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HOUSE BILL NO. 1143

Offered January 14, 2014

A *BILL to amend and reenact §§ 2.2-3103 and 30-103 of the Code of Virginia, relating to prohibited conduct by legislators and state and local government officers and employees; retaliation.*

Patron—Farrell

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3103 and 30-103 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3103. Prohibited conduct.

No officer or employee of a state or local governmental or advisory agency shall:

1. Solicit or accept money or other thing of value for services performed within the scope of his official duties, except the compensation, expenses or other remuneration paid by the agency of which he is an officer or employee. This prohibition shall not apply to the acceptance of special benefits that may be authorized by law;

2. Offer or accept any money or other thing of value for or in consideration of obtaining employment, appointment, or promotion of any person with any governmental or advisory agency;

3. Offer or accept any money or other thing of value for or in consideration of the use of his public position to obtain a contract for any person or business with any governmental or advisory agency;

4. Use for his own economic benefit or that of another party confidential information that he has acquired by reason of his public position and which is not available to the public;

5. Accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence him in the performance of his official duties. This subdivision shall not apply to any political contribution actually used for political campaign or constituent service purposes and reported as required by Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2;

6. Accept any business or professional opportunity when he knows that there is a reasonable likelihood that the opportunity is being afforded him to influence him in the performance of his official duties;

7. Accept any honoraria for any appearance, speech, or article in which the officer or employee provides expertise or opinions related to the performance of his official duties. The term "honoraria" shall not include any payment for or reimbursement to such person for his actual travel, lodging, or subsistence expenses incurred in connection with such appearance, speech, or article or in the alternative a payment of money or anything of value not in excess of the per diem deduction allowable under § 162 of the Internal Revenue Code, as amended from time to time. The prohibition in this subdivision shall apply only to the Governor, Lieutenant Governor, Attorney General, Governor's Secretaries, and heads of departments of state government;

8. Accept a gift 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. Violations of this subdivision shall not be subject to criminal law penalties; or

9. Accept gifts from sources on a basis so frequent as to raise an appearance of the use of his public office for private gain. Violations of this subdivision shall not be subject to criminal law penalties; or

10. *Use his public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law.*

§ 30-103. Prohibited conduct.

No legislator shall:

1. Solicit or accept money or other thing of value for services performed within the scope of his official duties, except the compensation, expenses or other remuneration paid to him by the General Assembly. This prohibition shall not apply to the acceptance of special benefits which may be authorized by law;

2. Offer or accept any money or other thing of value for or in consideration of obtaining employment, appointment, or promotion of any person with any governmental or advisory agency;

3. Offer or accept any money or other thing of value for or in consideration of the use of his public position to obtain a contract for any person or business with any governmental or advisory agency;

4. Use for his own economic benefit or that of another party confidential information which he has acquired by reason of his public position and which is not available to the public;

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59 5. Accept any money, loan, gift, favor, service, or business or professional opportunity that
60 reasonably tends to influence him in the performance of his official duties. This subdivision shall not
61 apply to any political contribution actually used for political campaign or constituent service purposes
62 and reported as required by Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2;

63 6. Accept any business or professional opportunity when he knows that there is a reasonable
64 likelihood that the opportunity is being afforded him to influence him in the performance of his official
65 duties;

66 7. During the one year after the termination of his service as a legislator, represent a client or act in
67 a representative capacity on behalf of any person or group, for compensation, on any matter before the
68 General Assembly or any agency of the legislative branch of government. The prohibitions of this
69 subdivision shall apply only to persons engaged in activities that would require registration as a lobbyist
70 under § 2.2-422. Any person subject to the provisions of this subdivision may apply to the Attorney
71 General, as provided in § 30-122, for an advisory opinion as to the application of the restriction imposed
72 by this subdivision on any post-public employment position or opportunity;

73 8. Accept any honoraria for any appearance, speech, or article in which the legislator provides
74 expertise or opinions related to the performance of his official duties. The term "honoraria" shall not
75 include any payment for or reimbursement to such person for his actual travel, lodging, or subsistence
76 expenses incurred in connection with such appearance, speech, or article or in the alternative a payment
77 of money or anything of value not in excess of the per diem deduction allowable under § 162 of the
78 Internal Revenue Code, as amended from time to time;

79 9. Accept appointment to serve on a body or board of any corporation, company or other legal
80 entity, vested with the management of the corporation, company or entity, and on which two other
81 members of the General Assembly already serve, which is operated for profit and regulated by the State
82 Corporation Commission as (i) a financial institution, (ii) a mortgage lender or broker, (iii) any business
83 under Chapter 5 (§ 13.1-501 et seq.) of Title 13.1, (iv) any business under Title 38.2, or (v) any
84 business under Title 56;

85 10. Accept a gift from a person who has interests that may be substantially affected by the
86 performance of the legislator's official duties under circumstances where the timing and nature of the gift
87 would cause a reasonable person to question the legislator's impartiality in the matter affecting the
88 donor. Violations of this subdivision shall not be subject to criminal law penalties; ~~or~~

89 11. Accept gifts from sources on a basis so frequent as to raise an appearance of the use of his
90 public office for private gain. Violations of this subdivision shall not be subject to criminal law
91 penalties; *or*

92 12. *Use his public position to retaliate or threaten to retaliate against any person for expressing*
93 *views on matters of public concern or for exercising any right that is otherwise protected by law.*