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HOUSE BILL NO. 1546

Offered January 8, 2003

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

Patrons—Marshall, R.G., Athey and Lingamfelter

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

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 2.2-4369 of the Code of Virginia are amended and reenacted, and the Code of Virginia is amended by adding a section numbered 2.2-3104.2 as follows:

§ 2.2-3100. Policy; application; construction.

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 *be guided by a law that defines and prohibits inappropriate conflicts and requires disclosure of economic interests.* 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~~ *conduct* for such officers and employees may be uniform throughout the Commonwealth.

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 *The provisions of this chapter shall be supplemented but not superseded by the provisions on ethics in public contracting in Article 6 (§ 2.2-4367 et seq.)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

This chapter shall be liberally construed to accomplish its purpose.

§ 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.

"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.

"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 that 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

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59 officer or employee, more than one-half of his financial support.

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

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

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

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

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

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

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

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

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

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

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

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

116 § 2.2-3104.2. *Ordinance regulating receipt of gifts.*

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

120 § 2.2-3105. Application.

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

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

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

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

2. May participate in the transaction if he is a member of a business, profession, occupation, or group of three or more persons 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; ~~or~~

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

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

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

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

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

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

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

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

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

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

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

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

207 F. An officer or employee of state government who is required to declare his interest pursuant to
208 subdivision A 2 of § 2.2-3112, shall declare his interest ~~to~~ ~~de~~ ~~so~~ by stating (i) the transaction involved,
209 (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a
210 member of a business, profession, occupation, or group the members of which are affected by the
211 transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public
212 interest. The officer or employee shall either make his declaration orally to be recorded in written
213 minutes for his agency or file a signed written declaration with the clerk or administrative head of his
214 governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for
215 public inspection such declaration for a period of five years from the date of recording or receipt. If
216 reasonable time is not available to comply with the provisions of this subsection prior to participation in
217 the transaction, the officer or employee shall prepare and file the required declaration by the end of the
218 next business day. *The officer or employee shall also orally disclose the existence of the interest during*
219 *each meeting of the governmental or advisory agency at which the transaction is discussed and such*
220 *disclosure shall be recorded in the minutes of the meeting.*

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

234 § 2.2-3115. Disclosure by local government officers and employees.

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

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

the members requires that the members file the form set forth in § 2.2-3117.

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

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

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

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

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

E. 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, *including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate*, 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. *The officer or employee shall orally disclose the existence of the interest during each meeting of the governmental or advisory agency at which the transaction is discussed and such disclosure shall be recorded in the minutes of the meeting.*

F. In addition to any disclosure required by subsections A and B, 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.

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

305 *H. An officer or employee of local government who is required to declare his interest pursuant to*
306 *subdivision A 3 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a*
307 *party to the transaction is a client of his firm, (iii) that he does not personally represent or provide*
308 *services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in*
309 *the public interest. The officer or employee shall either make his declaration orally to be recorded in*
310 *written minutes for his agency or file a signed written declaration with the clerk or administrative head*
311 *of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make*
312 *available for public inspection such declaration for a period of 5 years from the date of recording or*
313 *receipt. If reasonable time is not available to comply with the provisions of this subsection prior to*
314 *participation in the transaction, the officer or employee shall prepare and file the required declaration*
315 *by the end of the next business day. The officer or employee shall also orally disclose the existence of*
316 *the interest during each meeting of the governmental or advisory agency at which the transaction is*
317 *discussed and such disclosure shall be recorded in the minutes of the meeting.*

318 § 2.2-3121. Advisory opinions.

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

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

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

333 § 2.2-3126. Enforcement.

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

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

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

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

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

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

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

357 Each attorney for the Commonwealth shall be responsible for prosecuting violations by an officer or
358 employee serving at the local level of government and, if the Attorney General designates such attorney
359 for the Commonwealth, violations by an officer or employee serving at the state level of government. In
360 the event the violation by an officer or employee serving at the local level of government involves more
361 than one local jurisdiction, the Attorney General shall designate which of the attorneys for the
362 Commonwealth of the involved local jurisdictions shall enforce the provisions of this chapter with
363 regard to such violation.

364 Each attorney for the Commonwealth shall establish an appropriate written procedure for
365 implementing the disclosure requirements of local officers and employees of his county, city or town,
366 and for other political subdivisions, whose principal offices are located within the jurisdiction served by

such attorney for the Commonwealth. The attorney for the Commonwealth shall provide a copy of this act to all local officers and employees in the jurisdiction served by such attorney who are required to file a disclosure statement pursuant to Article 5 (§ 2.2-3113 et seq.) of this chapter. Failure to receive a copy of the act shall not be a defense to such officers and employees if they are prosecuted for violations of the act.

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 and to political subdivisions other than a county, city or town, including regional political subdivisions whose principal offices are located within the jurisdiction served by such attorney for the Commonwealth. *If the advisory opinion is written, then such written opinion shall be a public record and shall be released upon request.* In case the opinion given by the attorney for the Commonwealth indicates that the facts would constitute a violation, the officer or employee affected thereby may request that the Attorney General review the opinion. A conflicting opinion by the Attorney General shall act to revoke the opinion of the attorney for the Commonwealth. The Attorney General shall determine which of his reviewing opinions or portions thereof are of general interest to the public and may, from time to time, be published.

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

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

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

1. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction;

2. The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;

3. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or

4. The employee, the employee's partner, or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

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