

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

Legislative Session _____ 1990 _____

Bill No. _____ CB-17-1990 _____

Chapter No. _____

Proposed and Presented by Council Members Bell, Castaldi,
Casula, Pemberton, and Wilson

Introduced by Council Members Bell, Castaldi, Casula,
Pemberton, Wilson, and Cicoria

Co-Sponsors _____

Date of Introduction _____ February 17, 1990 _____

BILL

AN ACT concerning

Disclosure of Campaign Contributions by Persons
Doing Business with the County

FOR the purpose of requiring that all persons who do business with the County report campaign contributions made to elected officials in Prince George's County; providing for restrictions upon the activities of persons registered as lobbyists; and providing that persons contracting with the County file required reports.

BY repealing and reenacting with amendments:

SUBTITLE 2. ADMINISTRATION.

Sections 2-291 and

2-297,

The Prince George's County Code
(1987 Edition, 1988 Supplement).

BY adding:

SUBTITLE 2. ADMINISTRATION.

Sections 2-295.1,
2-298, and
2-299,

The Prince George's County Code
(1987 Edition, 1988 Supplement).

BY adding:

SUBTITLE 10. FINANCE AND TAXATION.

Section 10-163.1,
The Prince George's County Code
(1987 Edition, 1988 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 2-291 and 2-297 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 2. ADMINISTRATION.

DIVISION 17. CODE OF ETHICS.

Sec. 2-291. Definitions.

The words used in this Division shall have their normal accepted meanings except as set forth below:

* * * * *

(d) "Doing business with" means:

(1) [Having or negotiating a contract that involves the commitment (either in a single or combination of transactions) of Five Thousand Dollars (\$5,000.00) or more of County or County-controlled funds;] Any one or combination of sales, purchases, leases, or contracts, involving consideration of Five Thousand Dollars (\$5,000.00) or more on a cumulative basis entered into during a fiscal year. If an agreement calls for the consideration to be paid over a period extending beyond one fiscal year, the total ascertainable consideration to be paid under the agreement shall be included as business done during the year in which the agreement was entered into and each year in which payments are received. Business does not include salaries paid by the County to exempt service and classified service County employees;

(2) Being regulated by or otherwise under the authority of an entity; or

(3) Being required to be registered as a lobbyist in accordance with Section 2-295 of this Division[.]; or

(4) Becoming a party of record in or lobbying in support of or in opposition to a land development activity.

* * * * *

(j) "Person" includes an individual or business entity.

(k) "Candidate" means any person who files a certificate of candidacy for any elective office.

(l) "Contribution" means the gift, transfer or promise of gift or transfer of money or other thing of value in an amount greater than \$100 to any candidate, or a representative of the candidate, or

a representative of any political party or partisan organization to promote or assist in the promotion of the success or defeat of any candidate, political party, principle or proposition submitted to a vote at any election.

(m) "Elective office" means the offices of County Executive, County Council, Board of Education, Mayor or City Council of a municipality, Sheriff, State's Attorney, Clerk of the Court, Registrar of Wills, Senator and Delegate.

(n) "Land development activity" means an application to approve a comprehensive design plan, a specific design plan, a site plan, a zoning map amendment, special exception, departure from design standards, departure from parking and loading standards, revision to a special exception site plan, expansion of a legal nonconforming use, revision to a legal nonconforming use site plan, a request for a variance or waiver from the Zoning Ordinance, applications for rezoning filed as part of a sectional map amendment, cluster subdivisions, signs, water and sewer service allocation, water and/or sewer system service area change, amendment to the 10 year water and sewer plan, amendment to the comprehensive 10 year solid waste management plan.

(o) "Political committee" means any combination of two or more persons appointed by a candidate or any other person or formed in any other manner which assists or attempts to assist in any manner the promotion of the success or defeat of any candidate, candidates, political party, principle or proposition submitted to a vote at any election.

(p) "Subsidiary" means a firm or corporation of which a parent firm or corporation owns or controls 30% or more of the equity.

Sec. 2-297. Enforcement.

(a) Upon direction by the Board or the Council, the County Attorney may file a petition for injunctive or other relief in the Circuit Court of Prince George's County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this Division. The Court may:

(1) Issue an order to cease and desist from the violation; or

(2) Void an official action taken by an official or employee with a conflict of interest prohibited by this Division when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within ninety (90) days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public, provided, however, that the court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidence of public obligation; or

(3) Impose a fine of up to One Thousand Dollars (\$1,000) for any violation of the provisions of this Division, each day upon which the violation occurs constituting a separate offense.

(b) Any person who knowingly and willfully violates the provisions of Section 2-295, Section 2-295.1 or Section 2-298 of this Division is guilty of a misdemeanor, and upon conviction, is subject to a fine of not more than One Thousand Dollars (\$1,000) or

imprisonment for not more than six (6) months, or both. If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and, upon conviction, is subject to the same penalties as the business entity.

(c) In addition to any other enforcement provisions of this Division, a person who is subject to the provisions of this Division and who is found by the Board, Council, or a court to have violated its provisions may be subject to termination or such other disciplinary action as may be warranted, or may be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Board, Council, or a court.

(d) Any person who is subject to the provisions of this Division shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to complete and substantiate any reports, statements, or records required to be made pursuant to this Division for three (3) years from the date of filing the report, statement, or record containing these items. These papers and documents shall be available for inspection upon request by the Board or the Council after reasonable notice.

SECTION 2. BE IT FURTHER ENACTED that new Sections 2-295.1, 2-298, 2-299, and 10-163.1 be and the same are hereby added to the Prince George's County Code:

SUBTITLE 2. ADMINISTRATION.

DIVISION 17. CODE OF ETHICS.

Sec. 2-295.1. Contributions and solicitations by lobbyists.

(a) A person required to be registered as a lobbyist shall not:

(1) Attempt to influence the vote of any member of the County Council by the promise of financial support of the member's candidacy or by threat of financial opposition to the member's candidacy;

(2) Make or promise to make any contributions to any candidate for the County Council or County Executive; or

(3) Solicit or attempt to solicit contributions for any candidate for the County Council or County Executive.

Sec. 2-298. Statement of contributions.

(a) The statement required by this Section shall be filed on or before February 1 of each year and shall cover the reporting period which consists of the preceding calendar year.

(b) Every person who has done business with the County during a reporting period shall file the statement required by this Section if during the reporting period or during the preceding reporting period the person made or caused to be made a contribution to a candidate, a political committee, or a political action committee for an elective office in the County in any primary or general election.

(c) The statement shall be under oath and shall contain:

(1) The names of all candidates or political committees to whom a contribution was made or caused to be made during the reporting period and, if not reported previously, during the

preceding reporting period and the elective office for which the candidate sought election;

(2) The amount of the aggregate contributions made to each candidate, a political committee, or a political action committee;

(3) The nature and amount of business done with the County. Information concerning the amount of business done may be omitted if the person submitting the statement stipulates that he had done the requisite business in the amount of \$5,000 or more during the period in question;

(4) If the business was done or the contribution was made by another person and is attributed to the person filing the statement under Section 2-299, the name of the person who did the business or made the contribution, and the relationship of that person to the person filing the statement.

(d) The statement shall be filed with the Board, and shall be retained as a public record for at least four years from the date of its receipt. The Board shall make the statements available for examination and copying by the public during normal office hours, subject to such reasonable fees and administrative procedures as may be established.

(e) Prior to participating in a hearing or oral argument before the District Council or a hearing before the Zoning Hearing Examiner concerning a land development activity, a person shall file the statement required by Section 2-298 which contains a statement of all reportable activities which have occurred between the filing

of the annual statement, if any, and the date of the appearance.

(f) Prior to participating in a hearing or oral argument before the District Council or a hearing before the Zoning Hearing Examiner concerning a land development activity, a person shall file a statement which discloses the contents of any written or oral agreement made by every person with another person who is a party of record in which a party of record agrees to participate or refrain from participating in the hearing or oral argument. If the agreement has been reduced to writing, a copy of the writing shall be filed with the statement.

(g) The Board shall prepare and make available forms for the statements required by this Subtitle.

Sec. 2-299. Contributions required to be included in statement.

(a) Each officer, director, and partner of a business entity who makes or causes to be made a contribution which, if made by the business entity, would have to be disclosed under this Subtitle, shall report the contribution to the chief executive officer of the business entity so that it may be included in the statement filed by the business entity.

(b) Each employee, agent, or other person who makes or causes to be made a contribution at the suggestion or direction of a business entity shall report the contribution to the chief executive officer of the business entity so that it may be included in the statement filed by the business entity.

(c) A contribution made by an officer, director, or partner of a business entity, and a contribution made by an employee, agent, or

other person at the suggestion or direction of a business entity, shall for purposes of this Subtitle be attributed to the business entity and shall be included in the statement filed by the business entity as though made directly by it.

(d) Business done with the County by a subsidiary business entity shall be attributed to the parent business entity and shall be included in the statement filed by the parent business entity. Contributions made by, caused to be made by, or attributed to a subsidiary shall for purposes of this Subtitle be attributed to the parent business entity and shall be included in the statement filed by the parent business entity.

(e) If under this Section a contribution made by a director is
attributed to a business entity of which the director is an officer, partner or employee and must be included in a statement filed by a business entity, the contribution may not be attributed to, and need not be included in a statement of, any other nonprofit business entity solely because the contributor is a director of it.

(f) If a business entity is listed on a national stock exchange or is regulated by the Securities and Exchange Commission, the business entity shall only be required to list contributions made by persons whose offices or residences are located within the State of Maryland or within the Washington, D.C. Standard Metropolitan Statistical Area.

SUBTITLE 10. FINANCE AND TAXATION.

DIVISION 3. PURCHASING PROCEDURES.

Subdivision 3. Contracting Procedures.

Sec. 10-163.1. Disclosure statement by persons doing public business.

(a) The Purchasing Agent shall advise each bidder or offeror when responding to a bid solicitation or request for proposals that the award of any contract shall be conditional on the bidder or offeror providing a copy of the statement provided by Section 2-299 of this Code.

(b) No contract shall be awarded nor shall any payment be made to any contractor unless there has been compliance with this Section and Section 2-299 of this Code.

SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable and, in the event that any section, paragraph, sentence, clause, phrase, or word of this Act is declared invalid, illegal or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words, or parts of the Act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, section, word, or part had not been included herein and if the person or circumstances to which the Act or part hereof is inapplicable had been specifically exempted herefrom.

SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect on July 1, 1990.

Adopted this 20th day of March, 1990.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Jo Ann T. Bell
Chairman

ATTEST:

Jean M. Schmuhl, CMC
Clerk of the Council

VETOED:

DATE: April 6, 1990

BY: _____
Parris N. Glendening
County Executive

VETOE SUSTAINED: APRIL 10, 1990

KEY:

Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.