

14102239D

HOUSE BILL NO. 625

Offered January 8, 2014

Prefiled January 7, 2014

A BILL to amend and reenact §§ 2.2-3103, 2.2-3117, and 2.2-3120 of the Code of Virginia, relating to the State and Local Government Conflict of Interests Act; statements of economic interests.

Patron—Watts

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3103, 2.2-3117, and 2.2-3120 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3103. Prohibited conduct.

A. 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, provided such payment of money or anything of value not in excess of does not exceed 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.

B. Immediate family members of an officer or employee of a state or local government or advisory agency shall be subject to the prohibitions set forth in subdivisions A 1, 5, and 6.

§ 2.2-3117. Disclosure form.

The disclosure form to be used for filings required by subsections A and D of § 2.2-3114 and subsections A and E of § 2.2-3115 shall be substantially as follows:

STATEMENT OF ECONOMIC INTERESTS.

Name

Office or position held or sought

Address

Names of members of immediate family

DEFINITIONS AND EXPLANATORY MATERIAL.

INTRODUCED

HB625

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

61 "Close financial association" means an association in which the person filing shares significant
62 financial involvement with an individual and the filer would reasonably be expected to be aware of the
63 individual's business activities and would have access to the necessary records either directly or through
64 the individual. "Close financial association" does not mean an association based on (i) the receipt of
65 retirement benefits or deferred compensation from a business by which the person filing this statement is
66 no longer employed, or (ii) the receipt of compensation for work performed by the person filing as an
67 independent contractor of a business that represents an entity before any state governmental agency
68 when the person filing has had no communications with the state governmental agency.

69 "Contingent liability" means a liability that is not presently fixed or determined, but may become
70 fixed or determined in the future with the occurrence of some certain event.

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

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

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

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

90 REPORT TO THE BEST OF INFORMATION AND BELIEF. Information required on this
91 Statement must be provided on the basis of the best knowledge, information and belief of the individual
92 filing the Statement as of the date of this report unless otherwise stated.

93 COMPLETE ITEMS 1 THROUGH 10. REFER TO SCHEDULES ONLY IF DIRECTED.

94 You may attach additional explanatory information.

95 1. Offices and Directorships.

96 Are you or a member of your immediate family a paid officer or paid director of a business?

97 EITHER check NO / / OR check YES / / and complete Schedule A.

98 2. Personal Liabilities.

99 Do you or a member of your immediate family owe more than \$10,000 to any one creditor including
100 contingent liabilities? (Exclude debts to any government and loans secured by recorded liens on property
101 at least equal in value to the loan.)

102 EITHER check NO / / OR check YES / / and complete Schedule B.

103 3. Securities.

104 Do you or a member of your immediate family, directly or indirectly, separately or together, own
105 securities valued in excess of \$10,000 invested in one business? Account for mutual funds, limited
106 partnerships and trusts.

107 EITHER check NO / / OR check YES / / and complete Schedule C.

108 4. Payments for Talks, Meetings, and Publications.

109 During the past 12 months did you receive lodging, transportation, money, or anything else of value
110 with a combined value exceeding \$200 for a single talk, meeting, or published work in your capacity as
111 an officer or employee of your agency?

112 EITHER check NO / / OR check YES / / and complete Schedule D.

113 5. Gifts.

114 During the past 12 months did a business, government, or individual other than a relative ~~or personal~~
115 ~~friend~~ (i) furnish you *or a member of your immediate family* with any gift or entertainment at a single
116 event, and the value received ~~by you~~ exceeded \$50 in value ~~or~~, (ii) furnish you *or a member of your*
117 *immediate family* with gifts or entertainment in any combination and the *total* value received ~~by you~~
118 exceeded \$100 ~~in total value~~, or (iii) furnish you *or a member of your immediate family* with a
119 combination of gifts with an aggregate value greater than \$100; and for which you neither paid nor

120 rendered services in exchange? Account for entertainment events only if the average value per person
121 attending the event exceeded \$50 in value. Account for all business entertainment (except if related to
122 your immediate family member's private profession or occupation) even if unrelated to your official
123 duties.

124 EITHER check NO / / OR check YES / / and complete Schedule E.

125 6. Salary and Wages.

126 List each employer that pays you or a member of your immediate family salary or wages in excess
127 of \$10,000 annually. (Exclude state or local government or advisory agencies.)

128 If no reportable salary or wages, check here / /.

129 _____
130 _____
131 _____

132 7. Business Interests.

133 Do you or a member of your immediate family, separately or together, operate your own business, or
134 own or control an interest in excess of \$10,000 in a business?

135 EITHER check NO / / OR check YES / / and complete Schedule F.

136 8. Payments for Representation and Other Services.

137 8A. Did you represent, excluding activity defined as lobbying in § 2.2-419, any businesses before any
138 state governmental agencies, excluding courts or judges, for which you received total compensation
139 during the past 12 months in excess of \$1,000, excluding compensation for other services to such
140 businesses and representation consisting solely of the filing of mandatory papers and subsequent
141 representation regarding the mandatory papers? (Officers and employees of local governmental and
142 advisory agencies do NOT need to answer this question or complete Schedule G-1.)

143 EITHER check NO / / OR check YES / / and complete Schedule G-1.

144 8B. Subject to the same exceptions as in 8A, did persons with whom you have a close financial
145 association (partners, associates or others) represent, excluding activity defined as lobbying in § 2.2-419,
146 any businesses before any state governmental agency for which total compensation was received during
147 the past 12 months in excess of \$1,000? (Officers and employees of local governmental and advisory
148 agencies do NOT need to answer this question or complete Schedule G-2.)

149 EITHER check NO / / OR check YES / / and complete Schedule G-2.

150 8C. Did you or persons with whom you have a close financial association furnish services to
151 businesses operating in Virginia pursuant to an agreement between you and such businesses, or between
152 persons with whom you have a close financial association and such businesses for which total
153 compensation in excess of \$1,000 was received during the past 12 months?

154 EITHER check NO / / OR check YES / / and complete Schedule G-3.

155 9. Real Estate.

156 9A. State Officers and Employees.

157 Do you or a member of your immediate family hold an interest, including a partnership interest,
158 valued at \$10,000 or more in real property (other than your principal residence) for which you have not
159 already listed the full address on Schedule F? Account for real estate held in trust.

160 EITHER check NO / / OR check YES / / and complete Schedule H-1.

161 9B. Local Officers and Employees.

162 Do you or a member of your immediate family hold an interest, including a partnership interest, or
163 option, easement, or land contract, valued at \$10,000 or more in real property (other than your principal
164 residence) for which you have not already listed the full address on Schedule F? Account for real estate
165 held in trust.

166 EITHER check NO / / OR check YES / / and complete Schedule H-2.

167 10. Real Estate Contracts with Governmental Agencies.

168 Do you or a member of your immediate family hold an interest valued at more than \$10,000 in real
169 estate, including a corporate, partnership, or trust interest, option, easement, or land contract, which real
170 estate is the subject of a contract, whether pending or completed within the past 12 months, with a
171 governmental agency? If the real estate contract provides for the leasing of the property to a
172 governmental agency, do you or a member of your immediate family hold an interest in the real estate
173 valued at more than \$1,000? Account for all such contracts whether or not your interest is reported in
174 Schedule F, H-1, or H-2. This requirement to disclose an interest in a lease does not apply to an interest
175 derived through an ownership interest in a business unless the ownership interest exceeds three percent
176 of the total equity of the business.

177 EITHER check NO / / OR check YES / / and complete Schedule I.

178 Statements of Economic Interests are open for public inspection.

179 AFFIRMATION BY ALL FILERS.

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

181 Signature
182 (Return only if needed to complete Statement.)

183 SCHEDULES
184 to
185 STATEMENT OF ECONOMIC INTERESTS.

186 NAME
187 SCHEDULE A - OFFICES AND DIRECTORSHIPS.

188 Identify each business of which you or a member of your immediate family is a paid officer or paid
189 director.

190 _____

191	192 Name of Business	192 Address of Business	192 Position Held
193	_____	_____	_____
194	_____	_____	_____
195	_____	_____	_____
196	_____	_____	_____
197	_____	_____	_____

198 RETURN TO ITEM 2

199 SCHEDULE B - PERSONAL LIABILITIES.

200 Report personal liability by checking each category. Report only debts in excess of \$10,000. Do not
201 report debts to any government. Do not report loans secured by recorded liens on property at least equal
202 in value to the loan.

203 Report contingent liabilities below and indicate which debts are contingent.

204 1. My personal debts are as follows:

205 _____

206	207 Check appropriate categories	207 Check one \$10,001 to \$50,000	207 Check one More than \$50,000
210	Banks	_____	_____
211	Savings institutions	_____	_____
212	Other loan or finance companies	_____	_____
213	Insurance companies	_____	_____
214	Stock, commodity or other brokerage companies	_____	_____
215	Other businesses:		
216	(State principal business activity for each creditor.)	_____	_____
217		_____	_____
218		_____	_____
219		_____	_____
220	Individual creditors:		
221	(State principal business or occupation of each creditor.)	_____	_____
222		_____	_____
223		_____	_____
224		_____	_____
225		_____	_____

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

227 _____

228	229 Check appropriate categories	229 Check one \$10,001 to \$50,000	229 Check one More than \$50,000
232	Banks	_____	_____
233	Savings institutions	_____	_____
234	Other loan or finance companies	_____	_____
235	Insurance companies	_____	_____
236	Stock, commodity or other brokerage companies	_____	_____
237	Other businesses:		
238	(State principal business activity for each	_____	_____

239 creditor.) _____
 240 _____
 241 _____
 242 Individual creditors:
 243 (State principal business or
 244 occupation of each creditor.) _____
 245 _____
 246 _____

RETURN TO ITEM 3

248
 249 SCHEDULE C - SECURITIES.

250 "Securities" INCLUDES stocks, bonds, "Securities" EXCLUDES
 251 mutual funds, limited partnerships, certificates of deposit,
 252 and commodity futures contracts. money market funds, annuity
 253 contracts, and insurance policies.

254 Identify each business or Virginia governmental entity in which you or a member of your immediate
 255 family, directly or indirectly, separately or together, own securities valued in excess of \$10,000. Name
 256 each entity and type of security individually.

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

261 If no reportable securities, check here / /.

262 _____

		Check one			
265 Name of Issuer	266 Type of Entity	267 Type of Security (stocks, bonds, mutual funds, etc.)	\$10,001	\$50,001	More
			to	to	than
			50,000	250,000	250,000
268 _____	_____	_____	_____	_____	_____
269 _____	_____	_____	_____	_____	_____
270 _____	_____	_____	_____	_____	_____
271 _____	_____	_____	_____	_____	_____

RETURN TO ITEM 4

273
 274 SCHEDULE D - PAYMENTS FOR TALKS, MEETINGS, AND PUBLICATIONS.

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

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

281 List a payment even if you donated it to charity.

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

284 If no payment must be listed, check here / /.

285 _____

289 Payer	290 Approximate Value	291 Circumstances	Type of payment
			(e.g. honoraria, travel reimburse- ment, etc.)
287 _____	_____	_____	_____
288 _____	_____	_____	_____
289 _____	_____	_____	_____
290 _____	_____	_____	_____

RETURN TO ITEM 5

297 SCHEDULE E - GIFTS.

298 List each business, governmental entity, or individual that, during the past 12 months, (i) furnished
299 you or a member of your immediate family with any gift or entertainment at a single event and the
300 value received by you exceeded \$50 in value, or (ii) furnished you or a member of your immediate
301 family with gifts or entertainment in any combination and the total value received by you exceeded \$100
302 in total value, or (iii) furnished you or a member of your immediate family with a combination of gifts
303 with an aggregate value greater than \$100; and for which you neither paid nor rendered services in
304 exchange. List each such gift or event. Do not list entertainment events unless the average value per
305 person attending the event exceeded \$50 in value. Do not list business entertainment related to your
306 immediate family member's private profession or occupation. Do not list gifts or other things of value
307 given by a relative or personal friend for reasons clearly unrelated to your public position. Do not list
308 campaign contributions publicly reported as required by Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2 of
309 the Code of Virginia.

310
311
312 Name of Recipient, Name of Business, City or County and State, Gift or Event, Approximate Value
313
314
315
316
317
318
319

RETURN TO ITEM 6

320
321 SCHEDULE F - BUSINESS INTERESTS.

322 Complete this Schedule for each self-owned or family-owned business (including rental property, a
323 farm, or consulting work), partnership, or corporation in which you or a member of your immediate
324 family, separately or together, own an interest having a value in excess of \$10,000.
325 If the enterprise is owned or operated under a trade, partnership, or corporate name, list that name;
326 otherwise, merely explain the nature of the enterprise. If rental property is owned or operated under a
327 trade, partnership, or corporate name, list the name only; otherwise, give the address of each property.
328 Account for business interests held in trust.

329
330
331 Name of Business, Corporation, Partnership, City or County and State, Nature of Enterprise, Gross Income
332
333
334
335
336
337
338
339
340

RETURN TO ITEM 8

341
342 SCHEDULE G-1 - PAYMENTS FOR REPRESENTATION BY YOU.

343 List the businesses you represented, excluding activity defined as lobbying in § 2.2-419, before any
344 state governmental agency, excluding any court or judge, for which you received total compensation
345 during the past 12 months in excess of \$1,000, excluding compensation for other services to such
346 businesses and representation consisting solely of the filing of mandatory papers and subsequent
347 representation regarding the mandatory papers filed by you.

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

351 Only STATE officers and employees should complete this Schedule.

352
353
354 Pur- Amount Received
355 pose

414	Intrastate						
415	transportation						
416	companies						
417	Oil or gas retail						
418	companies						
419	Banks						
420	Savings institutions						
421	Loan or finance						
422	companies						
423	Manufacturing						
424	companies (state						
425	type of product,						
426	e.g., textile,						
427	furniture, etc.)						
428	Mining companies						
429	Life insurance						
430	companies						
431	Casualty insurance						
432	companies						
433	Other insurance						
434	companies						
435	Retail companies						
436	Beer, wine or liquor						
437	companies or						
438	distributors						
439	Trade associations						
440	Professional						
441	associations						
442	Associations of						
443	public employees						
444	or officials						
445	Counties, cities						
446	or towns						
447	Labor organizations						
448	Other						
449							

RETURN TO ITEM 9

450 SCHEDULE H-1 - REAL ESTATE - STATE OFFICERS AND EMPLOYEES.

451 List real estate other than your principal residence in which you or a member of your immediate
452 family holds an interest, including a partnership interest, option, easement, or land contract, valued at
453 \$10,000 or more. Each parcel shall be listed individually.
454

455	<hr/>		
456			
457		Describe the type of real	
458	List each location	estate you own in each	If the real estate is
459	(state, and county	location (business, recre-	owned or recorded in
460	or city) where you	ational, apartment, com-	a name other than your
461	own real estate.	mercial, open land, etc.).	own, list that name.
462	<hr/>	<hr/>	<hr/>
463	<hr/>	<hr/>	<hr/>
464	<hr/>	<hr/>	<hr/>
465	<hr/>	<hr/>	<hr/>
466	<hr/>	<hr/>	<hr/>
467			

468 SCHEDULE H-2 - REAL ESTATE - LOCAL OFFICERS AND EMPLOYEES.

469 List real estate other than your principal residence in which you or a member of your immediate
470 family holds an interest, including a partnership interest or option, easement, or land contract, valued at

471 \$10,000 or more. Each parcel shall be listed individually. Also list the names of any co-owners of such
472 property, if applicable.

473 _____

474

475	Describe the type		
476	of real estate		
477	you own in		
478	each location	If the real estate	
479	List each location (business,	is owned or rec-	
480	(state, and county recreational,	orded in a name	
481	or city) where apartment, com-	other than your	List the names
482	you own real merical, open	own, list that	of any co-owners,
483	estate. land, etc.).	name.	if applicable.
484	_____	_____	_____
485	_____	_____	_____
486	_____	_____	_____
487	_____	_____	_____
488	_____	_____	_____

489
490 **SCHEDULE I - REAL ESTATE CONTRACTS WITH GOVERNMENTAL AGENCIES.**

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

499 State officers and employees report contracts with state agencies.
500 Local officers and employees report contracts with local agencies.

501 _____

502

503	List your real estate		
504	interest and the		
505	person or entity,		
506	including the type		
507	of entity, which		
508	is party to		
509	the contract.	State the annual	
510	Describe any	income from the	
511	management role and	contract, and the	
512	the percentage	amount, if any, of	
513	ownership	income you or any	
514	interest you or your	immediate family	
515	immediate family	member derives	
516	member has in the real	annually from the	
517	estate or entity.	contract.	
518	_____	_____	_____
519	_____	_____	_____
520	_____	_____	_____
521	_____	_____	_____
522	_____	_____	_____

523
524 **§ 2.2-3120. Knowing violation of chapter a misdemeanor.**

525 A. Any member of a local governing body who knowingly violates subsection A of § 2.2-3112 or
526 subsection D or F of § 2.2-3115 is guilty of a Class 3 misdemeanor.

527 B. Any person who knowingly violates any of the provisions of Articles 2 through 6 (§§ 2.2-3102
528 through 2.2-3119) of this chapter shall be, subsection A of § 2.2-3112, or subsection D or F of

529 § 2.2-3115 is guilty of a Class 1 misdemeanor, ~~except that any member of a local governing body who~~
530 ~~knowingly violates subsection A of § 2.2-3112 or subsection D or F of § 2.2-3115 shall be guilty of a~~
531 ~~Class 3 misdemeanor and is subject to a fine of \$2,500 for each violation.~~

532 C. A knowing violation under this section is one in which the person engages in conduct, performs
533 an act, or refuses to perform an act when he knows that the conduct is prohibited or required by this
534 chapter.