Md. Code, *General Provisions* Article, § 5-504(a)(2). In addition, State law requires the conflict of interest provisions of local ethics programs to be “similar” to State law. *Gen’l Prov. Art.*, § 5-808(a).

Bill No. 20-20 revises the County’s local conflict of interest provisions to allow employees to provide representation or assistance to third parties in matters that are before County agencies or matters in which the County has an interest, provided the employee is not receiving compensation that is contingent on the outcome of the proceeding or matter. This is in accord with State ethics law.

**SECTION 1.**

**Section 7-5-104(a)** is amended to reword the section and add the qualifier “for contingent compensation” to the prohibition against assisting or representing another person in any matter in before a County agency or any matter in which the County has an interest.

**Section 7-5-104(b)** is stricken as no longer necessary in light of the changes to subsection (a).

**SECTION 2.** (Uncodified) provides that the bill takes effect 45 days after it becomes law.

The Office of Law is available to answer any additional questions regarding Bill No. 20-20. Thank you.

cc: Honorable Stuart Pittman, County Executive  
Jennifer Purcell, Chief of Staff  
Benjamin J. Birge, Chief Administrative Officer  
Peter Baron, Director of Government Affairs  
Jim Beauchamp, Budget Officer  
Michael Botsaris, Director, Ethics Commission