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HOUSE BILL NO. 1616

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on February 23, 2009)

(Patron Prior to Substitute—Delegate Marshall, R.G.)

A BILL to amend and reenact § 2.2-3115 of the Code of Virginia, relating to the State and Local Government Conflict of Interests Act; disclosure by certain nonsalaried citizen members of local government entities.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3115 of the Code of Virginia is amended and reenacted as follows:

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

A. The members of every governing body and school board of each county and city and of towns with populations in excess of 3,500 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.

The members of the governing body of any authority established in any county or city, or part or combination thereof, and having the power to issue bonds or expend funds in excess of \$10,000 in any fiscal year, shall file, as a condition to assuming office, a disclosure statement of their personal interests and other information as is specified on the form set forth in § 2.2-3118 and thereafter shall file such a 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. Nonsalaried citizen members of any local board, commission, or council created by the local governing body may be required by the local governing body as a condition of assuming office to file 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. Regardless of whether such members are required to file a disclosure form as herein provided, any person so appointed remains subject to the provisions of this Act, including, but not limited to, the prohibitions and exceptions contained in §§ 2.2-3103 and 2.2-3112.~~

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

60 or advisory agency.

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

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

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