

**REPORT OF THE  
JOINT SUBCOMMITTEE STUDYING**

# **The State and Local Government Conflict of Interest Act**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



## **HOUSE DOCUMENT NO. 31**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2003**

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## Executive Summary

House Joint Resolution 31 (Appendix A), agreed to during the 2002 Session of the General Assembly, established a joint subcommittee to study the State and Local Government Conflict of Interest Act (the Act). Specifically, the charge of the joint subcommittee was to review (i) the definitions of "personal interest in a contract" and "personal interest in a transaction," (ii) the requirements for filing disclosure statements, (iii) rules regarding the disqualification of officials from participating in a transaction when a conflict exists, and (iv) any other areas of confusion or inconsistency in terms of the Act's application. There also was consensus among the joint subcommittee members that the lack of a recent review of the Act coupled with the continuing evolution of the operations of state and local government necessitated the inclusion of a wide range of issues pertaining to the proper application of the Act.

Suggestions and recommendations for possible amendments were encouraged from all interested parties. The Local Government Attorneys Association presented a series of issues cited by its membership as being areas of confusion or problematic or inconsistent application of the Act. These issues and the suggested resolutions greatly assisted the joint subcommittee in its work.

After receiving input from interested parties and its own deliberations, the joint subcommittee unanimously voted to recommend the following amendments to the State and Local Government Conflict of Interest Act:

1. Add a cross-reference to Article 6 of the Virginia Public Procurement Act (Ethics in Public Contracting) at §§ 2.2-3100 and 2.2-3105 of the Act.
2. Amend the definition of "personal interest" to explicitly include an option for ownership of business or property as a personal interest.
3. Amend the definition of the term "business" to include governmental employers.
4. Amend the Act to adequately address related business entities in determining the existence of a personal interest.
5. Amend § 2.2-3112 to require an officer to disclose that a party to a transaction is a client of the officer's firm, and as long as the officer does not personally represent or provide services to the client, the officer may participate in the transaction.
6. Amend the definition of "personal interest in a transaction" to clarify that representation includes providing services to a client.
7. Amend the policy statement contained in § 2.2-3100 to be less sweeping.

8. Amend §§ 2.2-3114 and 2.2-3115 to provide that disclosures of personal interests be included in the minutes of the meeting at which the disclosure is made and to require officials to orally disclose the interest during each pertinent meeting in which discussed.
9. Authorize localities to require all public officers and employees to disclose when they receive any gift and to set a dollar amount on gifts that may be accepted.
10. Amend the term “group” as used in § 2.2-3112 A 1 to consist of more than two people.
11. Amend § 2.2-3112 A 1 to explicitly prohibit the attendance of an officer at closed meetings where a matter in which the officer has a personal interest is discussed and to prohibit discussion of the matter at any time with other officers or employees.
12. Amend §§ 2.2-3114 and 2.2-3115 to require more specificity in the disclosure or declaration of interests that the officer or employee has in businesses or real property. Such disclosure or declaration should require the full name of the business or address or parcel number of real estate.
13. Amend § 2.2-3121 to clarify that when a local government officer requests a written opinion from an attorney for the Commonwealth or a state government officer requests a written opinion from the Attorney General under the Act, such written opinion is a public document subject to disclosure upon request. Also, provide that certain requests for an opinion from the attorney for the Commonwealth or the Attorney General be in writing.

The recommendations were included in a legislative draft introduced as House Bill 1546. The General Assembly passed the bill and the Governor signed it into law to become effective July 1, 2003.

**REPORT OF THE  
JOINT SUBCOMMITTEE STUDYING  
THE STATE AND LOCAL GOVERNMENT CONFLICT OF INTEREST ACT**

**To: The Honorable Mark Warner, Governor of Virginia,  
and  
The General Assembly of Virginia**

**Richmond, Virginia  
June 2003**

## **I. Study Authority and Scope**

House Joint Resolution 31 (Appendix A), agreed to during the 2002 Session of the General Assembly, established a joint subcommittee to study the State and Local Government Conflict of Interest Act. The study charges the joint subcommittee to review (i) the definitions of "personal interest in a contract" and "personal interest in a transaction," (ii) the requirements for filing disclosure statements, (iii) rules regarding the disqualification of officials from participating in a transaction when a conflict exists, and (iv) any other areas of confusion or inconsistency in terms of the Act's application.

The joint subcommittee is comprised of 10 members: four members of the House of Delegates, appointed by the Speaker of the House; two members of the Senate, appointed by the Senate Committee on Privileges and Elections; one attorney for the Commonwealth and one local elected government official appointed by the Speaker of the House; one nonlegislative member appointed by the Senate Committee on Privileges and Elections; and the Attorney General or his designee who shall serve ex officio without voting privileges.

## **II. Background**

The basis for today's concept of conflict of interests is found in the common law rules governing trusts. These rules are best described as follows: the public servant holds a position of trust and confidence and is obligated to act solely in the interest of the beneficiary of that trust—the public. Over the years this concept was broadened to include not only situations where the officer **actually** breached his fiduciary obligation, but also where the officer put himself in a position that allowed public doubts as to his undivided loyalty and integrity. These basic common law concepts were codified through the enactment of various statutes that were located throughout the Code of Virginia. Older enactments either took the form of individual statutes designed to cover a specific officer, problem or abuse, or statutes of broader application such as to prohibit officers and employees from having a personal interest in a public contract. Later statutes often complicated the law by addressing issues and creating exceptions that affected only

certain officials and transactions. The resulting mass of law defining what activity may be undertaken by public officers and employees provided for cumbersome and inconsistent analyses whenever the statutes were applied to individual instances. Still, these statutes proved to be adequate for addressing conflict of interest issues that arose in the context of the small government organizations that existed for most of the state's history. With the growth of government in the twentieth century, the flaws of the conflict of interest laws began to be revealed.

By the 1960's state and local governments had become large organizations employing hundreds of people, spending millions of dollars on a yearly and ongoing basis and providing a wide range of services reaching nearly every aspect of life. In addition to the increase in the number of public officers and employees, there was also an increase in the number of people serving as members of boards and commissions that were created by the state and local governments to advise or assist in the implementation of government programs and policies. This expansion of government activity and responsibility and the attendant growth in the number of individuals involved in public service led to an increase in the occurrences of actual or potential conflicts. The need for qualified public servants whose conduct would withstand constant public scrutiny increased and necessitated legislative attention.

### **III. Evolution of Virginia's Conflict of Interest Law**

Virginia legislators have struggled to develop proper and workable standards of conduct that could be applied fairly and uniformly to state and local officers and employees. As stated above, when the number of officers and employees was relatively small, clear-cut rules were easier to establish and follow. Beginning in the early 1960's with the state government and the various local governments in the midst of dramatic growth, two principle needs pushed to the forefront:

- (i) The need to have high standards of conduct to govern the actions of public officials and employees in order to guarantee that the performance of their duties would not only withstand public scrutiny but also foster public confidence, and
- (ii) The need to have clear and well-understood standards to govern such conduct so that public officers and employees could be judged fairly and so that citizens who undertake public service would have a fair understanding of what is expected of them in terms of continuing their private careers or business interests while fulfilling their public service.

In an attempt to resolve this struggle, in 1968 the General Assembly passed Senate Joint Resolution 26 creating a commission to conduct a thorough investigation of the standards of conduct for public officers and employees and related issues concerning conflict of interests. The nine-member commission was charged to review the conduct of public officers and employees in four main areas: conflict of interests in contracts with government agencies, financial or beneficial interests in activities with the State or localities, professional representation of private interests or governmental agencies in adversary proceedings, and representing private interests before governmental agencies.



The Commission initiated a broad review including all relevant statutes and caselaw, potential conflict of interests problems at the state and local level, incompatible officeholding, and questions involving membership to governing and advisory boards. Based on its study, the commission concluded that the multiplicity of statutes on the subject of conflict of interests had a harmful effect and created confusion by either failing to cover certain cases or discouraging service by qualified individuals because of a lack of clear rules regarding potential conflict of interests. The commission further concluded that it was necessary to develop one basic statute that would govern the conduct of state and local officials and employees to replace and supersede the existing legislative patchwork.

The report of the commission included the recommendation for a proposed conflict of interest statute that would serve to:

- i) Codify in one legislative enactment uniform guidelines that will have standard application throughout the state;<sup>1</sup>
- ii) Clarify prohibited conduct by public officials and proscribed business relationships between public officials and the government;
- iii) Provide a realistic framework to allow citizens to serve the public while at the same time carrying out their normal business enterprises;
- iv) Prohibit contract or business relations between public officials and the government that are likely to be influenced by the official's position, or that may create suspicions of unfairness; and
- v) Provide effective sanctions for enforcement.<sup>2</sup>

### **A. Virginia Conflict of Interest Act (1970)**

The commission's proposal was subsequently enacted by the 1970 session of the General Assembly as the Virginia Conflict of Interest Act (1970 COIA). The Act contained the most comprehensive and far reaching statutory limitations on conduct for public officers and employees that had ever been enacted in the state. Although separate provisions applied to state and local officers and members of the General Assembly, this initial uniform conflict of interest statute applied to **all** public officers. The 1970 COIA drew a distinction between persons serving in a "governmental agency" (which was defined as any government entity exercising some sovereign power) and persons serving in an "advisory agency." Persons serving in advisory capacities were not precluded from having business relations with the government in the same manner. The 1970 COIA also mandated that officers or employees of governmental and advisory agencies had to disqualify themselves from voting or participating in any official action

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<sup>1</sup> The proposed statute also repealed over 37 provisions of the code of Virginia relating to conflict of interests.

<sup>2</sup> See Senate Document Number 11, 1970.

in which they had a material financial interest.<sup>3</sup> In addition, officers and employees were required to disclose annually any material financial interest that the officer or employee had that would be substantially affected by the actions of the governmental or advisory agency for which they served or worked.<sup>4</sup> The Attorney General and each attorney for the Commonwealth were required to establish procedures for implementation of the disclosure requirement.

The 1970 COIA provided that any officer or employee who knowingly violated its provisions would be guilty of a misdemeanor. Further, the officer or employee would forfeit any fruits of the wrongful conduct and any violations constituting malfeasance in office or employment would be subject to administrative sanctions. Enforcement of the 1970 COIA was the responsibility of the Attorney General when violations were alleged by officers or employees at the state level and of the appropriate attorney for the Commonwealth with regard to local officers and employees. The Act required the Attorney General and the attorneys for the Commonwealth to render advisory opinions to public officers or employees on whether the facts in a particular case would constitute a violation.

Though initially believed to be superior to the previous system of several separate statutes, within five years after the enactment of the first uniform conflict of interest statute legislators felt the need for further study particularly in the area of disclosure of interest. In 1975, the General Assembly passed Senate Bill 893 in response to several bills that had been introduced relating to the disclosure of financial interest. The bill directed the Courts of Justice Committee of the Senate and the Senate and House Committees on General Laws to jointly study the state's laws relating to conflicts of interest and disclosure by public officials. That study resulted in legislation recommending several changes to the law; however, the legislation failed.

## **B. Comprehensive Conflict of Interest Act (1983)**

Despite the failure of attempts to amend the 1970 COIA, concerns among both citizen groups and public officials remained about the effectiveness of the Act. Some believed that the 1970 COIA did not sufficiently alleviate conflict of interests relating to the financial interests of public officials and employees in matters arising in the performance of their official duties. On the other hand, public officers and employees complained that the 1970 COIA was difficult to apply to their particular areas of governmental activity. For instance, under the Act all persons serving at various levels of government were subject to the same restrictions on contracting with governmental agencies without regard to whether the employee was in a position to influence the contracts of the agencies. Local officers and employees were therefore prohibited from having any interest in the contracts of local governmental agencies. Further, public officers and employees asserted that the requirements for disclosure of interests were spread throughout the Act with no uniformity in the type of disclosure required or in the time, place and purpose of filing the required disclosures. As the 1983 Session of the General Assembly approached, concerns and complaints regarding the implementation of the Act had reached a climax.

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<sup>3</sup> The 1970 COIA exempted members of the General Assembly from its disqualification provisions. The commission had recommended this exemption citing the "well-established" constitutional principle that each house should be the judge of the qualifications of its members. In its report, the commission urged the House of Delegates and the Senate to examine their rules to determine if changes were necessary.

<sup>4</sup> The statute included a disclosure form to be used by members of the General Assembly.

In the 1983 Session the General Assembly passed Senate Bill 23 repealing the 1970 COIA and enacted the Comprehensive Conflict of Interest Act (1983 COIA). The new Act attempted to clarify the standards of conduct expected of various classes of governmental officers and employees. It separated the officers and employees into four distinct groups: (i) members of the General Assembly, (ii) all other state officers and employees, (iii) members of the governing bodies of counties, cities and towns, and (iv) all other local officers and employees. Using these distinct categories, the new Act specified the prohibitions and limitations that were applicable to each category.

While the scope of the 1983 COIA was the same as the previous Act in terms of application to all state and local officers and employees, further differentiation was provided for members of the General Assembly. The 1983 COIA included an article establishing separate ethics panels in the Senate and the House of Delegates for the purpose of inquiring into alleged violations of the Act by General Assembly members. Not only were the provisions of the act relating to unethical conduct and prohibited contract interests made applicable to the legislative branch, but the standards of conduct for members of the General Assembly were made more stringent than those for other governmental officers and employees. The more stringent standards were to be enforced by the Ethics Advisory Panels of both the House of Delegates and the Senate. These panels had the authority to investigate and report on alleged violations of the Act by current General Assembly members. In addition to disciplinary action within the appropriate legislative body, if either the House or Senate Ethics Panel found reasonable basis to conclude that a member willfully violated the Act, the matter could be referred to the Attorney General for possible prosecution. Neither the Attorney General nor any attorney for the Commonwealth could proceed with a criminal prosecution of a member of the General Assembly under the Act if the matter was under consideration by one of the ethics panels.

The 1983 COIA also contained four substantive changes in the requirements for disclosing personal and financial interests in contracts or transactions. First, except in limited circumstances, an officer or employer no longer had to provide prior written disclosure of his interests in a contract with a governmental agency. Second, only a few designated officers and employees were required to make annual written disclosures of their financial interests. Third, the form of the annual disclosure was specified. Fourth, all disclosure forms were required to be filed annually on or before January 15.

### **C. State and Local Government Conflict of Interest Act (1987)**

The 1983 COIA did not eliminate all the difficulties that conflict of interest laws posed for governmental officials or alleviate complaints concerning the Act. A major point of contention involved prohibited transactions. The 1983 COIA established a two-pronged test for determining when a public official was prohibited from participating in a transaction on behalf of his agency. Under the Act, a public official was prohibited from participating in any transaction on behalf of his agency when (i) he had a personal interest in the transaction and (ii) the transaction had specific application to his personal interest. While the first prong relating to "personal interest" did not prove to be problematic, the second prong caused a great deal of confusion. In November 1984, the Virginia Supreme Court decided the case of Roy A. West v.

Dwight C. Jones, et al., in which it interpreted the language of the new provision to mean that a public servant whose interest is involved in a transaction may participate in that transaction only when his interest is one limited to that which he shares in common with other members of the public at large.<sup>5</sup> In West the Mayor of the City of Richmond wanted to participate in the city council's appointment of members to the city school board, despite the fact that he was employed by that board as a school principal. The court reasoned that although the public in general is affected by the selection of school board members, the mayor's relationship with the school board as a middle school principal would cause the appointment of the school board's members to affect his personal interests far more significantly and specifically than such appointments could possibly affect the general interests of the public.

Based on this interpretation, the Attorney General's Office issued a series of opinions holding that the West decision required a public official to disqualify himself unless his interest is qualitatively and quantitatively the same as the interest of the public at large. The opinions, issued between February 1985 and March 1986, held that: (i) a member of a county board of supervisors who is a regularly employed teacher in the county school system may not participate in the selection and appointment of county school board members (2/22/85), (ii) a member of a county school board whose wife is a teacher in the county school system may not vote on the school system's budget (9/22/85), and (iii) a member of a county board of supervisors whose wife is a teacher in the county school system may not participate in the board's consideration of and voting on school board appointments or the school board budget. Many believed that the Court's interpretation and the subsequent Attorney General opinions were overly restrictive.

In addition to this view of overly restrictive interpretation, a significant constitutional issue was raised concerning the provision in the 1983 COIA that allowed the House or Senate Ethics Advisory Panel to, upon determination that a member of the General Assembly willfully violated the Act, refer the matter to the Attorney General for prosecution. Some believed that these provisions violated Article IV, Section 9 of the Virginia Constitution because it improperly subjected members to being answerable for legislative conduct outside of the legislative body to which they belonged.<sup>6</sup>

In response to these and other issues related to the area of conflict of interests, in 1986 the General Assembly passed a resolution establishing a joint subcommittee to evaluate the adequacy and effectiveness of the 1983 COIA.<sup>7</sup> The joint subcommittee had a very broad charge including determining whether there was a need to revise the scope of the subject matter to which the Act applied and with regard to the personnel covered. The joint subcommittee divided its inquiry into the areas of (i) application of conflict of interest laws to legislative members, (ii) transactions of specific application, (iii) prohibited conduct, (iv) enforcement, (v) advisory opinions, and (vi) financial disclosure statements. Staff conducted a broad comparative

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<sup>5</sup> West v. Jones, 228 Va. 409, 323 S.E.2d 96 (1984).

<sup>6</sup> Article IV, Section 9 of the Virginia Constitution reads: "Members of the General Assembly, shall in all cases except treason, felony, or breach of the peace, be privileged from arrest during the sessions of their respective houses; and for any speech or debate in either house shall not be questioned in any other place. They shall not be subject to arrest under any civil process during the sessions of the General Assembly; or during the fifteen days before the beginning or after the ending of any session. (emphasis added)

<sup>7</sup> Senate Joint Resolution 68 (1986).

analysis of each subject that included a review of the conflict of interest laws of other states and the federal government.<sup>8</sup> At the conclusion of its study the joint subcommittee recommended a major overhaul of the conflict of interest statute. The most prominent of the joint subcommittee recommendations was for the creation of separate conflict of interest statutes to govern state and local officials and employees and members of the legislature.

In 1987, the General Assembly enacted legislation repealing the Comprehensive Conflict of Interest Act and establishing the State and Local Government Conflicts of Interest Act, the most direct predecessor of the current Act, and the General Assembly Conflict of Interest Act.

Since the 1986 study, there have been no other comprehensive legislative studies of the conflict of interest statute. There have been several substantive changes made that have attempted to provide clarification and in some instances expand the coverage of the Act. Appendix B provides an overview of substantive legislation introduced since the establishment of the first uniform act in 1970.

## **IV. Overview of the State and Local Government Conflict of Interest Act.**

Restrictions on the activities of public officers and employees have existed through the history of the Commonwealth. For instance, there have always been clear lines of distinction regarding conduct that is almost uniformly considered to be a flagrant abuse of an office such as nepotism, bribery or extortion. At the same time, legitimate personal and business interests of public officers and employees have always existed and been accepted. The current State and Local Government Conflict of Interest Act seeks to regulate the conduct of state and local officers and employees that lie between the flagrant abuse of office and the legitimate personal and business interests of public officers or employees. What follows is an overview of the Act including a brief discussion of its chief substantive provisions.

### **A. Article 1 – General Provisions**

Article 1 contains the statement of purpose for the Act, which is to establish a single body of law on conflict of interests that is applicable to all state and local government officers and employees in order to provide minimum standards of conduct that are uniform throughout the State. In addition, Article 1 contains the General Assembly's policy statement concerning conflict of interests and acknowledges the types of conflicts that it seeks to prevent. It reads:

*"The General Assembly, recognizing that our system of representative government is dependent in part upon (i) citizen legislative members representing fully the public in the legislative process and (ii) its citizens maintaining the highest trust in their public officers and employees, finds and declares that the citizens are entitled to be assured that the judgment of public officers and employees will not be compromised or affected by inappropriate conflicts." (emphasis added)*

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<sup>8</sup> Initial Staff Report, Joint Subcommittee Studying The Comprehensive Conflicts of Interest Act, September, 1986

It is clear from this policy statement that the legislative intent of the Act is to engender confidence in public bodies and to eliminate situations in which preference or undue influence could come to bear in the operation of government.<sup>9</sup> To this end, the General Assembly has directed that the Act be liberally construed to accomplish its purpose. It necessarily follows that any exceptions or exemptions from its provisions must be narrowly construed.

Also included in Article 1 are the definitions that are used in the application of the Act. State and local entities are divided into two classes: governmental and advisory. A "governmental agency" is an entity of either the legislative, executive or judicial branch of state and local government created by law to exercise a regulatory or sovereign power or duty. An "advisory agency" is defined as any board, commission, committee or post that does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or created by law to study, recommend, advise or consult with a governmental agency.

Three provisions define relevant interests for the purposes of the Act: "personal interest," "personal interest in a contract," and "personal interest in a transaction." The personal interest definition is the basis for the other two definitions, which are applied to more specific situations. It is also the most important definition because it is personal interest that the statute seeks to regulate. "Personal interest" is defined as a financial benefit or liability accruing to an officer or employee or to a member of the immediate family of the officer or employee.<sup>10</sup> Five relationships or affiliations are listed as creating a personal interest:

- (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business;
- (ii) annual income that exceeds, or may be reasonably anticipated to exceed, \$10,000 from ownership in real or personal property or a business;
- (iii) salary, other compensation, fringe benefits, or benefits from the use of property or any combination, paid or provided by a business that exceeds, or may reasonably be anticipated to exceed, \$10,000 annually;
- (iv) ownership of real or personal property if the interest exceeds \$10,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; or
- (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business.

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<sup>9</sup>West v. Jones, 228 Va. at 415, 323 S.E.2d at 100.

<sup>10</sup> "Immediate family" is defined as a spouse and any other person residing in the same household as the officer or employee who is a dependent of the officer or employee or of whom the officer or employee is dependent.

A "personal interest in a contract" is a personal interest that an officer or employer has in a contract with a governmental agency. The personal interest may be present if the officer or employee is a party to the contract or if there is a personal interest in a business that is a party to the contract.

"Personal interest in a transaction" is a personal interest of an officer or employee in any matter considered by his agency.<sup>11</sup> A personal interest in a transaction exists if an officer or employee or a member of the immediate family of an officer or employee has a personal interest in property or a business and the property or business (i) is the subject of the transaction, or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the agency considering the transaction. The same result is reached if the public officer, employee or immediate family member represents an individual or business that is either the subject of the transaction or may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the agency considering the transaction.

A personal interest shall not exist in instances where an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity.

## **B. Article 2 - Generally Prohibited and Unlawful Conduct**

Article 2 of the Act contains general prohibitions on the conduct of state and local government officers and employees. Generally, officers and employees are prohibited from soliciting or accepting money or other objects of value in excess of the compensation, expenses and other remuneration received from their agencies for services performed within the scope of their official duties. In addition, an officer or employee may not (i) offer or accept anything of value for, or in consideration of, obtaining an appointment or promotion with any governmental or advisory agency, (ii) accept any money, loan, gift, favor, service or business or professional opportunity that might reasonably tend to influence the discharge of his duties, or (iii) use or disclose any confidential information that was gained by virtue of his public position, for his own personal benefit or for the benefit of others.

Officers and employees are also generally prohibited from accepting gifts from a person who has interests that may be substantially affected by the performance of the officer's or employee's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the officer's or employee's impartiality in the matter affecting the donor or from any sources on a basis so frequent as to raise an appearance of the use of his public office for private gain.<sup>12</sup> The provisions relating to gifts are not subject to criminal penalties.

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<sup>11</sup> "Transaction" is defined as any matter considered by any governmental or advisory agency, whether in committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

<sup>12</sup> "Gift" is defined as any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement

Article 2 of the Act also contains an additional provision that prohibits the Governor, Lieutenant Governor, Attorney General and certain other high-level employees of the executive and legislative branches from representing or acting in a representative capacity on behalf of persons or groups, for compensation, on any matter before the agency for which the employee was an officer or employee for a period of one year after the termination of public employment or service. The prohibition applies only to persons engaged in lobbyist activities including influencing or attempting to influence executive or legislative action through oral or written communication with an executive or legislative official or solicitation of others to influence an executive or legislative official.<sup>13</sup> Persons covered by this provision may request an advisory opinion from the Attorney General regarding whether the restriction applies to a particular post-public employment position or opportunity.

### **C. Article 3 - Prohibited Conduct Relating to Contracts**

This article divides public officers and employees into four categories: (i) officers and employees of state government, (ii) members of local governing bodies, (iii) members of school boards, and (iv) other officers and employees of local governmental agencies. In doing so, the Act recognizes that the potential for a conflict to arise would differ based on the type of governmental affiliation an individual might create and the type of government entity that is involved. Separating prohibitions according to these categories allows the different restrictions to be delineated according to the various affiliations or relationships that may be created within the categories.

Generally, an officer or employee of a governmental agency is prohibited from being a contractor or subcontractor, or having a personal interest in any contract with the governmental agency of which he is an officer or employee other than his own contract of employment. An officer or employee of a governmental agency is prohibited from contracting with any other governmental agency or having a personal interest in any such agreement unless either (i) the contract is awarded after competitive sealed bidding or competitive negotiation, or (ii) the governing body or administrative head of the agency has determined that in the public interest such a contract should not be acquired through competitive bidding or negotiation. There is a further requirement that members of the local governing body or school board must have no involvement in the preparation of the specifications for that contract and the remaining members of the governing body or school board must state in a resolution that it is in the public interest for the member to bid on the contract.

### **D. Article 4 - Prohibited Conduct Relating to Transactions**

This article requires a state or local government officer or employee who has a personal interest in a contract to disqualify himself from participating in the transaction if it applies solely to property or a business in which the officer or employee has a personal interest. The officer or

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after the expense has been incurred. Excluded from the definition of a gift is any (i) offer of any unused ticket or other admission or pass, (ii) honorary degrees or (iii) presents from relatives.

<sup>13</sup> See § 2.2-419.



employee is required to disclose the personal interest and is prohibited from voting or acting in any manner on behalf of the agency in the transaction.

A state or local officer or employee is permitted to participate in a transaction despite the presence of a personal interest if he is a member of a business, profession, occupation, or group that is affected by the transaction and he declares his interest by stating (i) the transaction involved, (ii) the nature of his personal interest affected by the transaction, (iii) that he is a member of the business profession, occupation or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The declaration may be made in writing and filed with the clerk or administrative head of the agency or made orally to be recorded in the minutes for his agency. Participation by the officer or employee is also permitted in instances where the transaction, while affecting his personal interest, also affects the public generally.

The article also includes provisions applicable in instances where disqualification of a member or members results in the agency not having the required number of members left to act. In such situations, the remaining members are authorized by the statute to act for the agency by majority vote unless a unanimous vote of all members is required by law, in which case a unanimous vote of the remaining members is required.

#### **E. Article 5 - Disclosure Statements**

Disclosure by state and local government officers and employees of certain specified personal and financial interest is mandated by Article 5. The disclosure is required as a condition of taking office and must be filed annually by January 15. Disclosure must also be made using one of two forms that are contained in the statute. Section 2.2-3117 contains the disclosure form for most public officials and employees while the form contained in § 2.2-3118 is for use for most citizen members of state or local entities. The Secretary of the Commonwealth is charged with providing the form to the applicable state government officers and employees by November 30. For local officers and employees, the Secretary must provide the forms to the appropriate local clerk who then has until December 10 to distribute the form to the local officer or employee required to submit the disclosure. In addition, this article contains the requirement discussed above for declaring a personal interest in a transaction that is before a governmental agency. Such declaration must be maintained in the agency's records for five years.

Distinction is made regarding the particular disclosure to be made by state officers and employees, local government officers and employees and constitutional officers. To assist in the review of the disclosure requirements, this report separates the officers and employees, along with the provision of the Act describing the category, by the following nine categories:

##### ***Category #1 (Section 2.2-3114 A)***

Governor, Lieutenant Governor, Attorney General, Judges, Members of the State Corporation Commission, Worker's Compensation Commission, Commonwealth Transportation Board, State Lottery Board, Trustees of the Virginia Retirement System;

**Category #2 (Section 2.2-3114 A)**

Employees of the executive or legislative branch as designated by the Governor or the Joint Rules Committee, respectively;

**Category #3 (Section 2.2-3114 B)**

Nonsalaried citizen members of policy and supervisory boards, commissions, and councils in the executive branch;

**Category #4 (Section 2.2-3115 A, paragraph 1)**

Members of the governing body and school board of each county and city and town in excess of 3,500 in population and persons designated by the governing body;

**Category #5 (Section 2.2-3115 A, paragraph 2)**

Members of county or city authorities having the power to issue bonds or expend funds in excess of \$10,000 in any fiscal year;

**Category #6 (Section 2.2-3115 A, paragraph 3)**

Employees designated by ordinance of the local governing body;

**Category #7 (Section 2.2-3115 A, paragraph 4)**

Employees designated by policy of the local school board;

**Category #8 (Section 2.2-3115 B)**

Nonsalaried citizen members of local boards, commissions, and councils as may be designated by the governing body; and

**Category #9 (2.2-3115 G)**

Treasurer, Sheriff, Commonwealth Attorney, Circuit Court clerk, and Commissioner of Revenue (constitutional officers).

In addition to these categories of individuals who are required to make disclosure of personal interests, all members of planning commissions, boards of zoning appeals, real estate assessors and all county, city, and town managers and executive officers are required to make annual disclosures regarding real estate interests located in the locality in which they serve. Further, the individuals covered by this provision must include in the disclosure any business in which in they own an interest or from which any income is received if such business has as its primary purpose to own, develop or derive compensation through the sale, exchange or development of real estate in the locality.

The Statement of Economic Interests form found at § 2.2-3117 provides the information that must be disclosed and the form for the disclosure for most public officers and employees. (Appendix D). The disclosure must include the following information: (i) paid offices and directorships, (ii) certain personal liabilities in excess of \$10,000 including those of immediate family members, (iii) payments for talks, meetings and publications, (iv) certain gifts valued in

excess of \$50 or \$100, (v) certain business interests valued in excess of \$10,000, (vi) payments for representation by the filing individual, (vii) payments for representation by associated individuals, (viii) certain payments received from businesses in excess of \$1,000, and (ix) certain real estate valued in excess of \$10,000.

## **F. Article 6 - School Boards and Employees of School Boards**

Additional provisions for school boards and employees of school boards are outlined in Article 6. Since 1928, the General Assembly has restricted the authority of a school board to employ relatives of its members. Initially, without exception, a father, mother, brother, sister, wife, son or daughter of a school board member could not be hired as a teacher in the board member's district. From 1928 to the present provision this hiring restriction has been expanded, modified, and recodified. The current provisions prohibit the employment or payment with public funds (federal, state or local) of a father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law of the superintendent, or of any member of the school board. There are, however, three primary exceptions to these prohibited employment and payment provisions. The Act does not prohibit employment or payment when the employment occurred prior to the board member or superintendent taking office, the employment occurred prior to the inception of a relationship or the individual was employed prior to June 10, 1994, with any Virginia school board.

Any member of the school board or any division superintendent who knowingly violates the provisions of this article is personally liable to refund the local treasury any amounts that have been paid on account of the violation.

## **G. Article 7 - Penalties and Remedies**

The final article stipulates the penalties and remedies for enforcement of the Act. In most instances, a person who knowingly violates the provisions of the Act is guilty of a Class 1 misdemeanor.<sup>14</sup> The Act does specify, however, that in instances where the knowing violation involves the failure to comply with certain disqualification or disclosure requirements, the penalty shall be a Class 3 misdemeanor.<sup>15</sup> A "knowing violation" is one in which the person engages in conduct, performs an act or refuses to perform an act when it is known that the conduct is prohibited or required by the Act.<sup>16</sup> An individual convicted of a knowing violation is also guilty of malfeasance in office or employment and the judge or jury trying the criminal case may order the forfeiture of the office or employment in addition to the appropriate fine or penalty. Provisions are also included for the invalidation of contracts, rescission of sales and imposition of civil penalties where actions have been taken by officers or employees in violation of the Act.

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<sup>14</sup> Punishment for conviction of a Class 1 misdemeanor is confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both; for a Class 3 misdemeanor, a fine of not more than \$500. See § 18.2-11, Code of Virginia.

<sup>15</sup> The Class 3 misdemeanor penalty applies to §§ 2.2-3112 A, 2.2-3115 C or 2.2-3115 E

<sup>16</sup> See § 2.2-3120

The Attorney General is responsible for the enforcement of the Act as it relates to state officers and employees, while the appropriate attorney for the Commonwealth enforces the act as it relates to local officers and employees within his jurisdiction. Attorneys for the Commonwealth may also prosecute violations by an officer or employee at the state level if designated by the Attorney General. In addition, the attorney for the Commonwealth is required to establish written procedures for implementing the disclosure requirements for local officers and employees of his locality and for other political subdivisions that have principal offices in his jurisdiction.

As important as enforcement from the standpoint of successful compliance with the Act is the provision mandating advisory opinions on whether the facts in a particular case would constitute a violation. The Attorney General is required to render such advisory opinions upon the request of any state officer or employee and further to publish any opinions he determines to be of general interest to the public. An overview of opinions issued by the Attorney General since 1988 that reference the State and Local Government Conflict of Interests Act is found at Appendix C. An attorney for the Commonwealth must provide advisory opinions to the governing body and any local officer in his jurisdiction as well as to political subdivisions whose principal offices are located within the jurisdiction. As a practical matter, city, county or town attorneys also provide advisory opinions to their clients regarding the Act in the form of legal advice. The Act provides some protection from prosecution or the ability to produce evidence at trial when a state or local government employee has, in good faith, relied on an opinion by the Attorney General, an attorney of the Commonwealth or his own city, county or town attorney.

## **V. Recent Legislative Action**

As evidenced by the legislation that has been introduced since the enactment of the current Act, the effort to achieve uniform standards of conduct for state and local public officials that are fair and practical is ongoing (See Appendix B). Many of these legislative initiatives dealt with a specific issue or problem involving a state government entity or a particular locality and attempted to expand or modify the Act to address the issue or problem. A recent example of such an initiative that was unsuccessful is House Bill 112 introduced during the 2002 Session of the General Assembly. The bill attempted to address issues that had arisen in Prince William County regarding the disclosure required by public officials and members of local land use advisory entities. Regarding public officials, the bill would have required that when an individual was required to disqualify himself from participating in a transaction based on a personal interest that the accompanying disclosure *specifically* identify the nature of the personal interest. Regarding land use advisory entities, the bill would have made two changes to the Act. First, it would have expanded the definition of "personal interest" to include options to own interests that otherwise would constitute a "personal interest" under the Act. Second, the bill would have authorized a local governing body to require members of entities created to advise the locality on land use issues to make disclosure of their interests in real estate located in the locality as a condition of taking the membership. The bill was ultimately continued in the Senate General Laws Committee.

In addition to House Bill 112, there were two study resolutions introduced during the 2002 Session. Both House Joint Resolution 31 and House Joint Resolution 61 cited the need to

conduct a review of the conflict of interests statute based on the rapidly changing environment and operations of state and local government and the lack of any comprehensive review of the Act since 1987. After incorporating House Joint Resolution 61 into House Joint Resolution 31, the legislature passed the latter, which serves as the basis for the present study of the State and Local Government Conflict of Interest Act.

## **VI. Work of the Joint Subcommittee**

### ***June 18, 2002***

The meeting began with a staff presentation of an overview of recent evolution of conflict of interest law and a review of the current State and Local Conflict of Interest Law. After the presentation, members of the joint subcommittee discussed examples of situations raising conflict of interests issues. Two issues generated significant discussion. The first issue focused on whether it was proper for a member of a local governing body, who is also a schoolteacher, to vote on the budget for the school board. The second issue involved whether an option to purchase real estate amounted to an interest in real estate that required disclosure under the Act and if so, how such disclosure should be made. Delegate Marshall noted that it was this issue relating to a member of a local land use advisory entity that led to the introduction of the resolution to create the joint subcommittee.

The joint subcommittee members also discussed the appropriate scope of its inquiry. There was consensus among the membership that lack of a recent review of the Act coupled with the continuing evolution of the operations of state and local government necessitated the inclusion of a wide range of issues pertaining to the proper application of the Act.

Sharon Pandak, the Prince William County Attorney, appeared on behalf of the Local Government Attorneys Association (the LGA). Ms. Pandak stated that the LGA was in the process of performing an extensive review of the Act with its membership. The review would include a survey of the LGA members regarding problematic areas of the Act and suggestions for changes, a summary of conflict of interests laws in other states, and a compilation of reference materials pertaining to the Act. Ms. Pandak stated that the work group was moving toward an initial product in early July.

The joint subcommittee members agreed that the work of the LGA would be extremely beneficial and should be included in the future work sessions of the joint subcommittee as it moved toward determining recommendations. Delegate Marshall suggested that the joint subcommittee schedule its meetings in a manner that would allow the work of the LGA to be included.

### ***August 23, 2002***

The joint subcommittee's second meeting of the interim began with Chairman Marshall noting the passing of joint subcommittee member W. Edward Meeks, III and the expression of condolences to the Meeks family on behalf of the joint subcommittee. Mr. Meeks was the County Attorney for Amherst County in addition to serving as the county's attorney for the

Commonwealth. Chairman Marshall also noted that Mr. Joel R. Branscom had been appointed to replace Mr. Meeks.

Ms. Pandak appeared on behalf of the LGA to present a series of recommendations and suggestion for changes to the Act (Appendix E). Ms. Pandak headed a committee established by the LGA to conduct a general review of the Act. She stated that the committee surveyed LGA members regarding the issues that they felt warranted scrutiny by the joint subcommittee and that the final product represents the LGA committee's consensus regarding those issues and includes suggested changes to alleviate them. Ms. Pandak further emphasized that, while legal counsel for the Virginia Association of Counties and the Virginia Municipal League had reviewed the LGA committee's report and recommendations, it had not been possible to canvass the greater LGA membership for specific approval. Les Lilly, City Attorney for Virginia Beach and Joe Rapisarda, County Attorney for Henrico, also members of the LGA committee, assisted Ms. Pandak in the presentation.

Ms. Pandak presented a total of 12 issues and suggested amendments relating to COIA. At the completion of the presentation, Chairman Marshall suggested that it would be appropriate to allow the joint subcommittee to review the recommendations further. It was resolved that the next meeting of the joint subcommittee would include a more detailed review of each of the issues presented by the LGA committee.

### ***October 3, 2002***

With the assistance of Ms. Pandak and Roger Ingram of the Virginia Beach City Attorney's Office, the joint subcommittee proceeded to review each issue contained in the LGA committee report.

**Issue #1:** The Act does not cross-reference the Ethics in Contracting provisions of the Virginia Public Procurement Act, which prohibits certain contracts involving public officers or employees who have procurement authority on behalf of a public body.

**Subcommittee Action:** Include a cross-reference the Ethics in Public Contracting provisions of the Virginia Public Procurement Act in §§ 2.2-3100 and 2.2-3105 of the Act.

**Issue #2:** The definition of "personal interest" does not explicitly include option contracts, and thus some officials have concluded that such contracts do not have to be disclosed.

**Subcommittee Action:** Provide that an option for ownership of a business or property shall be included in the definition of "personal interest."

**Issue #3:** A member of a locality's governing body who is also a public employee may vote on contracts with his agency, his own salary, and other matters involving his governmental employer because one's salary can only create a personal interest if the salary is from a "business," and under the Act, the term "business" does not include governmental employers.

**Subcommittee Action:** Expand the definition of "business" to include governmental employers.

**Issue #4:** An official with a personal interest in a business can vote on matters involving a different business that shares the same principals or shareholders or both or is a subsidiary of the business in which he has an interest, because the Act's definition of "business" does not address related entities.

**Subcommittee Action:** Amend the definition of "business" to address related entities.

**Issue # 5:** The Act does not provide guidance to a local government official in a transaction where a client of his firm (whom he does not personally represent or provide services to) is the subject of the transaction, and the firm will not realize a reasonably foreseeable benefit or detriment. Also, the Act provides no guidance as to the scope of the term "representation."

**Subcommittee Action:** Require an officer to disclose that the party to a transaction is a client of the officer's firm, and so long as the officer does not personally represent or provide services to the client and the firm will not realize a reasonably foreseeable benefit or detriment, the officer may vote on the transaction. Also, add language to the definition of "personal interest in a transaction" that makes it clear that "representation" includes providing services to a client.

**Issue #6:** The Act prohibits an employee from accepting anything that reasonably tends to influence him in the performance of his duties. The term "reasonably tends to influence" is undefined and will vary depending upon the officer's position or wealth or both. Unless circumstances are extreme, this is an unenforceable standard.

**Subcommittee Action:** Explicitly authorize localities to (i) require all public officers and employees to disclose when any gift is received and (ii) set a dollar amount limit on gifts that may be accepted.

**Issue #7:** The Act makes an exception to the rule against personal interests in a transaction for members of a group affected by the transaction. Because the term "group" is not defined, some have broadly interpreted the term concluding that two similarly situated people can constitute a "group."

**Subcommittee Action:** Define the term "group" as consisting of more than two people.

**Issue #8:** The Act does not define the term "participation," and thus there is no explicit prohibition precluding an officer from either discussing an issue for which he has a conflict, outside of a formal meeting, with government employees and elected officials or attending (but not participating in) closed session meetings on the issue.

**Subcommittee Action:** Explicitly provide that the prohibition against participation precludes both the attendance at portions of any closed session meetings in which the

matter is discussed and the discussion of the matter with members of the governing body and government employees at any time.

**Issue #9:** Disclosure requirements regarding interest in real property or businesses do not require the official to identify the specific property or business that causes an official to have a personal interest.

**Subcommittee Action:** Require the disclosure of the name of the business or address or parcel number of the real estate that creates a personal interest.

**Issue #10:** The Act unintentionally incorporates inherent conflicts for the attorney for the Commonwealth in that he has two conflicting roles: prosecutor and advisor. Also, although officials should not be discouraged from seeking advisory opinions, failure to release a Conflict of Interest Act opinion of the attorney for the Commonwealth may result in erosion of public confidence if the opinion is relied upon to permit the official to vote.

**Subcommittee Action:** Clarify that when a local government official requests a written opinion from an attorney for the Commonwealth under the Act, such written opinion is a public document subject to disclosure upon request.

**Issue #11:** The Act purports to assure the public that the judgement of public officers and employees will not be compromised or affected by inappropriate conflicts. Few disqualifications, however, are required and in many instances officials may simply disclose the interest and vote after certifying that they are acting in the public interest.

**Subcommittee Actions:** 1) Amend the Act's policy statement to make it less sweeping and state that the Act merely sets forth certain prohibited acts and the requirements for disclosure and disqualification. Also state that the Act sets a minimum standard of conduct. 2) Amend the Act to require that all disclosures must be included in the minutes and that officials must orally disclose the interest during each meeting in which the matter for which disclosure is required is discussed.

**Issue #12:** Officials, lay people, and even attorneys cannot readily understand the Act's intricate and often confusing provisions, and those provisions are often interpreted differently by local government attorneys and attorneys for the Commonwealth of various localities. It is suggested that either a legislative council similar to the Freedom of Information Advisory Council be created or that a special unit of the Attorney General's office be created to answer questions from all persons covered by the Act and to ensure more uniform application.

**Subcommittee Action:** It was the consensus of the joint subcommittee that neither of the suggested solutions be accepted.

At the conclusion of the meeting, Chairman Marshall directed staff to draft legislation incorporating the actions taken by the joint subcommittee. The next meeting of the joint subcommittee will focus on finalizing the draft as a part of the joint subcommittee's final report. The clerk will poll the members to set the next meeting date.



*November 20, 2002*

The meeting began with a detailed review of the proposed draft of legislation containing the decisions of the joint subcommittee from the previous meeting. There was some discussion among the membership regarding the approach taken in the draft in the following areas: (i) expanding the definition of "business" to include subsidiary and affiliated entities, (ii) disclosure of representation as a personal interest in a transaction, (iii) authorizing local ordinances pertaining to gifts, and (iv) clarification of the role of the attorney for the Commonwealth in providing advice to local government officers.

*Subsidiary and affiliated entities*

The draft used a three-part approach to resolve the issue as presented in the previous joint subcommittee meeting. First, definitions were added for parent-subsidiary relationship and affiliated business entity relationship as follows:

*"Affiliated business entity relationship" means a relationship, other than a parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.*

*"Parent-subsidiary relationship" means a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.*

Second, the draft required an officer to disqualify himself if the transaction has sole application to a business that has a parent-subsidiary relationship or affiliated business entity relationship with a business in which he has a personal interest. Third, the draft required the officer to orally disclose the existence of the interest at each meeting that the transaction is discussed and that the disclosure be recorded in the minutes. Initially there was some concern that the definitions were too broad. After some discussion, the joint subcommittee agreed that the approach taken in the draft adequately resolved the concerns that had been expressed relative to the types of interests that should be disclosed.

*Disclosure of representation*

The joint subcommittee determined that government officers should be required to disclose that a party to a transaction is a client of the officer's firm even if the officer did not provide services or represent the client. The joint subcommittee further determined that it would

be appropriate to allow the officer to vote as long as he did not personally represent or provide services to the client and the firm will not realize a reasonably foreseeable benefit or detriment. The draft achieved this by establishing a declaration provision similar to the declaration provision when an officer is a member of a profession or group.

#### *Local gift ordinances*

The draft specifically authorizes any locality to require public officers and employees of that locality to disclose when they receive any gift and to set a dollar amount on gifts that may be accepted. Delegate Cosgrove stated that the language included in the draft may allow a locality to create an unworkable situation by setting an arbitrarily low amount. Senator Rerras suggested that the language of the draft include a limitation on the amount that may be set by a locality for gift disclosure. After some discussion, however, it was the consensus of the joint subcommittee that a specific monetary limitation should be included in the draft.

The LGA also recommended that the draft clarify that the ordinance would also cover appointees of the local governing body in addition to officers and employees. The joint subcommittee agreed and added the language to the draft.

#### *Role of the Commonwealth's Attorney*

The draft amended § 2.2-3121 to clarify that when a local government official requests an advisory opinion from an attorney for the Commonwealth and the opinion is provided in writing, it will be treated as a public record subject to release upon request. The joint subcommittee also resolved that the draft be amended to require that the request for a written opinion be in writing and that the provision be extended to include situations where a state officer or employee requests an advisory opinion from the Attorney General.

The meeting concluded with the joint subcommittee members agreeing on the final text of draft legislation containing a total of 13 recommended changes to the State and Local Government Conflict of Interest Act.

## **VII. Final Recommendations of the Joint Subcommittee**

It is the unanimous recommendation of the joint subcommittee that the following amendments be made to the State and Local Government Conflict of Interest Act:

1. Add a cross-reference to Article 6 of the Virginia Public Procurement Act (Ethics in Public Contracting) at §§ 2.2-3100 and 2.2-3105 in the Act.
2. Amend the definition of “personal interest” to explicitly include an option for ownership of business or property as a personal interest.
3. Amend the definition of the term “business” to include governmental employers.

4. Amend the Act to adequately address related business entities in determining the existence of a personal interest.
5. Amend § 2.2-3112 to require an officer to disclose that a party to a transaction is a client of the officer's firm, and as long as the officer does not personally represent or provide services to the client, the officer may participate in the transaction.
6. Amend the definition of "personal interest in a transaction" to clarify that representation includes providing services to a client.
7. Amend the policy statement contained in § 2.2-3100 to be less sweeping.
8. Amend §§ 2.2-3114 and 2.2-3115 to provide that disclosures of personal interests be included in the minutes of the meeting at which the disclosure is made and to require officials to orally disclose the interest during each pertinent meeting in which discussed.
9. Authorize localities to require all public officers and employees to disclose when they receive any gift and to set a dollar amount on gifts that may be accepted.
10. Amend the term "group" as used in § 2.2-3112 A 1 to consist of more than two people.
11. Amend § 2.2-3112 A 1 to explicitly prohibit the attendance of an officer at closed meetings where a matter in which the officer has a personal interest is discussed and to prohibit discussion of the matter at any time with other officers or employees.
12. Amend §§ 2.2-3114 and 2.2-3115 to require more specificity in the disclosure or declaration of interests that the officer or employee has in businesses or real property. Such disclosure or declaration should require the full name of the business or address or parcel number of real estate.
13. Amend § 2.2-3121 to clarify that when a local government officer requests a written opinion from an attorney for the Commonwealth or a state government officer requests a written opinion from the Attorney General under the Act, such written opinion is a public document subject to disclosure upon request. Also, provide that certain requests for an opinion from the attorney for the Commonwealth or the Attorney General be in writing.

The joint subcommittee further directed staff to complete draft legislation for introduction in the 2003 Session of the General Assembly (Appendix F). The legislation was subsequently introduced as House Bill 1546. The General Assembly passed the bill and the Governor signed it into law to become effective July 1, 2003.

Respectfully submitted,  
Robert G. Marshall, *Chairman*  
Thomas K. Norment, *Vice Chairman*  
The Honorable Clifford L. Athey, Jr.  
The Honorable John A. Cosgrove  
The Honorable Brian J. Moran  
The Honorable D. Nick Rerras  
The Honorable Frank D. Hargrove, Jr.  
Jeffrey B. Buettner  
Thomas M. Moncure, Jr., Esq.  
Joel R. Branscom, Esq.

**2002 SESSION****ENROLLED****HOUSE JOINT RESOLUTION NO. 31***Establishing a joint subcommittee to study the State and Local Government Conflict of Interests Act.*

Agreed to by the House of Delegates, February 12, 2002

Agreed to by the Senate, March 5, 2002

WHEREAS, our system of representative government is dependent in part upon its citizens maintaining the highest trust in their public officers and employees; and

WHEREAS, the General Assembly has found and declared that citizens are entitled to the assurance that the judgment of public officers and employees will not be compromised or affected by inappropriate conflicts; and

WHEREAS, the State and Local Government Conflict of Interests Act was enacted by the General Assembly in 1987 in consideration of this axiom and for the purpose of establishing a single body of law applicable to all state and local government officers and employees on the subject of conflict of interests, so that the standards of conflict of such officers and employees may be uniform throughout the Commonwealth; and

WHEREAS, application of the Act since 1987 has revealed confusion regarding the meaning and purpose of important provisions; and

WHEREAS, this confusion serves to frustrate the purpose for which the Act was established and may contribute to creating a lack of confidence by the publicly elected or publicly appointed government officials and government employees; and

WHEREAS, the best and most important safeguard against the occurrence of a conflict of interest remains the integrity of government officials and employees who are personally and professionally obligated to serve the public with honesty and integrity in the context of clear legal principles; and

WHEREAS, there has been no comprehensive review of the Act since 1987; and

WHEREAS, rapidly expanding activities and businesses in the Commonwealth and its political subdivisions have created new financial opportunities that may not be fully addressed by the current conflict of interest laws; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study the State and Local Government Conflict of Interests Act. The joint subcommittee shall be composed of 10 members as follows: 4 members of the House of Delegates to be appointed by the Speaker of the House in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; 2 members of the Senate to be appointed by the Senate Committee on Privileges and Elections; 1 attorney for the Commonwealth and 1 local elected government official to be appointed by the Speaker of the House; 1 nonlegislative member to be appointed by the Senate Committee on Privileges and Elections; and the Attorney General or his designee to serve ex officio without voting privileges.

In conducting its study, the joint subcommittee shall review (i) the definitions of "personal interest in a transaction" and "personal interest in a contract," (ii) requirements for filing disclosure statements, (iii) rules regarding the disqualification of officials and employees from participating in a transaction when a conflict exists, and (iv) any other areas of confusion or inconsistency in terms of the Act's application.

The direct costs of this study shall not exceed \$8,000.

The Division of Legislative Services shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work by November 30, 2002, and shall submit its findings and recommendations to the Governor and the 2003 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

## Overview of Conflict of Interest Legislation and Documents

YEAR	BILL/ RESOLUTION	STATUS	SUMMARY
1968	SJR 26	Passed	Creating a commission to study and report on matters relating to standards of conduct for public officers and employees
1970	SD 11	Resulted from SJR 26 (1968)	Proposed the Virginia Conflicts of Interests Act
	HB 387	C. 463	Established the <b>Virginia Conflict of Interests Act</b> to provide uniform standards to govern the conduct of State and local officers and employees with respect to conflict of interests and related matters, prohibit certain categories of conduct and prescribe penalties and administrative procedures in connection therewith.
1975	SB 893	Passed Both Houses	Directing a study of laws relating to conflicts of interest and disclosure by public officials. Study to be carried out by the General Laws and Courts of Justice Committee (Senate) and General Laws Committee (House)
1976	SD 25	Resulted from SB 893 (1975)	Recommended the following: (1) officers & employees because of association w/utilities and financial institutions should be subject to restrictions but not as it relates to contracts (2) Creation of uniform real estate disclosure form; dissemination by State Board of Elections (3) official votes should not be nullified for failure to file forms (4) all reports should be typed (5) Clerks should reproduce upon written request for \$.50/page (6) Reports of economic interests should include all items of financial interest at the time of filing (7) GA Member disclosure of compensation over \$1,000 when before state agencies
	SB 127	Failed	Would have enacted recommendations from SD 25
1980	SJR 76	Passed	Requested the House of Delegates Rules Committee and the Committee on Rules of the Senate to examine the Rules of each body with regard to the Code of behavior for respective members (precursor to separate GA Conflict of Interests Act)
1981	SB 622	Failed	See below
1982	SB 14	Passed Chapter 497  (Similar to SB 622 of 1981 session)	(1) Added an executive session for disciplinary action against a House or Senate Member arising out of the possibly inadequacy of the disclosure statement (2) changes "economic" language to "financial" (opportunity and interest) (3) Changes compensated service amounts from

			\$5K to \$1K (4) adds a section requiring listing of honorariums, payment of expenses, etc. for official or immediate family member that exceeds \$200 (5) Statements open to public inspection (5) value of interest need not be disclosed (6) changes in disclosure form that reflect changes in statute
1983	SB 23	Passed Chapter 410	Established <b>Comprehensive Conflict of Interests Act</b>
1986	SJR 68	Passed Both Houses	Establishing a joint subcommittee to study the Comprehensive Conflict of Interests Act
1987	SB 516	Failed	Would have added a provision allowing a member of governing body or school board who has a personal interest because of spouse or other relative residing in household to vote or participate if a disclosure form containing certain information is filed
	SB 545	Failed	Would have added additional definitions including "business", additional language to "contract", "immediate family", etc.
	HB 1082	Passed Chapter 631	Changed salary amount (for conflict) from \$13,500 to \$15,000
	HB 1304	Passed Chapter 239	Variation of SB 516 introduced in 1987 session. Would have required the minutes to reflect a member's disclosure – not necessary to file an additional disclosure form
1987 Special Session	SB 1	Passed Chapter 1	Established the <b>State and Local Government Conflict of Interests Act</b> and the <b>General Assembly Conflict of Interest Act</b>
1988	HB 1032	Failed	Would have added language covering "the members of the board of zoning appeals and the planning commission" under the Act.
	SB 255	Failed	( language incorporated into HB 464)
	HB 464	Passed Chapter 469	Added constitutional officers to the list of those required to file disclosure forms (including treasurer, sheriff, commonwealth attorney, clerk, etc.)
	HB 846	Passed Chapter 849	(1) Added members of the State Lottery Board to the list of those covered by the act (2) Added non-salaried citizen members of commissions, etc. designated by the governing body

	SB 295	Passed Chapter 767	Authorized the Joint Rules Committee to determine which officers or employees of the legislative branch are required to submit disclosure forms
1989	HB 1648	Passed Chapter 74	Added to the list of exceptions to prohibited contracts, an employee's personal interest in a contract between a state institution of higher education which operates a medical or dental school and a not-for-profit stock corporation which operates a clinical practice within the institution and of which the employee is a member.
1990	HB 329	Passed Chapter 51	Where employees are in the same household and are employed in a direct supervisory or administrative position – changed the annual salary limit from \$15,000 to \$20,000
1991	HB 1325	Failed	Would have added to prohibited conduct any representation during employment and 18 months after employment any group/organization/business directly related to work while employed
	HB 1326	Failed	Almost identical to 1325
	SB 588	Passed Chapter 470	Added to the list of exceptions to prohibited contracts, a contract for research and development between a state institution of higher education and a business in which the employee has a personal interest if (1) the employee's interest has been disclosed and (2) employee files disclosure form
1992	HB 531	Passed Chapter 710	Added substitute judges to the list of those covered by the Act
	HB 564	Passed Chapter 865	(1) Changed the definition section of "personal interest" to exclude an elected member of a governing body that serves without pay on the board of trustees of a not-for-profit entity and there is full disclosure of any personal benefit arising from the relationship. (2) Allowed local governing bodies to adopt ordinances in line with the Act.
1993	SJR 217	Passed	Established joint subcommittee to study recommendations of Governor's Commission of Campaign Finance Reform, Government Accountability and Ethics
	HB 2005	Failed	Would have added members of the Board of Trustees of VRS to be covered under the Act



	HB 2293	Failed	Would have eliminate language of "towns in excess of 3500" as covered under the Act replacing it with "towns"
	HB 2296	Failed	Would have added definition of "gift"
	HB 2297	Failed	Would have added language prohibiting gifts (to legislators) that result in likelihood of impartiality
	HB 1407	Passed Chapter 876	Added to the exceptions under prohibited contracts the personal interest of an officer or employee of a state institution of higher education in additional contracts of employment with his own governmental agency which accrue to him because a member of his immediate family has provided certain services.
	HB 1956	Passed Chapter 303	Added to the definition of "governmental agency", corporations organized or controlled by the VRS, RF&P Corporation and its wholly owned subsidiaries.
1994	HB 189	Passed Chapter 450	Added to the exceptions under prohibited contracts an officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of marriage to a spouse employed by the same agency.
	HB 466	Passed Chapter 74	Amended the definition of "personal interest in a transaction" changing full disclosure by an elected member of a local governing body in a not-for-profit entity to "such elected member or member of his immediate family has no personal interest related to the not-for-profit entity."
	HB 709	Passed Chapter 713	Where employees are in the same household and are employed in a direct supervisory or administrative position – changed the annual salary limit from \$20,000 to \$22,500
1995	HB 2256	Passed Chapter 763	Changed disclosure forms to include disclosure of real property valued at \$10,000 or more in other locations (not just VA)
1996	SB 325	Passed Chapter 526	Added clerks of school boards to the list of those covered by the Act

1997	HB 658	Passed Chapter 838	Added the following language to the exceptions provision of prohibited contracts (1) where institutions of higher education are described the exception is "subject to approval by board of visitors." (2) adds "commercialization of intellectual property" to contracts related to research and development (3) requires the contracts related to research and development to be disclosed no later than Dec. 31 of each year along with certain details and (4) adds a section excepting employees personal interest in a contract between a state institution of higher education and a business in which the employee has a personal interest w/certain limitations.
2000	SB 528	Failed	Language would have added to the list of exceptions under prohibited contracts, an elected constitutional officer whose sole interest in a contract with his own governmental agency is by reason of his existing marriage to his spouse who is employed by the same agency, if the spouse was employed by the agency for ten or more years prior to the election of the officer.
	HB 636	Passed Chapter 317	Clarified the language regarding "persons of trust appointed by governing bodies and employees" and "persons of trust appoint by school boards and employees"
2001	HB 1887	Passed Chapter 48	Added a new section title "Exclusion of teacher awards from scope of chapter" – provision of chapter shall not be construed to prohibit or apply to the acceptance by a teacher or other employee of a local school board of an award or payment in honor of meritorious or exceptional service performed by the teacher or employee.
	HB 1932	Passed Chapter 217	Added "members of the governing bodies of authorities" to those covered by the Act. The authority must have the power to issue bonds or expend funds in excess of \$10,000 in any fiscal year.
2002	HB 112	Continued in Senate General Laws	Would have added the following to the definition of "personal interest" an "option for ownership of a business or real or personal property if the ownership interest will consist of" in excess of 3% of total interest or annual income from business exceeds \$10,000
	<i>HJR 31 (incorporating HJR 61)</i>	Passed	Study of the State and Local Government Conflicts of Interest Act

**Overview of Attorney General Opinions Referencing the  
State and Local Government Conflict of Interests Act  
(1988 - present)**

DATE	AFFECTED SECTIONS	SUMMARY
5/9/00	2.1-639.2 and 2.1-639.7 - "personal interest"	A certain employee of the town water department is eligible to serve on town council. Employment does not necessarily constitute "personal interest." In addition, employment began prior to eligibility for town council.
4/12/00	2.1-639.1 to 2.1-639.24 - "personal interest"	Office of commissioner of revenue is not incompatible with the commissioner's service as trustee for nonprofit hospital or as member of local transportation committee.
10/29/99	2.1-639.14 and 2.1-639.15 - reporting requirements	Members of the school board must file a disclosure statement of their personal interests with the clerk of the school board. Employees of the school board designated by ordinance of local governing body must file disclosure statements with clerk of the school board.
10/29/99	2.1-639.4 - certain prohibited conduct by state employees	Community college employee may not accept additional cash bonus from private corporation for training services provided to corporation by college.
9/10/99	2.1-639.6 - personal interest of employee	Loans made by VHDA to its employees to finance purchase or improvement of single-family homes are considered payments that are excepted from general prohibitions of the Act. Employees are not required to disqualify themselves from participation in their own loan transactions.
8/16/99	2.1-639.17 (also 15.2-852)	Strict compliance with requirement to disclose relationship between county official who has power to approve certain land use changes and applicant requesting changes. There is a \$200 threshold that triggers disclosure.

7/7/99	2.1-639.1 to 2.1-639.24	County school board has authority to issue an agent-of-record letter to an insurance company requesting that a local insurance agent be designated the agent of record on its policies of insurance. **Designated agent is former school board member of procuring board.
6/3/99	2.1-639.4(1) - state employee remuneration for services	A deputy sheriff may not engage in off duty employment requiring use of police powers unless the locality has adopted an ordinance permitting the employment.
9/12/96	2.1-639.14(A) and 2.1-639.15- disclosure requirements ("long" form)	Directors of the local industrial development authority ("positions of trust"), after adoption of an ordinance mandating filing, must file the disclosure form. Timing of disclosure filing must be "within a reasonable time period of its adoption." (adoption of the ordinance - 60 days was reasonable)
7/2/96	2.1-639.14(B) - disclosure requirements	Members of an economic development authority may be designated by the board of supervisors to comply with disclosure requirements. Facts submitted supported this finding.
6/24/96	2.1-639 - coverage of the Act	The Act does not supersede town charter or violate constitutional provisions. Charter prohibits town employees from serving on town council. A town employee who is elected to the town council will be ineligible during his term in office and for one year thereafter for any compensated town employment.
3/6/96	2.1-639.1 to 2.1- 639.24 as compared to VA Public Procurement Act	Definition of the term "immediate family" contained in Public Procurement act is similar to Conflicts Act and thus includes brothers and sisters who do not reside in the same household as the employee.

1/31/96	2.1-639.4:1 - lobbying activities of former employees	Act does not prohibit former state employees of the Secretaries and the Governor's Office from lobbying any of the agencies reporting directly to the secretariat and from lobbying any agencies in the executive branch of state government.
6/5/95	2.1-639.2 - "governmental agency" 2.1-639.7(A) - personal interest in a contract	The Act prohibits a corporation that has a corporate office the mayor or a member of the council from contracting with a City Department. (unless one of the exceptions applies).
9/12/91	2.1-639.16	A school board may not validate or decriminalize conduct or employment relationships that the General Assembly has prohibited in the Act. A school board may not fashion its own stricter amendment to the Act by refusing to recognize exceptions to, or broadening the prohibitions under, the uniform nepotism standard set by that section.
3/27/91	2.1-639.23(B) - certain advisory opinions rendered by Commonwealth's attorney	Advisory opinion for question submitted should be rendered by Commonwealth Attorney. (Question: Whether a husband and wife may hold office as sheriff and circuit court clerk, respectively, at the same time in the same jurisdiction.
11/2/90	2.1-639.2 - "officer" - in conjunction w/Industrial Development & Revenue Bond Act	A member of the board of assessors is an "officer" and thus prohibits a member of a county's industrial development authority from serving concurrently on that county's board of assessors.
2/14/90	2.1-639.14(A), spec. Schedule D	A declarant would be required to report attendance at certain educational meetings held outside the Commonwealth when the cost borne by the City as payor exceeds \$200, even when the tuition or registration fee for the declarant is paid directly to the program provider by the City.

11/6/89	2.1-639.1 - uniformity requirement; 2.1-639.14(A) and 2.1-639.15 - disclosure forms and requirements	A local governing body may not amend the financial disclosure form to delete or amend certain questions for those persons designated to file a financial disclosure form.
7/14/89	2.1-639.13 and 2.1-639.14 - disclosure requirements	Clarifies concerns about specific types of disclosure including (1) complimentary tickets (2) travel, meals and lodging received in connection w/bond closing outside of commonwealth (3) receipt of travel and meals reimbursement does not make declarant paid officer or director.
8/31/88	2.1-639.13 and 2.1-639.14	Clarifies concerns about specific types of disclosure including (1) participation in deferred compensation plan not a "security" (2) "indirect" ownership of securities must be disclosed (3) \$200 limit for reporting is limit "per meeting" (4) gifts from personal friends must be reported unless unrelated to declarant's public position.
8/31/88	2.1-639.2 - "employees", "personal interest", "personal interest in a contract", "transaction"; 2.1-639.4 - prohibitions, 2.1-639.6 - exceptions	Certain personal interest of Clinicians and dual department heads in contracts between University and Foundation are excepted; VP, Dean and Exec. Director are not restricted from certain contractual matters.

Commonwealth of Virginia/Secretary of the Commonwealth

# STATEMENT OF ECONOMIC INTERESTS

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## Instructions

Pursuant to Sections 2.2-3114 and 2.2-3115 of the *Code of Virginia*, employees of state agencies who have been designated by the Governor or the General Assembly, and employees of local governments designated to file by the *Code of Virginia* or by their governing ordinance, are required to file this "Statement of Economic Interests" form.

Members of certain boards of state and local government are also required to file this form. Please note that within this form, the use of the words "office" and "officer" also apply to appointed board members.

In addition, candidates for state and local offices are required to file this form pursuant to Section 24.1-167 of the *Code of Virginia*.

**This filing is a condition of assuming office or employment and thereafter on or before January 15<sup>th</sup> of each year.**

The pages in this book are removable. Complete and return only those pages which are applicable to you.

You **MUST** complete the STATEMENT OF ECONOMIC INTERESTS.

Schedules A through I are to be completed **ONLY** if you answer "Yes" to any of items 1 through 10 on the Statement of Economic Interests.

**NOTE:** The "Affirmation by all Filers" on the Statement of Economic Interests **MUST** be completed by a Notary Public.

**REMEMBER:** The **ANNUAL** filing deadline is January 15<sup>th</sup> of each year.

For the annual filing:

State employees and board members should return completed forms to the agency's COI liaison officer.

Local employees and board members should return the completed forms to the Clerk of the appropriate governing body.

## DEFINITIONS AND EXPLANATORY MATERIAL

This statement constitutes a report of economic interests and activities for the calendar year beginning January 1 and ending December 31. The information required on this statement must be provided on the basis of the best knowledge, information and belief of the individual filing the statement as of the date of this report unless otherwise stated. This statement of Economic Interests is open for public inspection.

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Close financial association" does not mean an association based on the receipt of retirement benefits or deferred compensation from a business by which the person filing this statement is no longer employed. "Close financial association" does not include an association based on the receipt of compensation for work performed by the person filing as an independent contractor of a business that represents an entity before any state governmental agency when the person filing has had no communications with the state governmental agency.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency which involves the payment of money appropriated by the General Assembly or political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own governmental agency.

"Dependent" means a son, daughter, father, mother, brother, sister or other person, whether or not related by blood or marriage, if such person receives from the officer or employee, or provides to the officer or employee, more than one-half of his financial support.

"Employee" means all persons employed by a governmental or advisory agency, unless otherwise limited by the context of its use.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in §13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift," means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" shall not include any offer of a ticket or other admission or pass unless the ticket, admission, or pass is used. "Gift" shall not include honorary degrees and presents from relatives. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, or nephew; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, or sister; or the donee's brother's or sister's spouse.

"Governmental agency" means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties. Corporations organized or controlled by the Virginia

Retirement System are "governmental agencies" for purposes of this chapter.

"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as the officer or employee, who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

"Officer" means any person appointed or elected to any governmental or advisory agency including local school boards, whether or not he receives compensation or other emolument of office. Unless the context requires otherwise, "officer" includes members of the judiciary.

"Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$10,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business that exceeds, or may reasonably be anticipated to exceed, \$10,000 annually; (iv) ownership of real or personal property if the interest exceeds \$10,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; or (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business.

"Personal interest in a contract" means a personal interest which an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business which is a party to the contract.

"Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business, or represents any individual or business and such property, business or represented individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. Notwithstanding the above, such personal interest in a transaction shall not be deemed to exist where an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity.

"State and local government officers and employees" shall not include members of the General Assembly.

"Transaction" means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

**TRUST.** If you or your immediate family, separately or together, are the only beneficiaries of a trust, treat the trust's assets as if you own them directly. If you or your immediate family has a proportional interest in a trust, treat that proportion of the trust's assets as if you own them directly. For example, if you and your immediate family have a one-third interest in a trust, complete your Statement as if you own one-third of each of the trust's assets. If you or a member of your immediate family created a trust and can revoke it without the beneficiaries' consent, treat its assets as if you own them directly.



# STATEMENT OF ECONOMIC INTERESTS

Revised Form as of  
10/01/01

NAME		Candidate for Election to this office? <input type="checkbox"/> YES <input type="checkbox"/> NO	
OFFICE OR POSITION HELD OR SOUGHT			
AGENCY/BUSINESS NAME		PHONE	
AGENCY/BUSINESS ADDRESS			
HOME ADDRESS <i>(Street or P.O. Box)</i>		PHONE	
CITY		STATE	ZIP
NAMES OF MEMBERS OF IMMEDIATE FAMILY			

1. **Offices and Directorships.**  
Are you or a member of your immediate family a paid officer or paid director of a business?  
 YES  NO  
**If yes, complete Schedule A**
2. **Personal Liabilities.**  
Do you or a member of your immediate family owe more than \$10,000 to any one creditor including contingent liabilities? (Exclude debts to any government and loans secured by recorded liens on property at least equal in value to the loan.)  
 YES  NO  
**If yes, complete Schedule B**
3. **Securities.**  
Do you or a member of your immediate family, directly or indirectly, separately or together, own securities valued in excess of \$10,000 invested in one business? Account for mutual funds, limited partnerships and trusts.  
 YES  NO  
**If yes, complete Schedule C**
4. **Payment for Talks, Meetings, and Publications.**  
During the past 12 months did you receive lodging, transportation, money, or anything else of value with a combined value exceeding \$200 for a single talk, meeting, or published work in your capacity as an officer or employee of your agency?  
 YES  NO  
**If yes, complete Schedule D**
5. **Gifts.**  
During the past 12 months did a business, government, or individual other than a relative or personal friend (i) furnish you with any gift or entertainment at a single event, and the value received by you exceeded \$50 in value or (ii) furnish you with gifts or entertainment in any combination and the value received by you exceeded \$100 in total value; and for which you neither paid nor rendered services in exchange? Account for entertainment events only if the average value per person attending the event exceeded \$50 in value. Account for all business entertainment (except if related to your private profession or occupation) even if unrelated to your official duties.  
 YES  NO  
**If yes, complete Schedule E**
6. **Salary and Wages.**  
List each employer that pays you or a member of your immediate family salary or wages in excess of \$10,000 annually. (Exclude state or local government or advisory agencies.) If no reportable salary or wages, check here

7. **Business Interests.**  
Do you or a member of your immediate family, separately or together, operate your own business, or own or control an interest in excess of \$10,000 in a business?  YES  NO  
**If yes, complete Schedule F**
8. **Payments for Representation and Other Services.**
- 8A. Did you represent any businesses before any state governmental agencies, excluding courts or judges, for which you received total compensation during the past 12 months in excess of \$1,000, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers and subsequent representation regarding the mandatory papers? (Officers and employees of local governmental and advisory agencies do NOT need to answer this question or complete Schedule G-1.)  YES  NO  
**If yes, complete Schedule G-1**
- 8B. Subject to the same exceptions as in 8A, did persons with whom you have a close financial association (partners, associates or others) represent any businesses before any state governmental agency for which total compensation was received during the past 12 months in excess of \$1,000? (Officers and employees of local governmental and advisory agencies do NOT need to answer this question or complete Schedule G-2.)  YES  NO  
**If yes, complete Schedule G-2**
- 8C. Did you or persons with whom you have a close financial association furnish services to businesses operating in Virginia for which total compensation in excess of \$1,000 was received during the past 12 months?  YES  NO  
**If yes, complete Schedule G-3**
9. **Real Estate.**
- 9A. **State Officers and Employees.**  
Do you or a member of your immediate family hold an interest, including a partnership interest, valued at \$10,000 or more in real property (other than your principal residence) for which you have not already listed the full address on Schedule F? Account for real estate held in trust.  YES  NO  
**If yes, complete Schedule H-1**
- 9B. **Local Officers and Employees.**  
Do you or a member of your immediately family hold an interest, including a partnership interest, valued at \$10,000 or more in real property located in the county, city or town in which you serve or in a county, city or town contiguous to the county, city or town in which you serve (other than your principal residence) for which you have not already listed the full address on Schedule F? Account for real estate held in trust.  YES  NO  
**If yes, complete Schedule H-2**
10. **Real Estate Contracts with Governmental Agencies**  
Do you or a member of your immediate family hold an interest valued at more than \$10,000 in real estate, including a corporate, partnership, or trust interest, option, easement, or land contract, which real estate is the subject of a contract, whether pending or completed within the past 12 months, with a governmental agency? If the real estate contract provides for the leasing of the property to a governmental agency, do you or a member of your immediate family hold an interest in the real estate valued at more than \$1,000? Account for all such contracts whether or not your interest is reported in Schedule F, H-1, or H-2. This requirement to disclose an interest in a lease does not apply to an interest derived through an ownership interest in a business unless the ownership exceeds three percent of the total equity of the business.  YES  NO  
**If yes, complete Schedule I**

Statements of Economic Interests are open for public inspection.

NOTE: You MUST acknowledge your signature below before a Notary Public and the Notary Public must administer an oath and complete the acknowledgment portion of the "Affirmation By All Filers."

**AFFIRMATION BY ALL FILERS.**

I swear or affirm that the foregoing information is full, true and correct to the best of my knowledge.

\_\_\_\_\_  
SIGNATURE OF FILER \_\_\_\_\_  
DATE

COMMONWEALTH OF VIRGINIA

city/county of \_\_\_\_\_ to wit:

The foregoing disclosure form was acknowledged before me this \_\_\_\_\_ day \_\_\_\_\_, 20\_\_\_\_

-y \_\_\_\_\_  
NAME OF FILER

My commission expires \_\_\_\_\_  
NOTARY PUBLIC



# SCHEDULE B

## PERSONAL LIABILITIES

NAME: \_\_\_\_\_

OFFICE OR POSITION HELD OR SOUGHT: \_\_\_\_\_

Report personal liability by checking each category. Report only debts in excess of \$10,000. Do not report debts to any government. Do not report loans secured by recorded liens on property at least equal in value to the loan. Report contingent liabilities below and indicate which debts are contingent.

1. My personal debts are as follows:

CHECK APPROPRIATE CATEGORIES:	CHECK ONE	
	\$10,001 TO \$50,000	MORE THAN \$50,000
Banks	<input type="checkbox"/>	<input type="checkbox"/>
Savings institutions	<input type="checkbox"/>	<input type="checkbox"/>
Other loan or finance companies	<input type="checkbox"/>	<input type="checkbox"/>
Insurance companies	<input type="checkbox"/>	<input type="checkbox"/>
Stock, commodity or other brokerage companies	<input type="checkbox"/>	<input type="checkbox"/>
Other businesses: (State principal business activity for each creditor.)	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
Individual creditors: (State principal business or occupation for each creditor.)	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>

2. The personal debts of the members of my immediate family are as follows:

CHECK APPROPRIATE CATEGORIES:	CHECK ONE	
	\$10,001 TO \$50,000	MORE THAN \$50,000
Banks	<input type="checkbox"/>	<input type="checkbox"/>
Savings institutions	<input type="checkbox"/>	<input type="checkbox"/>
Other loan or finance companies	<input type="checkbox"/>	<input type="checkbox"/>
Insurance companies	<input type="checkbox"/>	<input type="checkbox"/>
Stock, commodity or other brokerage companies	<input type="checkbox"/>	<input type="checkbox"/>
Other businesses: (State principal business activity for each creditor.)	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
Individual creditors: (State principal business or occupation for each creditor.)	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>

# SCHEDULE C

## SECURITIES

**NAME:** \_\_\_\_\_

**OFFICE OR POSITION HELD OR SOUGHT:** \_\_\_\_\_

**“SECURITIES”** INCLUDES stocks, bonds, mutual funds, limited partnerships, and commodity futures contracts. **“SECURITIES”** EXCLUDES certificates of deposit money market funds, annuity contracts, and insurance policies.

Identify each business or Virginia governmental entity in which you or a member of your immediate family, directly or indirectly, separately or together, own securities valued in excess of \$10,000.

Do not list U.S. Bonds or other government securities not issued by the Commonwealth of Virginia or its authorities, agencies, or local governments. Do not list organizations that do not do business in this Commonwealth, but most major businesses conduct business in Virginia. Account for securities held in trust.

NAME OF ISSUER	TYPE OF ENTITY	TYPE OF SECURITY (STOCK, BONDS, MUTUAL OR MONEY MARKET FUNDS, ETC.)	CHECK ONE	
			\$10,001 TO \$50,000	MORE THAN \$50,000
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
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			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>

# SCHEDULE D

## PAYMENT FOR TALKS, MEETINGS AND PUBLICATIONS

**NAME:** \_\_\_\_\_

**OFFICE OR POSITION HELD OR SOUGHT:** \_\_\_\_\_

List each source from which you received during the past 12 months lodging, transportation, money, or any other thing of value (excluding meals or drinks coincident with a meeting) with combined value exceeding \$200 for your presentation of a single talk, participation in one meeting, or publication of a work in your capacity as an officer or employee of your agency.

List payments or reimbursements by an advisory or governmental agency only for meetings or travel outside the Commonwealth.

List a payment even if you donated it to charity.

Do not list information about payment if you returned it within 60 days or if you received it from an employer already listed under Item 6 or from a source of income listed on Schedule F.

PAYER	APPROXIMATE VALUE	CIRCUMSTANCES	TYPE OF PAYMENT (E.G. HONORARIUM, TRAVEL REIMBURSEMENT, ETC.)

# SCHEDULE E

GIFTS

NAME:

---

OFFICE OR POSITION HELD OR SOUGHT:

---

List each business, governmental entity, or individual that, during the past 12 months, (i) furnished you with any gift or entertainment at a single event and the value received by you exceeded \$50 in value, or (ii) furnished you with gifts or entertainment in any combination and the value received by you exceeded \$100 in total value; and for which you neither paid nor rendered services in exchange. List each such gift or event. Do not list entertainment events unless the average value per person attending the event exceeded \$50 in value. Do not list business entertainment related to your private profession or occupation. Do not list gifts or other things of value given by a relative or personal friend for reasons clearly unrelated to your public position. Do not list campaign contributions publicly reported as required by Chapter 9 (• 24.2-900 et seq.) of Title 24.2 of the Code of Virginia.

NAME OF BUSINESS ORGANIZATION INDIVIDUAL	CITY OR COUNTY AND STATE	APPROXIMATE VALUE

Statement of Economic Interests  
**SCHEDULE F**  
 BUSINESS INTERESTS

**NAME:** \_\_\_\_\_

**OFFICE OR POSITION HELD OR SOUGHT:** \_\_\_\_\_

Complete this Schedule for each self-owned or family-owned business (including rental property, a farm, or consulting work), partnership, or corporation in which you or a member of your immediate family, separately or together, own an interest having a value in excess of \$10,000.

If the enterprise is owned or operated under a trade, partnership, or corporate name, list that name; otherwise, merely explain the nature of the enterprise. If rental property is owned or operated under a trade, partnership, or corporate name, list the name only; otherwise give the address of each property. Account for business interests held in trust.

NAME OF BUSINESS, CORPORATION, PARTNERSHIP, FARM; ADDRESS OF RENTAL PROPERTY	CITY OR COUNTY AND STATE	NATURE OF ENTERPRISE (FARMING, LAW, RENTAL PROPERTY, ETC.)	GROSS INCOME	
			\$50,000 OR LESS	MORE THAN \$50,000
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
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			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>



Statement of Economic Interests

# SCHEDULE G-1

PAYMENTS FOR REPRESENTATION BY YOU

NAME: \_\_\_\_\_

OFFICE OR POSITION HELD OR SOUGHT: \_\_\_\_\_

List the businesses you represented before any state governmental agency, excluding any court or judge, for which you received total compensation during the past 12 months in excess of \$1,000, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers and subsequent representation regarding the mandatory papers filed by you.

Identify each business, the nature of the representation and the amount received by dollar category from each such business. You may state the type, rather than name, of the business if you are required by law not to reveal the name of the business represented by you.

Only STATE officers and employees should complete this Schedule.

NAME OF BUSINESS	TYPE OF BUSINESS	PURPOSE OF REPRESENTATION	NAME OF AGENCY	AMOUNT RECEIVED				
				\$1001 To \$10,000	\$10,001 To \$50,000	\$50,001 To \$100,000	\$100,001 To \$250,000	\$250,001 And Over
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

# SCHEDULE G-2

## PAYMENTS FOR REPRESENTATION BY ASSOCIATES

NAME: \_\_\_\_\_

OFFICE OR POSITION HELD OR SOUGHT: \_\_\_\_\_

List the business(es) that have been represented before any state governmental agency, excluding any court or judge, by persons who are your partners, associates or others with whom you have a close financial association and who received total compensation in excess of \$1,000 for such representation during the past 12 months, excluding representation consisting solely of the filing of mandatory papers and subsequent representation regarding the mandatory papers filed by your partners, associates or others with whom you have a close financial association.

Identify such business by type and also name the state governmental agencies before which such person appeared on behalf of such businesses.

Only STATE officers and employees should complete this Schedule.

TYPE OF BUSINESS	NAME OF STATE GOVERNMENTAL AGENCY

Statement of Economic Interests

# SCHEDULE G-3

PAYMENTS FOR REPRESENTATION GENERALLY

NAME: \_\_\_\_\_

OFFICE OR POSITION HELD OR SOUGHT: \_\_\_\_\_

Indicate below types of businesses that operate in Virginia to which services were furnished by you or persons with whom you have a close financial association and for which total compensation in excess of \$1,000 was received during the past 12 months.

Identify opposite each category of businesses listed below (i) the type of business, (ii) the type of service rendered and (iii) the value by dollar category of the compensation received for all businesses falling within each category.

BUSINESS CATEGORY	CHECK IF SERVICES WERE RENDERED	TYPE OF SERVICE RENDERED	VALUE OF COMPENSATION				
			\$1,001 TO \$10,000	\$10,001 TO \$50,000	\$50,001 TO \$100,000	\$100,001 TO \$250,000	\$250,001 AND OVER
Electric Utilities	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gas Utilities	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Telephone Utilities	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water Utilities	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cable Television Companies	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Interstate Transportation Companies	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Intrastate Transportation Companies	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Oil or Gas Retail Companies	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Banks	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Savings Institutions	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Loan or Finance Companies	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Manufacturing Companies (state type of product, e.g., textile, furniture,	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mining Companies	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Life Insurance Companies	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Casualty Insurance Companies	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other Insurance Companies	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Retail Companies	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Beer, Wine or Liquor Companies or Distributors	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trade Associations	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Professional Associations	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Associations of Public Employees or Officials	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Counties, Cities or Towns	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Labor Organizations	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Statement of Economic Interests

# SCHEDULE H-2

REAL ESTATE—LOCAL OFFICERS AND EMPLOYEES ONLY

**NAME:**

**OFFICE OR POSITION HELD OR SOUGHT:**

List real estate located in your county, city, or town, and any contiguous county, city, or town other than your principal residence in which you or a member of your immediate family holds an interest, including a partnership interest, option, easement, or land contract, valued at \$10,000 or more. You may list each parcel of real estate individually if you wish.

LIST THE COUNTIES AND CITIES IN WHICH YOU OWN REAL ESTATE	DESCRIBE THE TYPE OF REAL ESTATE YOU OWN IN EACH COUNTY OR CITY (BUSINESS, RECREATIONAL, APARTMENT, COMMERCIAL, OPEN LAND, ETC.)	IF THE REAL ESTATE IS OWNED OR RECORDED IN A NAME OTHER THAN YOUR OWN, LIST THAT NAME.

Statement of Economic Interests

# SCHEDULE I

## REAL ESTATE CONTRACTS WITH GOVERNMENT AGENCIES

**NAME:**

---

**OFFICE OR POSITION HELD OR SOUGHT:**

---

List all contracts, whether pending or completed within the past 12 months, with a governmental agency for the sale or exchange of real estate in which you or a member of your immediate family holds an interest, including a corporate, partnership or trust interest, option, easement, or land contract, valued at \$10,000 or more. List all contracts with a governmental agency for the lease of real estate in which you or a member of your immediate family holds such an interest valued at \$1,000 or more. This requirement to disclose an interest in a lease does not apply to an interest derived through an ownership interest in a business unless the ownership interest exceeds three percent of the total equity of the business.

**State officers and employees report contracts with state agencies.**

**Local officers and employees report contracts with local agencies.**

**List your real estate interest and the person or entity including the type of entity, which is party to the contract. Describe any management role and the percentage ownership interest you or your immediate family member has in the real estate or entity.**

**List each state and the governmental agency which is party to the contract and indicate the county or city where the real estate is located.**

**State the annual income from the contract, and the amount, if any, of income you or any immediate family member derives annually from the ownership interest you contact.**

## **Attachments**



## SECRETARY OF THE COMMONWEALTH

### FINANCIAL DISCLOSURE STATEMENT

Members of certain boards of state and local government are required to file this Financial Disclosure Statement as a condition of assuming office and, then, annually while serving as an officeholder.

You must complete this form. Attached additional pages when necessary. **You must sign and date this form upon completion.**

The annual filing deadline is January 15<sup>th</sup>.

**For State Board Members:** If you have recently been appointed or reappointed, you must file this form with the Secretary of the Commonwealth prior to attending your first meeting.

**For Local Board Members:** If you have recently been appointed or reappointed, you must file this form with the Clerk of the appropriate governing body prior to attending your first meeting.

As an annual filing, this form constitutes a report of financial interests for the calendar year beginning January 1 and ending December 31. As a condition for assuming an office, this form constitutes a report of financial interests at the time of filing.

The information required on this form must be provided on the basis of the best knowledge, information and belief of the individual filing the form as of the date of this report unless otherwise stated.

**This Financial Disclosure Statement is open for public inspection.**



## DEFINITIONS AND EXPLANATORY MATERIAL.

**"Business"** means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

**"Immediate family"** means (\*) a spouse and (\*\*) any other person residing in the same household as the filer, who is a dependent of the filer or of whom the filer is a dependent.

**"Dependent"** means any person, whether or not related by blood or marriage, who receives from the filer, or provides to the filer, more than one-half of his financial support.

**"Personal interest"** means, for the purposes of this form only, a personal and financial benefit or liability accruing to a filer or a member of his immediate family. Such interest shall exist by reason of (\*) ownership in real or personal property, tangible or intangible; (\*\*) ownership in a business; (\*\*\*) income from a business; or (v) personal liability on behalf of a business; however, unless the ownership interest in a business exceeds three percent of the total equity of the business, or the liability on behalf of a business exceeds three percent of the total assets of the business, or the annual income, and/or property or use of such property, from the business exceeds \$10,000 or may reasonably be anticipated to exceed \$10,000, such interest shall not constitute a "personal interest."

## INSTRUCTIONS FOR COMPLETING THIS FORM

Except for real estate located within the county, city or town in which the officer or employee serves or a county, city or town contiguous to the county, city or town in which the officer or employee serves, officers and employees of local governmental or advisory agencies shall not be required to disclose under Part I of the form any other interest in real estate.

Include all forms of personal interests held by you or members of your immediate family at the time of filing: real estate, stocks, bonds, equity interests in proprietorships and partnerships. You may exclude:

1. Deposits and interest bearing accounts in banks, savings institutions and other institutions accepting such deposits or accounts;
2. Interests in any business, other than a news medium, representing less than three percent of the total equity value of the business;
3. Liability on behalf of any business representing less than three percent of the total assets of such business; and
4. Income (other than from salary) less than \$10,000 annually from any business. You need

not state the value of any interest. You must state the name or principal business activity of each business in which you have a personal interest.

**Section II, Offices, Directorships and Salaried Employments.** The paid offices, paid directorships and salaried employments which I hold or which members of my immediate family hold, and the businesses from which I, or members of my immediate family receive retirement benefits are as follows: (You need not state any dollar amounts.)

### Section III, Businesses To Which Services Were Furnished.

The provisions of Part III A and B of the disclosure form prescribed by this section shall not be applicable to officers and employees of local governmental and local advisory agencies.

**Part A:** List those businesses that you represented before any state government agency, during the preceding year, for which total compensation received was in excess of \$1,000. Identify the business and state governmental agencies by name. Note: You may exclude representation before any court or judge, compensation for other services to such businesses, and representation consisting solely of the filing of mandatory papers.

**Part B:** List those businesses which, to your knowledge, have been represented during the preceding year before any state governmental agency, by persons with whom you have a close financial association, or which total compensation received was in excess of \$1,000. Identify the businesses and state governmental agencies by name. Note: You may exclude representation before any court or judge, compensation for other services to such business, and representation consisting solely of the filing of mandatory papers.

**Part C:** Check each category of business to which services were furnished during the preceding year for which total compensation received was in excess of \$1,000.

**Section IV, Compensation for Expenses.** List persons, associations or other sources (other than your governmental agency) for which you or a member of your immediate family received remuneration in excess of \$200 during the preceding year. Remuneration may have been in cash or otherwise, as honorariums, or payments of expenses in connection with your attendance of any meeting, conference, seminar or other function to which you were invited in your official capacity. Name the source, described the occasion, and state the amount of remuneration for each occasion.

Name
Name of Board, Commission, or Office Held
Contact Address

### I. FINANCIAL INTERESTS

A. My personal interests are:

Residence Address
Other real estate address, or if no address, location
Name or principal business activity of each business in which stock, bond or equity interest is held

B. The personal interests of my immediate family are:

Real estate, address, or if no address, location
Name or principal business activity of each business in which stock, bond or equity interest is held

### II. OFFICES, DIRECTORSHIPS AND SALARIED EMPLOYMENTS

A. My paid offices paid directorships and salaried employments are:

Position Held	Name of Business

B. The paid offices, paid directorships and salaried employments of members of my immediate family are:

Position Held	Name of Business

### III. BUSINESS TO WHICH SERVICES WERE FURNISHED

A. The businesses I have represented before any state governmental agency, excluding any court or judge, for which I have received total compensation in excess of \$1,000 during the preceding year, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers, are as follows:

Identify businesses by name and name the state governmental agencies before which you appeared on behalf of such business

NAME OF BUSINESS	NAME OF GOVERNMENTAL AGENCY

B. The businesses that, to my knowledge, have been represented before any state governmental agency, excluding any court or judge, by persons with whom I have a close financial association and who received total compensation in excess of \$1,000 during the preceding year, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers, are as follows:

Identify businesses by type and name the state governmental agencies before which such person appeared on behalf of such businesses.

TYPE OF BUSINESS	NAME OF GOVERNMENTAL AGENCY

C. All other businesses listed below that operate in Virginia to which services were furnished and for which total compensation in excess of \$1,000 was received during the preceding year:

Check each category of business to which services were furnished.

Electronic utilities		Banks		Retail companies	
Gas utilities		Savings institutions		Beer, wine or liquor companies or distributors	
Telephone utilities		Loan or finance companies		Trade associations	
Water utilities		Manufacturing companies (state type of product, e.g., textile, furnitures, etc.)		Professional associations	
Cable television companies		Mining companies		Associations of public employees or officials	
Intrastate transportation companies		Life insurance companies		Counties, cities or towns	
Interstate transportation companies		Casualty insurance companies		Labor organizations	
Oil or gas retail companies		Other insurance companies			

#### IV. COMPENSATION FOR EXPENSES

The person, associations, or other sources other than my governmental agency from which I or a member of my immediate family received remuneration in excess of \$200 during the preceding year, in cash or otherwise, as honorariums or payment of expenses in connection with my attendance at any meeting or other function to which I was invited in my official capacity are as follows:

DESCRIPTION	AMOUNT OF REMUNERATION	DESCRIPTION OF OCCASION

*I swear or affirm that the foregoing information is full, true and correct to the best of my knowledge.*

Signature \_\_\_\_\_ Date \_\_\_\_\_



**SECRETARY OF THE COMMONWEALTH  
DISCLOSURE OF REAL ESTATE HOLDINGS**

Name \_\_\_\_\_

Address \_\_\_\_\_  
Street

\_\_\_\_\_ City State Zip

Officeholder

Title of Office or Position Held \_\_\_\_\_

Employee

**Real Estate Holdings**

Location or Address	Description

**Dealings in Real Estate**

Name of Corporation/Partnership Business Association	Address

I do solemnly swear that the foregoing statement(s) and attachment(s), if any, are complete, correct and true.

Date \_\_\_\_\_ Signed \_\_\_\_\_

§2.2-3101. Definitions. – As used in this chapter:

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency which involves the payment of money appropriated by the General Assembly or political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own governmental agency.

"Dependent" means a son, daughter, father, mother, brother, sister or other person, whether or not related by blood or marriage, if such person receives from the officer or employee, or provides to the officer or employee, more than one-half of his financial support.

"Employee" means all persons employed by a governmental or advisory agency, unless otherwise limited by the context of its use.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in §13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift," means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" shall not include any offer of a ticket or other admission or pass unless the ticket, admission, or pass is used. "Gift" shall not include honorary degrees and presents from relatives. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, or nephew; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, or sister; or the donee's brother's or sister's spouse.

"Governmental agency" means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties. Corporations organized or controlled by the Virginia Retirement System are "governmental agencies" for purposes of this chapter.

"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as the officer or employee, who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

"Officer" means any person appointed or elected to any governmental or advisory agency including local school boards, whether or not he receives compensation or other emolument of office. Unless the context requires otherwise, "officer" includes members of the judiciary.

"Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$10,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business that exceeds, or may reasonably be anticipated to exceed, \$10,000 annually; (iv) ownership of real or personal property if the interest exceeds \$10,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; or (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business.

"Personal interest in a contract" means a personal interest which an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business which is a party to the contract.

"Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business, or represents any individual or business and such property, business or represented individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. Notwithstanding the above, such personal interest in a transaction shall not be deemed to exist where an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity.

"State and local government officers and employees" shall not include members of the General Assembly.

"Transaction" means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated. (1987, Sp. Sess., c. 1; 1988, c. 536; 1992, c. 865; 1993, c.303; 1994, cc. 74, 724; 1995, c. 495; 1996, c. 77; 1997, c. 641.)

§2.2-3115. Disclosure by local government officers and employees. –

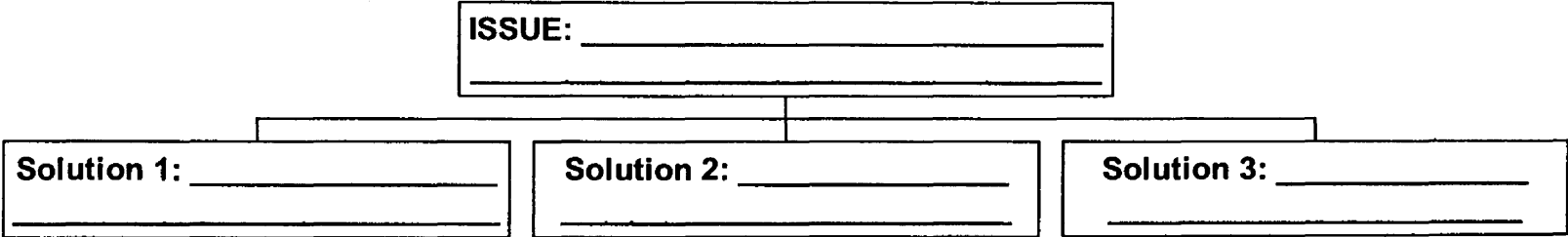
F. In addition to any disclosure required by subsections A and B of this section, in each county and city and in towns with populations in excess of 3,500, members of planning commissions, boards of zoning appeals, real estate assessors, and all county, city and town managers or executive officers shall make annual disclosures of all their interests in real estate located in the county, city or town in which they are elected, appointed, or employed. Such disclosure shall include any business in which such persons own an interest, or from which income is received, if the primary purpose of the business is to own, develop or derive compensation through the sale, exchange or development of real estate in the county, city or town. Such disclosure shall be filed as a condition to assuming office or employment, and thereafter shall be filed annually with the clerk of the governing body of such county, city or town on or before January 15. Such disclosures shall be filed and maintained as public records for five years. Forms for the filing of such reports shall be prepared and distributed by the Secretary of the Commonwealth to the clerk of each governing body. (1987, Sp. Sess., c. 1; 1988, c. 849; 1995, c. 495; 1996, c. 526.)

Joint Subcommittee Studying the  
Conflict of Interests Act  
August 22, 2002

Presentation of the Local Government  
Attorneys of Virginia

VIRGINIA CODE § \_\_\_\_\_ : SUBJECT MATTER

EXAMPLE: \_\_\_\_\_



APPLICABLE VIRGINIA CODE SECTION(S) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Virginia Code § \_\_\_\_\_

**VIRGINIA CODE § 2.2-3100: “SINGLE BODY OF LAW”**

**EXAMPLE:** An officer correctly determines that a contract in which both he and his governmental employer are parties is permitted under the Act. Because the Act’s preamble states that the Act is the “single body of law” concerning conflicts, the officer executes the contract, not realizing that the contract violates the Ethics in Public Contracting provisions of the Procurement Act.

**ISSUE:** The Act does not cross-reference the Ethics in Public Contracting provisions of the Virginia Public Procurement Act, which prohibits certain contracts involving public officers or employees who have procurement authority on behalf of a public body.

**Solution:** Cross-reference the Ethics in Public Contracting provisions in both the Act's preamble (Va. Code § 2.2-3100) and in Article 3 (Prohibited Conduct Relating to Contracts).

The General Assembly, recognizing that our system of representative government is dependent in part upon (i) citizen legislative members representing fully the public in the legislative process and (ii) its citizens maintaining the highest trust in their public officers and employees, finds and declares that the citizens are entitled to be assured that the judgment of public officers and employees will not be compromised or affected by inappropriate conflicts. To that end and for the purpose of establishing a single body of law applicable to all state and local government officers and employees on the subject of conflict of interests, the General Assembly enacts this State and Local Government Conflict of Interests Act so that the standards of conflict of such officers and employees may be uniform throughout the Commonwealth.



**VIRGINIA CODE § 2.2-3101: DEFINITION OF "PERSONAL INTEREST"**

**EXAMPLE:** An appointee to an advisory agency asserts that an option contract on land does not constitute a "personal interest," and thus he refuses to disclose the contract and votes on a matter affecting the land for which he owns an option.

**ISSUE:** The definition of "personal interest" does not explicitly include option contracts, and thus some officials have concluded that such contracts do not have to be disclosed.

**Solution:** Add option for ownership of business or property to definition of "personal interest"

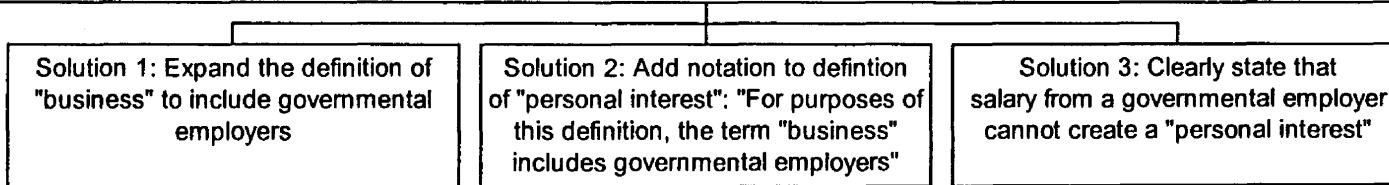
**"Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$10,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business that exceeds, or may reasonably be anticipated to exceed, \$10,000 annually; (iv) ownership of real or personal property if the interest exceeds \$10,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; or (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business.**

**VIRGINIA CODE § 2.2-3101: DEFINITIONS OF “BUSINESS” AND “GOVERNMENTAL AGENCY”**

**EXAMPLE #1: A city employee is elected to City Council. The Act does not prohibit her voting on her department’s budget, her own salary, and other matters involving her department.**

**EXAMPLE #2: Mayor of town is also an employee of the Regional Planning District Commission. The PDC does consulting work for the town. The mayor can vote on contracts for this work to be performed by his employer—the PDC—for the town.**

**ISSUE: A member of a locality's governing body who is also a public employee may vote on contracts with his agency, his own salary, and other matters involving his governmental employer because one's salary can only create a personal interest if the salary is from a "business," and, under the Act, *the term "business" does not include governmental employers.***



**“Business” means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.**

**“Governmental agency” means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties.**

**Virginia Code § 2.2-3101**

**Each officer or employee . . . who has a personal interest in a transaction [s]hall disqualify himself from participating in the transaction if the transaction has application solely to property or a business in which he has a personal interest . . . .**

**Va. Code § 2.2-3112(A)(1).**

**VIRGINIA CODE § 2.2-3101: DEFINITION OF "BUSINESS"**

**EXAMPLE: An official does business with, and has a personal interest in, Corporation A, and therefore cannot vote on matters involving that business. Corporation B has the same principals as, and is a related business/subsidiary of, Corporation A. The official can vote on matters involving Corporation B.**

**ISSUE: An official with a personal interest in a business can vote on matters involving a different business which shares the same principals and/or share holders or is a subsidiary of the business in which he has an interest, because *the Act's definition of "business" does not address related entities.***

**Solution: Address related entities  
in definition of "business"**

**"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.**

**Virginia Code § 2.2-3101**

**VIRGINIA CODE § 2.2-3101: “PERSONAL INTEREST IN A TRANSACTION”**

**EXAMPLE: A local elected official cannot vote on matters involving a client he personally represents, but he may, without disclosure, vote on matters involving clients of his firm whom he does *not* personally represent, if his firm will not realize a reasonably foreseeable benefit or detriment as a result of the transaction. In addition, there is confusion as to the scope of the term “representation,” as that term is used in the definition of “personal interest in a transaction.”**

**ISSUE: The Act does not provide guidance to a local government official in a transaction where a client of his firm (whom he does not personally represent or provide services) is the subject of the transaction, and the firm will not realize a reasonably foreseeable benefit or detriment. Also, the Act provides no guidance as to the scope of the term "representation."**

Solution: Require the officer to disclose that the party to a transaction is a client of the officer's firm, and so long as the officer does not personally represent or provide services to the client and the firm will not realize a reasonably foreseeable benefit or detriment, the officer may vote on the transaction. Also, add language to the definition of "personal interest in a transaction" that makes clear that "representation" includes providing services to a client.

**“Personal interest in a transaction” means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business, or represents any individual or business and such property, business or represented individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction.**

**Virginia Code § 2.2-3101. *See also* Attorney General COI Advisory Opinion No. 6-826 (noting “an apparent legislative intent to limit the basis of ‘personal interest in a transaction’ to the personal rather than vicarious representation of a business or individual by the officer”).**

**VIRGINIA CODE § 2.2-3103(5): PROHIBITED CONDUCT**

**EXAMPLE: Local elected official receives tickets worth \$50 to a sporting event and declines them based on the “reasonably tends to influence” prohibition. Another official receives tickets worth \$500 and accepts them. Both officials believe their actions conform with the Act’s requirements.**

**ISSUE: The Act prohibits an employee from accepting anything that "reasonably tends to influence him in the performance of his public duties." *"Reasonably tends to influence" is undefined and will vary depending upon the officer's position and/or wealth. Unless circumstances are extreme, this is an unenforceable standard.***

**Solution: Explicitly authorize localities (1) to require all public officers and employees to disclose receipt of gifts and (2) to set a dollar amount limit on the acceptance of gifts.**

**No officer or employee of a state or local governmental or advisory agency shall . . . [a]ccept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence him in the performance of his official duties.**

**Virginia Code § 2.2-3103(5)**

**VIRGINIA CODE § 2.2-3112: PROHIBITED CONDUCT CONCERNING A PERSONAL INTEREST IN A TRANSACTION--EXCEPTIONS**

**EXAMPLE:** The approval of a zoning application by City Council will impact two adjacent properties. A Councilmember owns one of the adjacent properties, but he votes on the application because he is a member of a group—adjacent property owners—the members of which are affected by the transaction.

**ISSUE:** The Act makes an exception to the rule against personal interests in a transaction for members of a "group" affected by the transaction. Because *the term "group" is not defined*, some have broadly interpreted the term, concluding that two similarly situated people can constitute a "group."

Solution: Define the term "group" as consisting of more than two people

Each officer and employee of any state or local governmental or advisory agency who has a personal interest in a transaction . . . may participate in the transaction if he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and he complies with the declaration requirements of § 2.2-3114 (F) or § 2.2-3115 (G).

Virginia Code § 2.2-3112

**VIRGINIA CODE § 2.2-3112(A)(1): DISQUALIFICATION FROM PARTICIPATION IN A TRANSACTION**

**EXAMPLE: Councilmember has a known conflict and may not participate in a transaction involving a contract on behalf of a represented party. Councilmember does not discuss the issue during the Council's meetings, but he does attend the Council's closed session on the matter, and he contacts members on a one-on-one basis to advocate his position.**

**ISSUE: The Act does not define the term "participation," and thus there is no explicit prohibition which precludes an officer from either discussing an issue for which he has a conflict, outside of a formal meeting, with government employees and elected officials or attending (but not participating in) closed session meetings on the issue.**

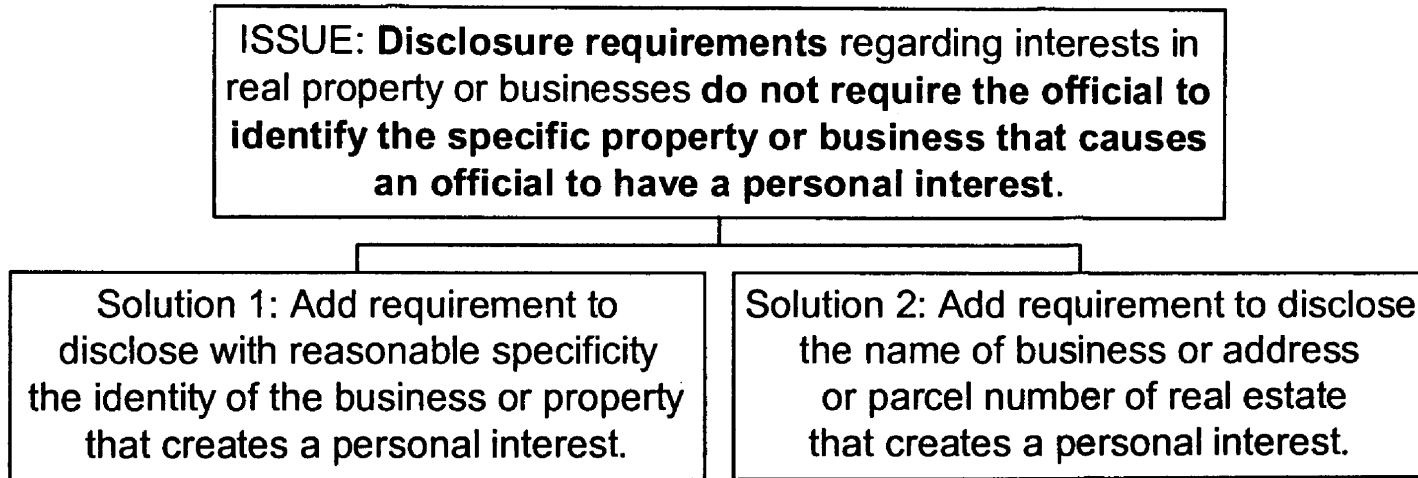
**Solution: Explicitly provide that the prohibition against participation precludes both attendance at portions of closed session meetings in which the matter is discussed and discussion of the matter with members of the governing body and government employees at any time.**

**Each officer and employee of any state or local governmental or advisory agency who has a personal interest in a transaction [s]hall disqualify himself from participating in the transaction if the transaction has application solely to property or a business in which he has a personal interest or he is unable to participate pursuant to subdivision 2 or 3.**

**Virginia Code § 2.2-3112(A)(1)**

**VIRGINIA CODE § 2.2-3115: DISCLOSURE OF PERSONAL INTEREST**

**EXAMPLE: A local advisory board member owns property, the value of which likely will double as a result of a transaction being considered by the board. During the meeting, the board member states that he “has an interest” in the transaction and, as a member of a group affected by the transaction, he is able to vote in the public interest. The public never learns the extent of his interest.**



**Any officer or employee of local government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subdivision A 1 of § 2.2-3112 or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, and his disclosure shall be reflected in the public records of the agency for five years in the office of the administrative head of the officer’s or employee’s governmental or advisory agency.**

**Virginia Code § 2.2-3115(E)**



VIRGINIA CODE §§ 2.2-3121, -3126: ROLE OF THE COMMONWEALTH'S ATTORNEY

**EXAMPLE:** Local elected official is also a private developer. He seeks and receives his Commonwealth's Attorney's COIA opinion concluding that he may vote on a contested issue. The media and the public believe the official had a conflict. The official discloses that the Commonwealth's Attorney concluded no conflict existed, but does not agree to release the opinion. Because of the official's refusal to release the opinion, the Commonwealth's Attorney believes the attorney-client privilege prevents him from releasing the opinion against the wishes of his client (the official).

ISSUE: The Act unintentionally incorporates inherent conflicts for the Commonwealth's Attorney in that he has two conflicting roles: prosecutor and advisor. Also, although officials should not be discouraged from seeking an advisory opinion, ***failure to release a COIA opinion of the Commonwealth's Attorney may result in an erosion of public confidence*** when the opinion is relied upon to permit the official to vote.

<Unresolved>

The provisions of this chapter relating to an officer or employee serving at the local level of government shall be enforced by the attorney for the Commonwealth within the political subdivision for which he is elected. Each attorney for the Commonwealth shall be responsible for prosecuting violations by an officer or employee serving at the local level of government . . . .

Each attorney for the Commonwealth shall render advisory opinions as to whether the facts in a particular case would constitute a violation of the provisions of this chapter to the governing body and any local officer or employee in his jurisdiction . . . .

Va. Code § 2.2-3126(B)

A local officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation resulted from his good faith reliance on a written opinion of the attorney for the Commonwealth and the opinion was made after a full disclosure of the facts.

Va. Code § 2.2-3121(B).

**VIRGINIA CODE § 2.2-3100: CLARIFY POLICY OF THE ACT**

**EXAMPLE: The Act's preamble leads citizens to believe that the Act prohibits an officer from voting on a transaction in which he has a personal interest, but in fact the Act frequently permits voting on such matters, if the officer discloses his interest.**

**ISSUE: The Act purports to assure the public that "the judgment of public officers and employees will not be compromised or affected by inappropriate conflicts," but few disqualifications are required, and in many instances officials may simply disclose and vote after certifying that they are acting in the public interest.**

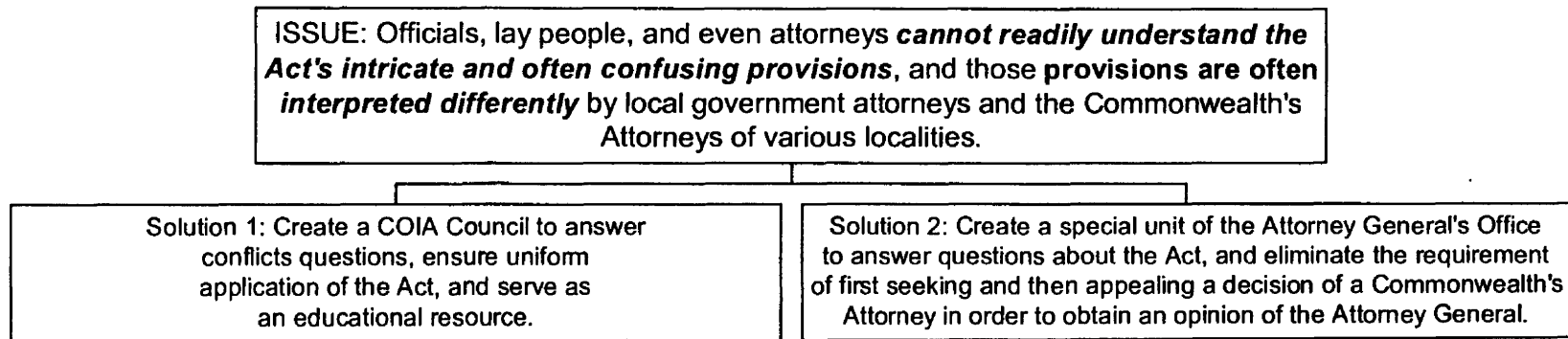
**Solution 1: Make policy statement less sweeping and state that the Act merely sets forth certain prohibited acts and the requirements for disclosure and disqualification. Also state that the Act sets a minimum standard of conduct.**

**Solution 2: Require that all disclosures be included in the minutes under § 2.2-3115(G) and require officials to orally disclose the interest during each meeting in which the matter for which disclosure is required is discussed.**

**The General Assembly, recognizing that our system of representative government is dependent in part upon (i) citizen legislative members representing fully the public in the legislative process and (ii) its citizens maintaining the highest trust in their public officers and employees, finds and declares that the citizens are entitled to be assured that the judgment of public officers and employees will not be compromised or affected by inappropriate conflicts. To that end and for the purpose of establishing a single body of law applicable to all state and local government officers and employees on the subject of conflict of interests, the General Assembly enacts this State and Local Government Conflict of Interests Act so that the standards of conflict of such officers and employees may be uniform throughout the Commonwealth.**

## THE ENTIRE ACT

**PROBLEM:** The provisions of the Act are sufficiently complicated to puzzle even persons experienced with the Act. There is little or no case law to establish precedent and consistency in interpretation of the Act, and there is no government organization charged with educational responsibilities and oversight of the Act's provisions. Also, except as to issues appealed to the Attorney General, the local Commonwealth's Attorney is the interpreter of the Act's application to local officials and employees, resulting in interpretations that likely differ from locality to locality.



The General Assembly, recognizing that our system of representative government is dependent in part upon (i) citizen legislative members representing fully the public in the legislative process and (ii) its citizens maintaining the highest trust in their public officers and employees, finds and declares that the citizens are entitled to be assured that the judgment of public officers and employees will not be compromised or affected by inappropriate conflicts. To that end and for the purpose of establishing a single body of law applicable to all state and local government officers and employees on the subject of conflict of interests, the General Assembly enacts this State and Local Government Conflict of Interests Act so that the standards of conflict of such officers and employees may be uniform throughout the Commonwealth.

Va. Code § 2.2-3100; *see also* Va. Code § 2.2-3126 (authorizing Commonwealth's Attorneys to issue COIA advisory opinions to local officials and authorizing appeals of those opinions to the Attorney General); Va. Code §§ 30-178 to -181 (establishing Freedom of Information Act Advisory Council).

## 2002 SESSION

ENROLLED

### HOUSE JOINT RESOLUTION NO. 31

*Establishing a joint subcommittee to study the State and Local Government Conflict of Interests Act.*

Agreed to by the House of Delegates, February 12, 2002

Agreed to by the Senate, March 5, 2002

WHEREAS, our system of representative government is dependent in part upon its citizens maintaining the highest trust in their public officers and employees; and

WHEREAS, the General Assembly has found and declared that citizens are entitled to the assurance that the judgment of public officers and employees will not be compromised or affected by inappropriate conflicts; and

WHEREAS, the State and Local Government Conflict of Interests Act was enacted by the General Assembly in 1987 in consideration of this axiom and for the purpose of establishing a single body of law applicable to all state and local government officers and employees on the subject of conflict of interests, so that the standards of conflict of such officers and employees may be uniform throughout the Commonwealth; and

WHEREAS, application of the Act since 1987 has revealed confusion regarding the meaning and purpose of important provisions; and

WHEREAS, this confusion serves to frustrate the purpose for which the Act was established and may contribute to creating a lack of confidence by the publicly elected or publicly appointed government officials and government employees; and

WHEREAS, the best and most important safeguard against the occurrence of a conflict of interest remains the integrity of government officials and employees who are personally and professionally obligated to serve the public with honesty and integrity in the context of clear legal principles; and

WHEREAS, there has been no comprehensive review of the Act since 1987; and

WHEREAS, rapidly expanding activities and businesses in the Commonwealth and its political subdivisions have created new financial opportunities that may not be fully addressed by the current conflict of interest laws; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study the State and Local Government Conflict of Interests Act. The joint subcommittee shall be composed of 10 members as follows: 4 members of the House of Delegates to be appointed by the Speaker of the House in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; 2 members of the Senate to be appointed by the Senate Committee on Privileges and Elections; 1 attorney for the Commonwealth and 1 local elected government official to be appointed by the Speaker of the House; 1 nonlegislative member to be appointed by the Senate Committee on Privileges and Elections; and the Attorney General or his designee to serve ex officio without voting privileges.

In conducting its study, the joint subcommittee shall review (i) the definitions of "personal interest in a transaction" and "personal interest in a contract," (ii) requirements for filing disclosure statements, (iii) rules regarding the disqualification of officials and employees from participating in a transaction when a conflict exists, and (iv) any other areas of confusion or inconsistency in terms of the Act's application.

The direct costs of this study shall not exceed \$8,000.

The Division of Legislative Services shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work by November 30, 2002, and shall submit its findings and recommendations to the Governor and the 2003 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

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Amigo R. Wade

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 A BILL to amend and reenact §§ 2.2-3100, 2.2-3101, 2.2-3105, 2.2-3112, 2.2-3114, 2.2-3115,  
 2 2.2-3121, 2.2-3126 and 2.2-4369 of the Code of Virginia, and to amend the Code of  
 3 Virginia by adding in Article 2 of Chapter 31 of Title 2.2 a section numbered 2.2-3104.2  
 4 relating to the State and Local Government Conflict of Interest Act.

5 **Be it enacted by the General Assembly of Virginia:**

6 1. That §§ 2.2-3100, 2.2-3101, 2.2-3105, 2.2-3112, 2.2-3114, 2.2-3115, 2.2-3121, 2.2-3126  
 7 and 2.2-4369 of the Code of Virginia are amended and reenacted, and the Code of  
 8 Virginia is amended by adding a section numbered 2.2-3104.2 as follows:

9 § 2.2-3100. Policy; application; construction.

10 The General Assembly, recognizing that our system of representative government is  
 11 dependent in part upon (i) citizen legislative members representing fully the public in the  
 12 legislative process and (ii) its citizens maintaining the highest trust in their public officers and  
 13 employees, finds and declares that the citizens are entitled to be assured that the judgment of  
 14 public officers and employees ~~will not be compromised or affected by inappropriate conflicts~~ be  
 15 guided by a law that defines and prohibits inappropriate conflicts and requires disclosure of  
 16 economic interests. To that end and for the purpose of establishing a single body of law  
 17 applicable to all state and local government officers and employees on the subject of conflict of  
 18 interests, the General Assembly enacts this State and Local Government Conflict of Interests  
 19 Act so that the standards of ~~conflict of~~ conduct for such officers and employees may be  
 20 uniform throughout the Commonwealth.

21 This chapter shall supersede all general and special acts and charter provisions which  
 22 purport to deal with matters covered by this chapter except that the provisions of §§ 15.2-852,  
 23 15.2-2287 and 15.2-2289, ~~and 15.2-2287~~ and ordinances adopted pursuant thereto shall  
 24 remain in force and effect. The provisions of this chapter shall be supplemented but not

1 superseded by the provisions on ethics in public contracting in Article 6 (§ 2.2-4367 et seq.) of  
2 Chapter 43 of Title 2.2 and ordinances adopted pursuant to § 2.2-3104.2 regulating receipt of  
3 gifts.

4 This chapter shall be liberally construed to accomplish its purpose.

5 § 2.2-3101. Definitions.

6 As used in this chapter:

7 "Advisory agency" means any board, commission, committee or post which does not  
8 exercise any sovereign power or duty, but is appointed by a governmental agency or officer or  
9 is created by law for the purpose of making studies or recommendations, or advising or  
10 consulting with a governmental agency.

11 "Affiliated business entity relationship" means a relationship, other than a parent-  
12 subsidiary relationship, that exists when (i) one business entity has a controlling ownership  
13 interest in the other business entity, (ii) a controlling owner in one entity is also a controlling  
14 owner in the other entity, or (iii) there is shared management or control between the business  
15 entities. Factors that may be considered in determining the existence of an affiliated business  
16 entity relationship include that the same person or substantially the same person owns or  
17 manages the two entities, there are common or commingled funds or assets, the business  
18 entities share the use of the same offices or employees, or otherwise share activities,  
19 resources or personnel on a regular basis, or there is otherwise a close working relationship  
20 between the entities.

21 "Business" means a corporation, partnership, sole proprietorship, firm, enterprise,  
22 franchise, association, trust or foundation, or any other individual or entity carrying on a  
23 business or profession, whether or not for profit.

24 "Contract" means any agreement to which a governmental agency is a party, or any  
25 agreement on behalf of a governmental agency that involves the payment of money  
26 appropriated by the General Assembly or political subdivision, whether or not such agreement  
27 is executed in the name of the Commonwealth, or some political subdivision thereof.

1 "Contract" includes a subcontract only when the contract of which it is a part is with the officer's  
2 or employee's own governmental agency.

3 "Dependent" means a son, daughter, father, mother, brother, sister or other person,  
4 whether or not related by blood or marriage, if such person receives from the officer or  
5 employee, or provides to the officer or employee, more than one-half of his financial support.

6 "Employee" means all persons employed by a governmental or advisory agency, unless  
7 otherwise limited by the context of its use.

8 "Financial institution" means any bank, trust company, savings institution, industrial loan  
9 association, consumer finance company, credit union, broker-dealer as defined in § 13.1-501,  
10 or investment company or advisor registered under the federal Investment Advisors Act or  
11 Investment Company Act of 1940.

12 "Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance,  
13 or other item having monetary value. It includes services as well as gifts of transportation, local  
14 travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in  
15 advance or reimbursement after the expense has been incurred. "Gift" shall not include any  
16 offer of a ticket or other admission or pass unless the ticket, admission, or pass is used. "Gift"  
17 shall not include honorary degrees and presents from relatives. For the purpose of this  
18 definition, "relative" means the donee's spouse, child, uncle, aunt, niece, or nephew; a person  
19 to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent,  
20 grandchild, brother, or sister; or the donee's brother's or sister's spouse.

21 "Governmental agency" means each component part of the legislative, executive or  
22 judicial branches of state and local government, including each office, department, authority,  
23 post, commission, committee, and each institution or board created by law to exercise some  
24 regulatory or sovereign power or duty as distinguished from purely advisory powers or duties.  
25 Corporations organized or controlled by the Virginia Retirement System are "governmental  
26 agencies" for purposes of this chapter.

1 "Immediate family" means (i) a spouse and (ii) any other person residing in the same  
2 household as the officer or employee, who is a dependent of the officer or employee or of  
3 whom the officer or employee is a dependent.

4 "Officer" means any person appointed or elected to any governmental or advisory  
5 agency including local school boards, whether or not he receives compensation or other  
6 emolument of office. Unless the context requires otherwise, "officer" includes members of the  
7 judiciary.

8 "Parent-subsidary relationship" means a relationship that exists when one corporation  
9 directly or indirectly owns shares possessing more than 50 percent of the voting power of  
10 another corporation.

11 "Personal interest" means a financial benefit or liability accruing to an officer or  
12 employee or to a member of his immediate family. Such interest shall exist by reason of (i)  
13 ownership in a business if the ownership interest exceeds three percent of the total equity of  
14 the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed,  
15 \$10,000 from ownership in real or personal property or a business; (iii) salary, other  
16 compensation, fringe benefits, or benefits from the use of property, or any combination thereof,  
17 paid or provided by a business or governmental agency that exceeds, or may reasonably be  
18 anticipated to exceed, \$10,000 annually; (iv) ownership of real or personal property if the  
19 interest exceeds \$10,000 in value and excluding ownership in a business, income, or salary,  
20 other compensation, fringe benefits or benefits from the use of property; ~~or~~ (v) personal liability  
21 incurred or assumed on behalf of a business if the liability exceeds three percent of the asset  
22 value of the business; or (vi) an option for ownership of a business or real or personal property  
23 if the ownership interest will consist of (i) or (iv) above.

24 "Personal interest in a contract" means a personal interest that an officer or employee  
25 has in a contract with a governmental agency, whether due to his being a party to the contract  
26 or due to a personal interest in a business that is a party to the contract.



1 "Personal interest in a transaction" means a personal interest of an officer or employee  
2 in any matter considered by his agency. Such personal interest exists when an officer or  
3 employee or a member of his immediate family has a personal interest in property or a  
4 business or governmental agency, or represents or provides services to any individual or  
5 business and such property, business or represented or served individual or business (i) is the  
6 subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit  
7 or detriment as a result of the action of the agency considering the transaction.  
8 Notwithstanding the above, such personal interest in a transaction shall not be deemed to exist  
9 where an elected member of a local governing body serves without remuneration as a member  
10 of the board of trustees of a not-for-profit entity and such elected member or member of his  
11 immediate family has no personal interest related to the not-for-profit entity.

12 "State and local government officers and employees" shall not include members of the  
13 General Assembly.

14 "Transaction" means any matter considered by any governmental or advisory agency,  
15 whether in a committee, subcommittee, or other entity of that agency or before the agency  
16 itself, on which official action is taken or contemplated.

17 § 2.2-3104.2. Ordinance regulating receipt of gifts.

18 The governing body of any county, city, or town may adopt an ordinance setting a  
19 monetary limit on the acceptance of any gift by the officers, appointees or employees of the  
20 county, city or town and requiring the disclosure by such officers, appointees or employees of  
21 the receipt of any gift.

22 § 2.2-3105. Application.

23 This article proscribes certain conduct relating to contracts by state and local  
24 government officers and employees. The provisions of this article shall be supplemented but  
25 not superseded by the provisions on ethics in public contracting in Article 6 (§ 2.2-4367 et  
26 seq.) of Chapter 43 of Title 2.2.

1 § 2.2-3112. Prohibited conduct concerning personal interest in a transaction;  
2 exceptions.

3 A. Each officer and employee of any state or local governmental or advisory agency  
4 who has a personal interest in a transaction:

5 1. Shall disqualify himself from participating in the transaction if (i) the transaction has  
6 application solely to property or a business or governmental agency in which he has a  
7 personal interest or a business that has a parent-subsidary or affiliated business entity  
8 relationship with the business in which he has a personal interest or (ii) he is unable to  
9 participate pursuant to subdivision 2, ~~or~~ 3 or 4. Any disqualification under the provisions of this  
10 subdivision shall be recorded in the public records of the officer's or employee's governmental  
11 or advisory agency. The officer or employee shall disclose his personal interest as required by  
12 § 2.2-3114 E or § 2.2-3115 E and shall not vote or in any manner act on behalf of his agency  
13 in the transaction. The officer or employee shall be prohibited from (i) attending any portion of  
14 a closed meeting authorized by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.)  
15 when the matter in which he has a personal interest is discussed and (ii) discussing the matter  
16 in which he has a personal interest with other governmental officers or employees at any time;

17 2. May participate in the transaction if he is a member of a business, profession,  
18 occupation, or group of three or more persons the members of which are affected by the  
19 transaction, and he complies with the declaration requirements of § 2.2-3114 F or § 2.2-3115  
20 G; ~~or~~

21 3. May participate in the transaction when a party to the transaction is a client of his firm  
22 if he does not personally represent or provide services to such client and he complies with the  
23 declaration requirements of § 2.2-3114 G or § 2.2-3115 H; or

24 ~~3. 4.~~ May participate in the transaction if it affects the public generally, even though his  
25 personal interest, as a member of the public, may also be affected by that transaction.

26 B. Disqualification under the provisions of this section shall not prevent any employee  
27 having a personal interest in a transaction in which his agency is involved from representing

1 himself or a member of his immediate family in such transaction provided he does not receive  
2 compensation for such representation and provided he complies with the disqualification and  
3 relevant disclosure requirements of this chapter.

4 C. If disqualifications of officers or employees in accordance with this section leave less  
5 than the number required by law to act, the remaining member or members shall have  
6 authority to act for the agency by majority vote, unless a unanimous vote of all members is  
7 required by law, in which case authority to act shall require a unanimous vote of remaining  
8 members. Notwithstanding any provisions of this chapter to the contrary, members of a local  
9 governing body whose sole interest in any proposed sale, contract of sale, exchange, lease or  
10 conveyance is by virtue of their employment by a business involved in a proposed sale,  
11 contract of sale, exchange, lease or conveyance, and where such member's or members' vote  
12 is essential to a constitutional majority required pursuant to Article VII, Section 9 of the  
13 Constitution of Virginia and § 15.2-2100, such member or members of the local governing  
14 body may vote and participate in the deliberations of the governing body concerning whether  
15 to approve, enter into or execute such sale, contract of sale, exchange, lease or conveyance.  
16 Official action taken under circumstances that violate this section may be rescinded by the  
17 agency on such terms as the interests of the agency and innocent third parties require.

18 D. The provisions of subsection A shall not prevent an officer or employee from  
19 participating in a transaction merely because such officer or employee is a party in a legal  
20 proceeding of a civil nature concerning such transaction.

21 E. The provisions of subsection A shall not prevent an employee from participating in a  
22 transaction regarding textbooks or other educational material for students at state institutions  
23 of higher education, when those textbooks or materials have been authored or otherwise  
24 created by the employee.

25 § 2.2-3114. Disclosure by state officers and employees.

26 A. The Governor, Lieutenant Governor, Attorney General, Justices of the Supreme  
27 Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges

1 of any district court, members of the State Corporation Commission, members of the Virginia  
2 Workers' Compensation Commission, members of the Commonwealth Transportation Board,  
3 members of the Board of Trustees of the Virginia Retirement System, and members of the  
4 State Lottery Board and other persons occupying such offices or positions of trust or  
5 employment in state government, including members of the governing bodies of authorities, as  
6 may be designated by the Governor or, in the case of officers or employees of the legislative  
7 branch, by the joint rules committees of the General Assembly, shall file, as a condition to  
8 assuming office or employment, a disclosure statement of their personal interests and such  
9 other information as is specified on the form set forth in § 2.2-3117 and thereafter shall file  
10 such a statement annually on or before January 15.

11 B. Nonsalaried citizen members of all policy and supervisory boards, commissions and  
12 councils in the executive branch of state government, other than the Commonwealth  
13 Transportation Board, members of the Board of Trustees of the Virginia Retirement System,  
14 and the State Lottery Board, shall file, as a condition to assuming office, a disclosure form of  
15 their personal interests and such other information as is specified on the form set forth in § 2.2-  
16 3118 and thereafter shall file such form annually on or before January 15. Nonsalaried citizen  
17 members of other boards, commissions and councils, including advisory boards and  
18 authorities, may be required to file a disclosure form if so designated by the Governor, in which  
19 case the form shall be that set forth in § 2.2-3118.

20 C. The disclosure forms required by subsections A and B shall be provided by the  
21 Secretary of the Commonwealth to each officer and employee so designated not later than  
22 November 30 of each year. Disclosure forms shall be filed and maintained as public records  
23 for five years in the Office of the Secretary of the Commonwealth.

24 D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General  
25 shall file a disclosure statement of their personal interests as required by § 24.2-502.

26 E. Any officer or employee of state government who has a personal interest in any  
27 transaction before the governmental or advisory agency of which he is an officer or employee

1 and who is disqualified from participating in that transaction pursuant to subdivision A 1 of §  
2 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the  
3 existence of his interest, including the full name and address of the business and the address  
4 or parcel number for the real estate if the interest involves a business or real estate, and his  
5 disclosure shall also be reflected in the public records of the agency for five years in the office  
6 of the administrative head of the officer's or employee's governmental agency or advisory  
7 agency or, if the agency has a clerk, in the clerk's office. The officer or employee shall also  
8 orally disclose the existence of the interest during each meeting of the governmental or  
9 advisory agency at which the transaction is discussed and such disclosure shall be recorded in  
10 the minutes of the meeting.

11 F. An officer or employee of state government who is required to declare his interest  
12 pursuant to subdivision A 2 of § 2.2-3112, shall declare his interest ~~to do so~~ by stating (i) the  
13 transaction involved, (ii) the nature of the officer's or employee's personal interest affected by  
14 the transaction, (iii) that he is a member of a business, profession, occupation, or group the  
15 members of which are affected by the transaction, and (iv) that he is able to participate in the  
16 transaction fairly, objectively, and in the public interest. The officer or employee shall either  
17 make his declaration orally to be recorded in written minutes for his agency or file a signed  
18 written declaration with the clerk or administrative head of his governmental or advisory  
19 agency, as appropriate, who shall, in either case, retain and make available for public  
20 inspection such declaration for a period of five years from the date of recording or receipt. If  
21 reasonable time is not available to comply with the provisions of this subsection prior to  
22 participation in the transaction, the officer or employee shall prepare and file the required  
23 declaration by the end of the next business day. The officer or employee shall also orally  
24 disclose the existence of the interest during each meeting of the governmental or advisory  
25 agency at which the transaction is discussed and such disclosure shall be recorded in the  
26 minutes of the meeting.

1        G. An officer or employee of state government who is required to declare his interest  
2 pursuant to subdivision A 3 of § 2.2-3112, shall declare his interest by stating (i) the  
3 transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does  
4 not personally represent or provide services to the client, and (iv) that he is able to participate  
5 in the transaction fairly, objectively, and in the public interest. The officer or employee shall  
6 either make his declaration orally to be recorded in written minutes for his agency or file a  
7 signed written declaration with the clerk or administrative head of his governmental or advisory  
8 agency, as appropriate, who shall, in either case, retain and make available for public  
9 inspection such declaration for a period of 5 years from the date of recording or receipt. If  
10 reasonable time is not available to comply with the provisions of this subsection prior to  
11 participation in the transaction, the officer or employee shall prepare and file the required  
12 declaration by the end of the next business day. The officer or employee shall also orally  
13 disclose the existence of the interest during each meeting of the governmental or advisory  
14 agency at which the transaction is discussed and such disclosure shall be recorded in the  
15 minutes of the meeting.

16        § 2.2-3115. Disclosure by local government officers and employees.

17        A. The members of every governing body and school board of each county and city and  
18 of towns with populations in excess of 3,500 shall file, as a condition to assuming office or  
19 employment, a disclosure statement of their personal interests and other information as is  
20 specified on the form set forth in § 2.2-3117 and thereafter shall file such a statement annually  
21 on or before January 15.

22        The members of the governing body of any authority established in any county or city,  
23 or part or combination thereof, and having the power to issue bonds or expend funds in excess  
24 of \$10,000 in any fiscal year, shall file, as a condition to assuming office, a disclosure  
25 statement of their personal interests and other information as is specified on the form set forth  
26 in § 2.2-3118 and thereafter shall file such a statement annually on or before January 15,

1 unless the governing body of the jurisdiction that appoints the members requires that the  
2 members file the form set forth in § 2.2-3117.

3 Persons occupying such positions of trust appointed by governing bodies and persons  
4 occupying such positions of employment with governing bodies as may be designated to file by  
5 ordinance of the governing body shall file, as a condition to assuming office or employment, a  
6 disclosure statement of their personal interests and other information as is specified on the  
7 form set forth in § 2.2-3117 and thereafter shall file such a statement annually on or before  
8 January 15.

9 Persons occupying such positions of trust appointed by school boards and persons  
10 occupying such positions of employment with school boards as may be designated to file by an  
11 adopted policy of the school board shall file, as a condition to assuming office or employment,  
12 a disclosure statement of their personal interests and other information as is specified on the  
13 form set forth in § 2.2-3117 and thereafter shall file such a statement annually on or before  
14 January 15.

15 B. Nonsalaried citizen members of local boards, commissions and councils as may be  
16 designated by the governing body shall file, as a condition to assuming office, a disclosure  
17 form of their personal interests and such other information as is specified on the form set forth  
18 in § 2.2-3118 and thereafter shall file such form annually on or before January 15.

19 C. The disclosure forms required by subsections A and B shall be provided by the  
20 Secretary of the Commonwealth to the clerks of the governing bodies and school boards not  
21 later than November 30 of each year, and the clerks of the governing body and school board  
22 shall distribute the forms to designated individuals no later than December 10 of each year.  
23 Forms shall be filed and maintained as public records for five years in the office of the clerk of  
24 the respective governing body or school board. Forms filed by members of governing bodies of  
25 authorities shall be filed and maintained as public records for five years in the office of the clerk  
26 of the governing body of the county or city.

1 D. Candidates for membership in the governing body or school board of any county, city  
2 or town with a population of more than 3,500 persons shall file a disclosure statement of their  
3 personal interests as required by § 24.2-502.

4 E. Any officer or employee of local government who has a personal interest in any  
5 transaction before the governmental or advisory agency of which he is an officer or employee  
6 and who is disqualified from participating in that transaction pursuant to subdivision A 1 of §  
7 2.2-3112 or otherwise elects to disqualify himself, shall forthwith make disclosure of the  
8 existence of his interest, including the full name and address of the business and the address  
9 or parcel number for the real estate if the interest involves a business or real estate, and his  
10 disclosure shall be reflected in the public records of the agency for five years in the office of  
11 the administrative head of the officer's or employee's governmental or advisory agency. The  
12 officer or employee shall orally disclose the existence of the interest during each meeting of  
13 the governmental or advisory agency at which the transaction is discussed and such  
14 disclosure shall be recorded in the minutes of the meeting.

15 F. In addition to any disclosure required by subsections A and B, in each county and city  
16 and in towns with populations in excess of 3,500, members of planning commissions, boards  
17 of zoning appeals, real estate assessors, and all county, city and town managers or executive  
18 officers shall make annual disclosures of all their interests in real estate located in the county,  
19 city or town in which they are elected, appointed, or employed. Such disclosure shall include  
20 any business in which such persons own an interest, or from which income is received, if the  
21 primary purpose of the business is to own, develop or derive compensation through the sale,  
22 exchange or development of real estate in the county, city or town. Such disclosure shall be  
23 filed as a condition to assuming office or employment, and thereafter shall be filed annually  
24 with the clerk of the governing body of such county, city or town on or before January 15. Such  
25 disclosures shall be filed and maintained as public records for five years. Forms for the filing of  
26 such reports shall be prepared and distributed by the Secretary of the Commonwealth to the  
27 clerk of each governing body.



1 G. An officer or employee of local government who is required to declare his interest  
2 pursuant to subdivision A 2 of § 2.2-3112 shall declare his interest by stating (i) the transaction  
3 involved, (ii) the nature of the officer's or employee's personal interest affected by the  
4 transaction, (iii) that he is a member of a business, profession, occupation, or group the  
5 members of which are affected by the transaction, and (iv) that he is able to participate in the  
6 transaction fairly, objectively, and in the public interest. The officer or employee shall either  
7 make his declaration orally to be recorded in written minutes of his agency or file a signed  
8 written declaration with the clerk or administrative head of his governmental or advisory  
9 agency, as appropriate, who shall, in either case, retain and make available for public  
10 inspection such declaration for a period of five years from the date of recording or receipt. If  
11 reasonable time is not available to comply with the provisions of this subsection prior to  
12 participation in the transaction, the officer or employee shall prepare and file the required  
13 declaration by the end of the next business day. The officer or employee shall also orally  
14 disclose the existence of the interest during each meeting of the governmental or advisory  
15 agency at which the transaction is discussed and such disclosure shall be recorded in the  
16 minutes of the meeting.

17 H. An officer or employee of local government who is required to declare his interest  
18 pursuant to subdivision A 3 of § 2.2-3112, shall declare his interest by stating (i) the  
19 transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does  
20 not personally represent or provide services to the client, and (iv) that he is able to participate  
21 in the transaction fairly, objectively, and in the public interest. The officer or employee shall  
22 either make his declaration orally to be recorded in written minutes for his agency or file a  
23 signed written declaration with the clerk or administrative head of his governmental or advisory  
24 agency, as appropriate, who shall, in either case, retain and make available for public  
25 inspection such declaration for a period of 5 years from the date of recording or receipt. If  
26 reasonable time is not available to comply with the provisions of this subsection prior to  
27 participation in the transaction, the officer or employee shall prepare and file the required

1 declaration by the end of the next business day. The officer or employee shall also orally  
2 disclose the existence of the interest during each meeting of the governmental or advisory  
3 agency at which the transaction is discussed and such disclosure shall be recorded in the  
4 minutes of the meeting.

5 § 2.2-3121. Advisory opinions.

6 A. A state officer or employee shall not be prosecuted for a knowing violation of this  
7 chapter if the alleged violation resulted from his good faith reliance on a written opinion of the  
8 Attorney General made in response to his written request for such opinion and the opinion was  
9 made after a full disclosure of the facts.

10 B. A local officer or employee shall not be prosecuted for a knowing violation of this  
11 chapter if the alleged violation resulted from his good faith reliance on a written opinion of the  
12 attorney for the Commonwealth made in response to his written request for such opinion and  
13 the opinion was made after a full disclosure of the facts. The written opinion shall be a public  
14 record and shall be released upon request.

15 C. If any officer or employee serving at the local level of government is charged with a  
16 knowing violation of this chapter, and the alleged violation resulted from his reliance upon a  
17 written opinion of his city, county or town attorney, made after a full disclosure of the facts, that  
18 such action was not in violation of this chapter, then the officer or employee shall have the right  
19 to introduce a copy of the opinion at his trial as evidence that he did not knowingly violate this  
20 chapter.

21 § 2.2-3126. Enforcement.

22 A. The provisions of this chapter relating to an officer or employee serving at the state  
23 level of government shall be enforced by the Attorney General.

24 In addition to any other powers and duties prescribed by law, the Attorney General shall  
25 have the following powers and duties within the area for which he is responsible under this  
26 section:

1           1. He shall advise the agencies of state government and officers and employees serving  
2 at the state level of government on appropriate procedures for complying with the  
3 requirements of this chapter. He may review any disclosure statements, without notice to the  
4 affected person, for the purpose of determining satisfactory compliance, and shall investigate  
5 matters that come to his attention reflecting possible violations of the provisions of this chapter  
6 by officers and employees serving at the state level of government;

7           2. If he determines that there is a reasonable basis to conclude that any officer or  
8 employee serving at the state level of government has knowingly violated any provision of this  
9 chapter, he shall designate an attorney for the Commonwealth who shall have complete and  
10 independent discretion in the prosecution of such officer or employee;

11           3. He shall render advisory opinions to any state officer or employee who seeks advice  
12 as to whether the facts in a particular case would constitute a violation of the provisions of this  
13 chapter. He shall determine which opinions or portions thereof are of general interest to the  
14 public and may, from time to time, be published.

15           Irrespective of whether an opinion of the Attorney General has been requested and  
16 rendered, any person has the right to seek a declaratory judgment or other judicial relief as  
17 provided by law.

18           B. The provisions of this chapter relating to an officer or employee serving at the local  
19 level of government shall be enforced by the attorney for the Commonwealth within the political  
20 subdivision for which he is elected.

21           Each attorney for the Commonwealth shall be responsible for prosecuting violations by  
22 an officer or employee serving at the local level of government and, if the Attorney General  
23 designates such attorney for the Commonwealth, violations by an officer or employee serving  
24 at the state level of government. In the event the violation by an officer or employee serving at  
25 the local level of government involves more than one local jurisdiction, the Attorney General  
26 shall designate which of the attorneys for the Commonwealth of the involved local jurisdictions  
27 shall enforce the provisions of this chapter with regard to such violation.

1 Each attorney for the Commonwealth shall establish an appropriate written procedure  
2 for implementing the disclosure requirements of local officers and employees of his county, city  
3 or town, and for other political subdivisions, whose principal offices are located within the  
4 jurisdiction served by such attorney for the Commonwealth. The attorney for the  
5 Commonwealth shall provide a copy of this act to all local officers and employees in the  
6 jurisdiction served by such attorney who are required to file a disclosure statement pursuant to  
7 Article 5 (§ 2.2-3113 et seq.) of this chapter. Failure to receive a copy of the act shall not be a  
8 defense to such officers and employees if they are prosecuted for violations of the act.

9 Each attorney for the Commonwealth shall render advisory opinions as to whether the  
10 facts in a particular case would constitute a violation of the provisions of this chapter to the  
11 governing body and any local officer or employee in his jurisdiction and to political subdivisions  
12 other than a county, city or town, including regional political subdivisions whose principal  
13 offices are located within the jurisdiction served by such attorney for the Commonwealth. If the  
14 advisory opinion is written, then such written opinion shall be a public record and shall be  
15 released upon request. In case the opinion given by the attorney for the Commonwealth  
16 indicates that the facts would constitute a violation, the officer or employee affected thereby  
17 may request that the Attorney General review the opinion. A conflicting opinion by the Attorney  
18 General shall act to revoke the opinion of the attorney for the Commonwealth. The Attorney  
19 General shall determine which of his reviewing opinions or portions thereof are of general  
20 interest to the public and may, from time to time, be published.

21 Irrespective of whether an opinion of the attorney for the Commonwealth or the Attorney  
22 General has been requested and rendered, any person has the right to seek a declaratory  
23 judgment or other judicial relief as provided by law.

24 § 2.2-4369. Proscribed participation by public employees in procurement transactions.

25 Except as may be specifically allowed by subdivisions ~~A. 2. And A. 3.~~ A 2, 3 and 4 of §  
26 2.2-3112, no public employee having official responsibility for a procurement transaction shall  
27 participate in that transaction on behalf of the public body when the employee knows that:



## Overview of Joint Subcommittee Legislative Draft

Issue Presented	Joint Subcommittee Action	Location in Draft
<p><b>1) Policy.</b> No cross reference to Article 6 of the Virginia Public Procurement Act (Ethics in Public Contracting)</p>	<p>Add a cross reference at § 2.2-3100 (general provisions) and § 2.2-3105 (prohibited conduct relating to contracts)</p>	<p>p. 1, line 24 p. 5, line 24</p>
<p><b>2) Definitions.</b> The definition of "personal interest does not explicitly include option contracts</p>	<p>Amend the definition of "personal interest" to include an option for ownership of business or property.</p>	<p>p. 4, line 22</p>
<p><b>3) Definitions.</b> The term "business" does not include governmental employers</p>	<p>Amend the Act to include governmental employers</p>	<p>p. 4, line 17 p. 5, line 4 p. 6, line 6</p>
<p><b>4) Definitions.</b> The definition of "business" does not address related entities</p>	<p>Amend the Act to address related entities.</p>	<p>p. 2, line 11 p. 4, line 8 p. 6, line 7</p>
<p><b>5) Disclosure/Declaration of Interest.</b> There is a need for additional guidance as to the scope of the term "representation"</p>	<p>Amend § 2.2-3112 to require an officer to disclose that a party to a transaction is a client of the officer's firm, and as long as the officer does not personally represent or provide services to the client, the officer may participate in the transaction.</p> <p>Amend the definition of "personal interest in a transaction" to clarify that representation includes providing services to a client.</p>	<p>p. 6, line 21 p. 10, line 1 p. 13, line 16</p> <p>p. 5, line 4 p. 5, line 5</p>
<p><b>6) Prohibited Conduct; Gifts.</b> The term "reasonable tends to influence" is undefined. Unless circumstances are extreme, the standard is unenforceable.</p>	<p>Authorize localities to require all public officers and employees to disclose when they receive any gift and to set a dollar amount on gifts that may be accepted.</p>	<p>p. 5, line 17 (§ 2.2-3104.2)</p>

## Overview of Joint Subcommittee Legislative Draft

Issue Presented	Joint Subcommittee Action	Location in Draft
<p><b>7) Disqualification.</b> The term "group" has been broadly interpreted to include two similarly situated people.</p>	<p>Amend the term "group" as used in § 2.2-3112 A 1 as consisting of more than two people.</p>	<p>p. 6, line 18</p>
<p><b>8) Disqualification.</b> The Act does not define the term "participation" regarding the prohibition where there is a personal interest in a transaction.</p>	<p>Amend § 2.2-3112 A 1 to explicitly prohibit attendance of an officer at closed meetings in which the matter is discussed and discussion of the matter at any time with other officers or employees</p>	<p>p. 6, line 13</p>
<p><b>9) Disclosure/Declaration of Interest.</b> Requirements for disclosing and declaring interest in real property and businesses do not require specificity regarding the property or business causing the personal interest.</p>	<p>Amend §§ 2.2-3114 and 2.2-3115 to require disclosure of the name of business or address or parcel number of real estate</p>	<p>p. 9, line 3 p. 12, line 8</p>
<p><b>10) Policy; Role of Advice of the Commonwealth's Attorney.</b> The Act establishes an inherent conflict in the role of the attorney for the Commonwealth as both prosecutor and advisor.</p>	<p>Amend § 2.2-3121 to clarify that when a local government official requests a written opinion from an attorney for the Commonwealth under COIA, such written opinion is a public document subject to disclosure upon request. Also, provide that certain request for an opinion from the attorney for the Commonwealth or the Attorney General be in writing</p>	<p>p. 14, lines 12, 13 and 14  p. 16 line 13</p>
<p><b>11) Policy; General.</b> The Act leads citizens to believe that an officer is prohibited from voting on a transaction in which he has a persona interest.</p>	<p>#1 Amend the policy statement contained in § 2.2-3100 to be less sweeping.  #2 Amend §§ 2.2-3114 and 2.2-3115 to provide that disclosures be included in the minutes and require officials to orally disclose the interest during each meeting in which is discussed.</p>	<p>p. 1, line 14  p. 9, lines 7 &amp; 23 p. 10, line 12 p. 12, line 11 p. 13, line 13 p. 14, line 1</p>

## 2003 SESSION

ENROLLED

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 2.2-3100, 2.2-3101, 2.2-3105, 2.2-3112, 2.2-3114, 2.2-3115,*  
 3 *2.2-3121, 2.2-3126 and 2.2-4369 of the Code of Virginia, and to amend the Code of Virginia by*  
 4 *adding in Article 2 of Chapter 31 of Title 2.2 a section numbered 2.2-3104.2 relating to the State*  
 5 *and Local Government Conflict of Interest Act.*

6  
7

[H 1546]

Approved

8 **Be it enacted by the General Assembly of Virginia:**

9 1. That §§ 2.2-3100, 2.2-3101, 2.2-3105, 2.2-3112, 2.2-3114, 2.2-3115, 2.2-3121, 2.2-3126 and  
 10 2.2-4369 of the Code of Virginia are amended and reenacted, and the Code of Virginia is  
 11 amended by adding a section numbered 2.2-3104.2 as follows:

12 § 2.2-3100. Policy; application; construction.

13 The General Assembly, recognizing that our system of representative government is dependent in  
 14 part upon (i) citizen legislative members representing fully the public in the legislative process and (ii)  
 15 its citizens maintaining the highest trust in their public officers and employees, finds and declares that  
 16 the citizens are entitled to be assured that the judgment of public officers and employees will ~~not be~~  
 17 ~~compromised or affected by inappropriate conflicts~~ *be guided by a law that defines and prohibits*  
 18 *inappropriate conflicts and requires disclosure of economic interests.* To that end and for the purpose  
 19 of establishing a single body of law applicable to all state and local government officers and  
 20 employees on the subject of conflict of interests, the General Assembly enacts this State and Local  
 21 Government Conflict of Interests Act so that the standards of ~~conflict of conduct~~ *for* such officers and  
 22 employees may be uniform throughout the Commonwealth.

23 This chapter shall supersede all general and special acts and charter provisions which purport to  
 24 deal with matters covered by this chapter except that the provisions of §§ 15.2-852, 15.2-2287 and  
 25 15.2-2289, ~~and 15.2-2287~~ and ordinances adopted pursuant thereto shall remain in force and effect.  
 26 *The provisions of this chapter shall be supplemented but not superseded by the provisions on ethics in*  
 27 *public contracting in Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of this title and ordinances adopted*  
 28 *pursuant to § 2.2-3104.2 regulating receipt of gifts.*

29 This chapter shall be liberally construed to accomplish its purpose.

30 § 2.2-3101. Definitions.

31 As used in this chapter:

32 "Advisory agency" means any board, commission, committee or post which does not exercise any  
 33 sovereign power or duty, but is appointed by a governmental agency or officer or is created by law  
 34 for the purpose of making studies or recommendations, or advising or consulting with a governmental  
 35 agency.

36 "*Affiliated business entity relationship*" means a relationship, other than a parent-subsidary  
 37 relationship, that exists when (i) one business entity has a controlling ownership interest in the other  
 38 business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity,  
 39 or (iii) there is shared management or control between the business entities. Factors that may be  
 40 considered in determining the existence of an affiliated business entity relationship include that the  
 41 same person or substantially the same person owns or manages the two entities, there are common or  
 42 commingled funds or assets, the business entities share the use of the same offices or employees, or  
 43 otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close  
 44 working relationship between the entities.

45 "Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise,  
 46 association, trust or foundation, or any other individual or entity carrying on a business or profession,  
 47 whether or not for profit.

48 "Contract" means any agreement to which a governmental agency is a party, or any agreement on  
 49 behalf of a governmental agency that involves the payment of money appropriated by the General  
 50 Assembly or political subdivision, whether or not such agreement is executed in the name of the  
 51 Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when



52 the contract of which it is a part is with the officer's or employee's own governmental agency.

53 "Dependent" means a son, daughter, father, mother, brother, sister or other person, whether or not  
54 related by blood or marriage, if such person receives from the officer or employee, or provides to the  
55 officer or employee, more than one-half of his financial support.

56 "Employee" means all persons employed by a governmental or advisory agency, unless otherwise  
57 limited by the context of its use.

58 "Financial institution" means any bank, trust company, savings institution, industrial loan  
59 association, consumer finance company, credit union, broker-dealer as defined in § 13.1-501, or  
60 investment company or advisor registered under the federal Investment Advisors Act or Investment  
61 Company Act of 1940.

62 "Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other  
63 item having monetary value. It includes services as well as gifts of transportation, local travel,  
64 lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or  
65 reimbursement after the expense has been incurred. "Gift" shall not include any offer of a ticket or  
66 other admission or pass unless the ticket, admission, or pass is used. "Gift" shall not include honorary  
67 degrees and presents from relatives. For the purpose of this definition, "relative" means the donee's  
68 spouse, child, uncle, aunt, niece, or nephew; a person to whom the donee is engaged to be married;  
69 the donee's or his spouse's parent, grandparent, grandchild, brother, or sister; or the donee's brother's  
70 or sister's spouse.

71 "Governmental agency" means each component part of the legislative, executive or judicial  
72 branches of state and local government, including each office, department, authority, post,  
73 commission, committee, and each institution or board created by law to exercise some regulatory or  
74 sovereign power or duty as distinguished from purely advisory powers or duties. Corporations  
75 organized or controlled by the Virginia Retirement System are "governmental agencies" for purposes  
76 of this chapter.

77 "Immediate family" means (i) a spouse and (ii) any other person residing in the same household as  
78 the officer or employee, who is a dependent of the officer or employee or of whom the officer or  
79 employee is a dependent.

80 "Officer" means any person appointed or elected to any governmental or advisory agency including  
81 local school boards, whether or not he receives compensation or other emolument of office. Unless  
82 the context requires otherwise, "officer" includes members of the judiciary.

83 *"Parent-subsidiary relationship" means a relationship that exists when one corporation directly or*  
84 *indirectly owns shares possessing more than 50 percent of the voting power of another corporation.*

85 "Personal interest" means a financial benefit or liability accruing to an officer or employee or to a  
86 member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if  
87 the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that  
88 exceeds, or may reasonably be anticipated to exceed, \$10,000 from ownership in real or personal  
89 property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of  
90 property, or any combination thereof, paid or provided by a business or governmental agency that  
91 exceeds, or may reasonably be anticipated to exceed, \$10,000 annually; (iv) ownership of real or  
92 personal property if the interest exceeds \$10,000 in value and excluding ownership in a business,  
93 income, or salary, other compensation, fringe benefits or benefits from the use of property; ~~or~~ (v)  
94 personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of  
95 the asset value of the business; or (vi) an option for ownership of a business or real or personal  
96 property if the ownership interest will consist of (i) or (iv) above.

97 "Personal interest in a contract" means a personal interest that an officer or employee has in a  
98 contract with a governmental agency, whether due to his being a party to the contract or due to a  
99 personal interest in a business that is a party to the contract.

100 "Personal interest in a transaction" means a personal interest of an officer or employee in any  
101 matter considered by his agency. Such personal interest exists when an officer or employee or a  
102 member of his immediate family has a personal interest in property or a business or governmental  
103 agency, or represents or provides services to any individual or business and such property, business or  
104 represented or served individual or business (i) is the subject of the transaction or (ii) may realize a  
105 reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency

106 considering the transaction. Notwithstanding the above, such personal interest in a transaction shall  
107 not be deemed to exist where an elected member of a local governing body serves without  
108 remuneration as a member of the board of trustees of a not-for-profit entity and such elected member  
109 or member of his immediate family has no personal interest related to the not-for-profit entity.

110 "State and local government officers and employees" shall not include members of the General  
111 Assembly.

112 "Transaction" means any matter considered by any governmental or advisory agency, whether in a  
113 committee, subcommittee, or other entity of that agency or before the agency itself, on which official  
114 action is taken or contemplated.

115 § 2.2-3104.2. *Ordinance regulating receipt of gifts.*

116 *The governing body of any county, city, or town may adopt an ordinance setting a monetary limit*  
117 *on the acceptance of any gift by the officers, appointees or employees of the county, city or town and*  
118 *requiring the disclosure by such officers, appointees or employees of the receipt of any gift.*

119 § 2.2-3105. Application.

120 This article proscribes certain conduct relating to contracts by state and local government officers  
121 and employees. *The provisions of this article shall be supplemented but not superseded by the*  
122 *provisions on ethics in public contracting in Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of this title.*

123 § 2.2-3112. Prohibited conduct concerning personal interest in a transaction; exceptions.

124 A. Each officer and employee of any state or local governmental or advisory agency who has a  
125 personal interest in a transaction:

126 1. Shall disqualify himself from participating in the transaction if (i) the transaction has application  
127 solely to property or a business or governmental agency in which he has a personal interest or a  
128 business that has a parent-subsidiary or affiliated business entity relationship with the business in  
129 which he has a personal interest or (ii) he is unable to participate pursuant to subdivision 2, ~~or~~ 3 or  
130 4. Any disqualification under the provisions of this subdivision shall be recorded in the public records  
131 of the officer's or employee's governmental or advisory agency. The officer or employee shall disclose  
132 his personal interest as required by § 2.2-3114 E or § 2.2-3115 E and shall not vote or in any manner  
133 act on behalf of his agency in the transaction. *The officer or employee shall be prohibited from (i)*  
134 *attending any portion of a closed meeting authorized by the Virginia Freedom of Information Act*  
135 *(§ 2.2-3700 et seq.) when the matter in which he has a personal interest is discussed and (ii)*  
136 *discussing the matter in which he has a personal interest with other governmental officers or*  
137 *employees at any time;*

138 2. May participate in the transaction if he is a member of a business, profession, occupation, or  
139 group of three or more persons the members of which are affected by the transaction, and he  
140 complies with the declaration requirements of § 2.2-3114 F or § 2.2-3115 G; ~~or~~

141 3. May participate in the transaction when a party to the transaction is a client of his firm if he  
142 does not personally represent or provide services to such client and he complies with the declaration  
143 requirements of § 2.2-3114 G or § 2.2-3115 H; or

144 ~~3-~~ 4. May participate in the transaction if it affects the public generally, even though his personal  
145 interest, as a member of the public, may also be affected by that transaction.

146 B. Disqualification under the provisions of this section shall not prevent any employee having a  
147 personal interest in a transaction in which his agency is involved from representing himself or a  
148 member of his immediate family in such transaction provided he does not receive compensation for  
149 such representation and provided he complies with the disqualification and relevant disclosure  
150 requirements of this chapter.

151 C. If disqualifications of officers or employees in accordance with this section leave less than the  
152 number required by law to act, the remaining member or members shall have authority to act for the  
153 agency by majority vote, unless a unanimous vote of all members is required by law, in which case  
154 authority to act shall require a unanimous vote of remaining members. Notwithstanding any provisions  
155 of this chapter to the contrary, members of a local governing body whose sole interest in any  
156 proposed sale, contract of sale, exchange, lease or conveyance is by virtue of their employment by a  
157 business involved in a proposed sale, contract of sale, exchange, lease or conveyance, and where such  
158 member's or members' vote is essential to a constitutional majority required pursuant to Article VII,  
159 Section 9 of the Constitution of Virginia and § 15.2-2100, such member or members of the local

160 governing body may vote and participate in the deliberations of the governing body concerning  
161 whether to approve, enter into or execute such sale, contract of sale, exchange, lease or conveyance.  
162 Official action taken under circumstances that violate this section may be rescinded by the agency on  
163 such terms as the interests of the agency and innocent third parties require.

164 D. The provisions of subsection A shall not prevent an officer or employee from participating in a  
165 transaction merely because such officer or employee is a party in a legal proceeding of a civil nature  
166 concerning such transaction.

167 E. The provisions of subsection A shall not prevent an employee from participating in a  
168 transaction regarding textbooks or other educational material for students at state institutions of higher  
169 education, when those textbooks or materials have been authored or otherwise created by the  
170 employee.

171 § 2.2-3114. Disclosure by state officers and employees.

172 A. The Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges  
173 of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court,  
174 members of the State Corporation Commission, members of the Virginia Workers' Compensation  
175 Commission, members of the Commonwealth Transportation Board, members of the Board of  
176 Trustees of the Virginia Retirement System, and members of the State Lottery Board and other  
177 persons occupying such offices or positions of trust or employment in state government, including  
178 members of the governing bodies of authorities, as may be designated by the Governor or, in the case  
179 of officers or employees of the legislative branch, by the joint rules committees of the General  
180 Assembly, shall file, as a condition to assuming office or employment, a disclosure statement of their  
181 personal interests and such other information as is specified on the form set forth in § 2.2-3117 and  
182 thereafter shall file such a statement annually on or before January 15.

183 B. Nonsalaried citizen members of all policy and supervisory boards, commissions and councils in  
184 the executive branch of state government, other than the Commonwealth Transportation Board,  
185 members of the Board of Trustees of the Virginia Retirement System, and the State Lottery Board,  
186 shall file, as a condition to assuming office, a disclosure form of their personal interests and such  
187 other information as is specified on the form set forth in § 2.2-3118 and thereafter shall file such form  
188 annually on or before January 15. Nonsalaried citizen members of other boards, commissions and  
189 councils, including advisory boards and authorities, may be required to file a disclosure form if so  
190 designated by the Governor, in which case the form shall be that set forth in § 2.2-3118.

191 C. The disclosure forms required by subsections A and B shall be provided by the Secretary of the  
192 Commonwealth to each officer and employee so designated not later than November 30 of each year.  
193 Disclosure forms shall be filed and maintained as public records for five years in the Office of the  
194 Secretary of the Commonwealth.

195 D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a  
196 disclosure statement of their personal interests as required by § 24.2-502.

197 E. Any officer or employee of state government who has a personal interest in any transaction  
198 before the governmental or advisory agency of which he is an officer or employee and who is  
199 disqualified from participating in that transaction pursuant to subdivision A 1 of § 2.2-3112, or  
200 otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest,  
201 *including the full name and address of the business and the address or parcel number for the real*  
202 *estate if the interest involves a business or real estate*, and his disclosure shall also be reflected in the  
203 public records of the agency for five years in the office of the administrative head of the officer's or  
204 employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

205 F. An officer or employee of state government who is required to declare his interest pursuant to  
206 subdivision A 2 of § 2.2-3112, shall declare his interest ~~to do so~~ by stating (i) the transaction  
207 involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii)  
208 that he is a member of a business, profession, occupation, or group the members of which are  
209 affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively,  
210 and in the public interest. The officer or employee shall either make his declaration orally to be  
211 recorded in written minutes for his agency or file a signed written declaration with the clerk or  
212 administrative head of his governmental or advisory agency, as appropriate, who shall, in either case,  
213 retain and make available for public inspection such declaration for a period of five years from the

214 date of recording or receipt. If reasonable time is not available to comply with the provisions of this  
215 subsection prior to participation in the transaction, the officer or employee shall prepare and file the  
216 required declaration by the end of the next business day.

217 *G. An officer or employee of state government who is required to declare his interest pursuant to*  
218 *subdivision A 3 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii)*  
219 *that a party to the transaction is a client of his firm, (iii) that he does not personally represent or*  
220 *provide services to the client, and (iv) that he is able to participate in the transaction fairly,*  
221 *objectively, and in the public interest. The officer or employee shall either make his declaration orally*  
222 *to be recorded in written minutes for his agency or file a signed written declaration with the clerk or*  
223 *administrative head of his governmental or advisory agency, as appropriate, who shall, in either case,*  
224 *retain and make available for public inspection such declaration for a period of five years from the*  
225 *date of recording or receipt. If reasonable time is not available to comply with the provisions of this*  
226 *subsection prior to participation in the transaction, the officer or employee shall prepare and file the*  
227 *required declaration by the end of the next business day.*

228 § 2.2-3115. Disclosure by local government officers and employees.

229 A. The members of every governing body and school board of each county and city and of towns  
230 with populations in excess of 3,500 shall file, as a condition to assuming office or employment, a  
231 disclosure statement of their personal interests and other information as is specified on the form set  
232 forth in § 2.2-3117 and thereafter shall file such a statement annually on or before January 15.

233 The members of the governing body of any authority established in any county or city, or part or  
234 combination thereof, and having the power to issue bonds or expend funds in excess of \$10,000 in  
235 any fiscal year, shall file, as a condition to assuming office, a disclosure statement of their personal  
236 interests and other information as is specified on the form set forth in § 2.2-3118 and thereafter shall  
237 file such a statement annually on or before January 15, unless the governing body of the jurisdiction  
238 that appoints the members requires that the members file the form set forth in § 2.2-3117.

239 Persons occupying such positions of trust appointed by governing bodies and persons occupying  
240 such positions of employment with governing bodies as may be designated to file by ordinance of the  
241 governing body shall file, as a condition to assuming office or employment, a disclosure statement of  
242 their personal interests and other information as is specified on the form set forth in § 2.2-3117 and  
243 thereafter shall file such a statement annually on or before January 15.

244 Persons occupying such positions of trust appointed by school boards and persons occupying such  
245 positions of employment with school boards as may be designated to file by an adopted policy of the  
246 school board shall file, as a condition to assuming office or employment, a disclosure statement of  
247 their personal interests and other information as is specified on the form set forth in § 2.2-3117 and  
248 thereafter shall file such a statement annually on or before January 15.

249 B. Nonsalaried citizen members of local boards, commissions and councils as may be designated  
250 by the governing body shall file, as a condition to assuming office, a disclosure form of their personal  
251 interests and such other information as is specified on the form set forth in § 2.2-3118 and thereafter  
252 shall file such form annually on or before January 15.

253 C. The disclosure forms required by subsections A and B shall be provided by the Secretary of the  
254 Commonwealth to the clerks of the governing bodies and school boards not later than November 30  
255 of each year, and the clerks of the governing body and school board shall distribute the forms to  
256 designated individuals no later than December 10 of each year. Forms shall be filed and maintained as  
257 public records for five years in the office of the clerk of the respective governing body or school  
258 board. Forms filed by members of governing bodies of authorities shall be filed and maintained as  
259 public records for five years in the office of the clerk of the governing body of the county or city.

260 D. Candidates for membership in the governing body or school board of any county, city or town  
261 with a population of more than 3,500 persons shall file a disclosure statement of their personal  
262 interests as required by § 24.2-502.

263 E. Any officer or employee of local government who has a personal interest in any transaction  
264 before the governmental or advisory agency of which he is an officer or employee and who is  
265 disqualified from participating in that transaction pursuant to subdivision A 1 of § 2.2-3112 or  
266 otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest,  
267 including the full name and address of the business and the address or parcel number for the real

268 *estate if the interest involves a business or real estate*, and his disclosure shall be reflected in the  
269 public records of the agency for five years in the office of the administrative head of the officer's or  
270 employee's governmental or advisory agency.

271 F. In addition to any disclosure required by subsections A and B, in each county and city and in  
272 towns with populations in excess of 3,500, members of planning commissions, boards of zoning  
273 appeals, real estate assessors, and all county, city and town managers or executive officers shall make  
274 annual disclosures of all their interests in real estate located in the county, city or town in which they  
275 are elected, appointed, or employed. Such disclosure shall include any business in which such persons  
276 own an interest, or from which income is received, if the primary purpose of the business is to own,  
277 develop or derive compensation through the sale, exchange or development of real estate in the  
278 county, city or town. Such disclosure shall be filed as a condition to assuming office or employment,  
279 and thereafter shall be filed annually with the clerk of the governing body of such county, city or  
280 town on or before January 15. Such disclosures shall be filed and maintained as public records for  
281 five years. Forms for the filing of such reports shall be prepared and distributed by the Secretary of  
282 the Commonwealth to the clerk of each governing body.

283 G. An officer or employee of local government who is required to declare his interest pursuant to  
284 subdivision A 2 of § 2.2-3112 shall declare his interest by stating (i) the transaction involved, (ii) the  
285 nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a  
286 member of a business, profession, occupation, or group the members of which are affected by the  
287 transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the  
288 public interest. The officer or employee shall either make his declaration orally to be recorded in  
289 written minutes of his agency or file a signed written declaration with the clerk or administrative head  
290 of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make  
291 available for public inspection such declaration for a period of five years from the date of recording  
292 or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to  
293 participation in the transaction, the officer or employee shall prepare and file the required declaration  
294 by the end of the next business day. *The officer or employee shall also orally disclose the existence of*  
295 *the interest during each meeting of the governmental or advisory agency at which the transaction is*  
296 *discussed and such disclosure shall be recorded in the minutes of the meeting.*

297 H. An officer or employee of local government who is required to declare his interest pursuant to  
298 subdivision A 3 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii)  
299 that a party to the transaction is a client of his firm, (iii) that he does not personally represent or  
300 provide services to the client, and (iv) that he is able to participate in the transaction fairly,  
301 objectively, and in the public interest. The officer or employee shall either make his declaration orally  
302 to be recorded in written minutes for his agency or file a signed written declaration with the clerk or  
303 administrative head of his governmental or advisory agency, as appropriate, who shall, in either case,  
304 retain and make available for public inspection such declaration for a period of five years from the  
305 date of recording or receipt. If reasonable time is not available to comply with the provisions of this  
306 subsection prior to participation in the transaction, the officer or employee shall prepare and file the  
307 required declaration by the end of the next business day.

308 § 2.2-3121. Advisory opinions.

309 A. A state officer or employee shall not be prosecuted for a knowing violation of this chapter if  
310 the alleged violation resulted from his good faith reliance on a written opinion of the Attorney  
311 General *made in response to his written request for such opinion* and the opinion was made after a  
312 full disclosure of the facts.

313 B. A local officer or employee shall not be prosecuted for a knowing violation of this chapter if  
314 the alleged violation resulted from his good faith reliance on a written opinion of the attorney for the  
315 Commonwealth *made in response to his written request for such opinion* and the opinion was made  
316 after a full disclosure of the facts. *The written opinion shall be a public record and shall be released*  
317 *upon request.*

318 C. If any officer or employee serving at the local level of government is charged with a knowing  
319 violation of this chapter, and the alleged violation resulted from his reliance upon a written opinion of  
320 his city, county or town attorney, made after a full disclosure of the facts, that such action was not in  
321 violation of this chapter, then the officer or employee shall have the right to introduce a copy of the

322 opinion at his trial as evidence that he did not knowingly violate this chapter.

323 § 2.2-3126. Enforcement.

324 A. The provisions of this chapter relating to an officer or employee serving at the state level of  
325 government shall be enforced by the Attorney General.

326 In addition to any other powers and duties prescribed by law, the Attorney General shall have the  
327 following powers and duties within the area for which he is responsible under this section:

328 1. He shall advise the agencies of state government and officers and employees serving at the state  
329 level of government on appropriate procedures for complying with the requirements of this chapter.  
330 He may review any disclosure statements, without notice to the affected person, for the purpose of  
331 determining satisfactory compliance, and shall investigate matters that come to his attention reflecting  
332 possible violations of the provisions of this chapter by officers and employees serving at the state  
333 level of government;

334 2. If he determines that there is a reasonable basis to conclude that any officer or employee  
335 serving at the state level of government has knowingly violated any provision of this chapter, he shall  
336 designate an attorney for the Commonwealth who shall have complete and independent discretion in  
337 the prosecution of such officer or employee;

338 3. He shall render advisory opinions to any state officer or employee who seeks advice as to  
339 whether the facts in a particular case would constitute a violation of the provisions of this chapter. He  
340 shall determine which opinions or portions thereof are of general interest to the public and may, from  
341 time to time, be published.

342 Irrespective of whether an opinion of the Attorney General has been requested and rendered, any  
343 person has the right to seek a declaratory judgment or other judicial relief as provided by law.

344 B. The provisions of this chapter relating to an officer or employee serving at the local level of  
345 government shall be enforced by the attorney for the Commonwealth within the political subdivision  
346 for which he is elected.

347 Each attorney for the Commonwealth shall be responsible for prosecuting violations by an officer  
348 or employee serving at the local level of government and, if the Attorney General designates such  
349 attorney for the Commonwealth, violations by an officer or employee serving at the state level of  
350 government. In the event the violation by an officer or employee serving at the local level of  
351 government involves more than one local jurisdiction, the Attorney General shall designate which of  
352 the attorneys for the Commonwealth of the involved local jurisdictions shall enforce the provisions of  
353 this chapter with regard to such violation.

354 Each attorney for the Commonwealth shall establish an appropriate written procedure for  
355 implementing the disclosure requirements of local officers and employees of his county, city or town,  
356 and for other political subdivisions, whose principal offices are located within the jurisdiction served  
357 by such attorney for the Commonwealth. The attorney for the Commonwealth shall provide a copy of  
358 this act to all local officers and employees in the jurisdiction served by such attorney who are  
359 required to file a disclosure statement pursuant to Article 5 (§ 2.2-3113 et seq.) of this chapter. Failure  
360 to receive a copy of the act shall not be a defense to such officers and employees if they are  
361 prosecuted for violations of the act.

362 Each attorney for the Commonwealth shall render advisory opinions as to whether the facts in a  
363 particular case would constitute a violation of the provisions of this chapter to the governing body and  
364 any local officer or employee in his jurisdiction and to political subdivisions other than a county, city  
365 or town, including regional political subdivisions whose principal offices are located within the  
366 jurisdiction served by such attorney for the Commonwealth. *If the advisory opinion is written, then*  
367 *such written opinion shall be a public record and shall be released upon request.* In case the opinion  
368 given by the attorney for the Commonwealth indicates that the facts would constitute a violation, the  
369 officer or employee affected thereby may request that the Attorney General review the opinion. A  
370 conflicting opinion by the Attorney General shall act to revoke the opinion of the attorney for the  
371 Commonwealth. The Attorney General shall determine which of his reviewing opinions or portions  
372 thereof are of general interest to the public and may, from time to time, be published.

373 Irrespective of whether an opinion of the attorney for the Commonwealth or the Attorney General  
374 has been requested and rendered, any person has the right to seek a declaratory judgment or other  
375 judicial relief as provided by law.

376 § 2.2-4369. Proscribed participation by public employees in procurement transactions.  
377 Except as may be specifically allowed by subdivisions ~~A. 2. And A. 3.~~ *A 2, 3 and 4* of  
378 § 2.2-3112, no public employee having official responsibility for a procurement transaction shall  
379 participate in that transaction on behalf of the public body when the employee knows that:  
380 1. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the  
381 procurement transaction;  
382 2. The employee, the employee's partner, or any member of the employee's immediate family  
383 holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the  
384 like, or is employed in a capacity involving personal and substantial participation in the procurement  
385 transaction, or owns or controls an interest of more than five percent;  
386 3. The employee, the employee's partner, or any member of the employee's immediate family has a  
387 pecuniary interest arising from the procurement transaction; or  
388 4. The employee, the employee's partner, or any member of the employee's immediate family is  
389 negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or  
390 contractor.

