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HOUSE BILL NO. 1140

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend the Code of Virginia by adding in Chapter 26 of Title 2.2 an article numbered 35, consisting of sections numbered 2.2-2699.5 through 2.2-2699.10, relating to the Virginia State and Local Government Ethics Advisory Council.*

Patron—Morgan

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 26 of Title 2.2 an article numbered 35, consisting of sections numbered 2.2-2699.5 through 2.2-2699.10 as follows:

*Article 35.**Virginia State and Local Government Ethics Advisory Council.*

§ 2.2-2699.5. *Virginia Ethics Advisory Council; membership; terms; quorum; compensation.*

A. *The Virginia Ethics Advisory Council (the "Council") is established as a policy council, within the meaning of § 2.2-2100, in the executive branch of state government.*

B. *The Council shall consist of seven nonlegislative members appointed by the Governor. All members of the Council shall be citizens of the Commonwealth. No person shall be appointed to the Council who is a current or former member of the General Assembly. No person shall be appointed to the Council who, within the prior five years, was (i) an elected or appointed official of any federal, state, or local government or governmental entity; (ii) a candidate for any federal, state, or local elective office; (iii) an officer of a state, local, or district level political party committee; or (iv) a lobbyist required to register pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2. No more than four members of the Council may belong to the same political party.*

C. *All appointments following the initial staggering of terms shall be for terms of four years. No member shall serve more than two successive four-year terms. Vacancies shall be filled in the same manner as the original appointments. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.*

D. *The Council shall elect a chair and vice-chair from its membership. The chair shall preside at all the meetings of the Council. A simple majority of the members serving on the Council shall constitute a quorum. A vacancy shall not impair the right of the remaining members to exercise all powers of the Council. The Council shall meet at least quarterly. Meetings may be held at the call of the chairman or whenever the majority of the members so request.*

E. *Members of the Council shall receive compensation for the discharge of their duties as provided in § 2.2-2813.*

§ 2.2-2699.6. *Executive Director.*

A. *There is established under the Council the position of Executive Director (the "Director"). The Director shall be appointed by the Governor, subject to confirmation by the General Assembly.*

B. *The Director may, within guidelines established by the Council:*

1. *Accept and investigate complaints of alleged violations of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.);*

2. *Attempt to conciliate any complaint of an alleged violation;*

3. *In the event conciliation fails, recommend to the Council that a hearing be held or other appropriate action be taken;*

4. *Carry out the policies of the Council and any other duty assigned by this article.*

§ 2.2-2699.7. *Powers and duties of Council.*

In addition to the other powers and duties prescribed in this article, the Council shall have the following powers to:

1. *Furnish, upon request, advisory opinions or guidelines, and other appropriate information regarding the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) to any person or agency of state or local government, in an expeditious manner;*

2. *Conduct training seminars and educational programs on the requirements of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.);*

3. *Publish such educational materials as it deems appropriate on the provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.);*

4. *Request from any agency of state or local government such assistance, services and information as*

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59 will enable the Council to effectively carry out its responsibilities. Information provided to the Council
60 by an agency of state or local government shall not be released to any other party unless authorized by
61 such agency;

62 5. Make studies to effectuate the purposes and policies of this article and make the results thereof
63 available to the public;

64 6. Receive, investigate, seek to conciliate, refer to another agency, hold hearings pursuant to the
65 Virginia Administrative Process Act (§ 2.2-4000 et seq.), and make findings and recommendations upon
66 complaints alleging unlawful discriminatory practices; and

67 7. Report annually on or before December 1 of each year on its activities and findings regarding the
68 State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.), including recommendations
69 for changes in either of the statutes, to the General Assembly and the Governor. The annual report shall
70 be published as a state document.

71 § 2.2-2699.8. Procedure for issuance of subpoena duces tecum.

72 Whenever the Council has reasonable cause to believe that any person has engaged in or is
73 engaging in a possible violation of the State and Local Government Conflict of Interests Act (§ 2.2-3100
74 et seq.), and the Council, after a good faith effort to obtain the data and information necessary to
75 determine whether a violation has occurred, has been unable to obtain such information, it may request
76 the Attorney General to apply to the judge of the circuit court of the jurisdiction in which the
77 respondent resides or is doing business for a subpoena duces tecum against any person refusing to
78 produce such data and information. The judge of the court, upon good cause shown, may cause the
79 subpoena to be issued. Any person failing to comply with such subpoena shall be subject to punishment
80 for contempt by the court issuing the subpoena.

81 Notwithstanding any other provisions of law, every state and local governmental agency, and units
82 and subdivisions thereof shall make available to the Council any documents, records, data, statements
83 or other information, except tax returns or information relating thereto, which the Council designates as
84 being necessary for the exercise of its powers and duties.

85 § 2.2-2699.9. Confidentiality of information; penalty.

86 A. It shall be unlawful for any officer, employee, or member of the Council to make public, prior to
87 a public hearing pursuant to § 2.2-2699.7, investigative notes and other correspondence and information
88 furnished to the Council in confidence with respect to an investigation or conciliation process involving
89 an alleged violation.

90 B. Nothing in this section, however, shall prohibit the distribution of information taken from inactive
91 reports in a form that does not reveal the identity of the parties involved or other persons supplying
92 information.

93 C. Any person convicted of a violation of this section shall be guilty of a Class 3 misdemeanor.

94 § 2.2-2699.10. Disposition of cases.

95 If the Council determines that there is a reasonable basis to conclude that a state or local elected
96 official or employee knowingly violated any provisions of Articles 2 through 6 (§§ 2.2-3102 through
97 2.2-3119) of the State and Local Government Conflict of Interests Act, it shall refer the matter by a
98 written report setting forth its findings and the reasons therefor to the Attorney General for such action
99 he deems appropriate.

100 2. That the initial appointments of members in accordance with this act shall be staggered as
101 follows: two members shall be appointed by the Governor for a one-year term, three members
102 shall be appointed by the Governor for a two-year term, and two members shall be appointed by
103 the Governor for a three-year term.