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HOUSE BILL NO. 636

Offered January 8, 2014

Prefiled January 7, 2014

A *BILL to amend and reenact §§ 2.2-3114.1, 2.2-3115, 2.2-3124, 24.2-502, as it is currently effective and as it shall become effective, and 30-110 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 4 of Title 2.2 an article numbered 2.1, consisting of sections numbered 2.2-417.1, 2.2-417.2, and 2.2-417.3, relating to the Secretary of the Commonwealth; centralized filing of disclosure statements; establishment of searchable database; penalties and enforcement.*

 Patron—Campbell

Referred to Committee on Rules

 Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3114.1, 2.2-3115, 2.2-3124, 24.2-502, as it is currently effective and as it shall become effective, and 30-110 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 4 of Title 2.2 an article numbered 2.1, consisting of sections numbered 2.2-417.1, 2.2-417.2, and 2.2-417.3, as follows:

*Article 2.1.**Disclosure Statements.***§ 2.2-417.1. Filing of disclosure statements and gift reports.**

A. Disclosure forms filed pursuant to §§ 2.2-3117 and 2.2-3118 of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall be filed with the Secretary of the Commonwealth annually on or before January 15.

Disclosure forms filed pursuant to § 30-111 of the General Assembly Conflicts of Interests Act (§ 30-100 et seq.) shall be filed with the Secretary annually on or before January 8.

When the filing deadline falls on a Saturday, Sunday, or legal holiday, the deadline shall be by the next day that is not a Saturday, Sunday, or legal holiday.

B. Disclosure statements shall be deemed to have been filed only when actually received in the Office of the Secretary or mailed to the Secretary by registered, certified, or regular mail with the sender retaining sufficient proof of mailing, which may be a United States Postal Certificate of Mailing.

§ 2.2-417.2. Inspection of disclosure statements and gift reports.

Disclosure statements shall be open to public inspection and copying during the regular business hours of the Office of the Secretary of the Commonwealth.

§ 2.2-417.3. Standards for automated preparation and transmittal of disclosure statements; establishment of disclosure database.

A. The Secretary of the Commonwealth shall accept any disclosure statement by computer or electronic means in accordance with the standards approved by the Secretary and using software meeting standards approved by the Secretary. The Secretary shall provide software to filers without charge. The Secretary may prescribe the method of execution and certification of electronically filed statements and the procedures for receiving statements in the Office of the Secretary.

B. The Secretary shall establish and maintain a searchable electronic database comprising all disclosure statements. Such database shall be available to the public through the Internet.

§ 2.2-3114.1. Filings of statements of economic interests by General Assembly members.

The filing of a current statement of economic interests by a General Assembly member, member-elect, or candidate for the General Assembly pursuant to §§ 30-110 and 30-111 of the General Assembly Conflicts of Interests Act (§ 30-100 et seq.) shall suffice for the purposes of this chapter (§ 2.2-3100 et seq.). The Secretary of the Commonwealth may obtain from the Clerk of the House of Delegates or the Senate, as appropriate, a copy of the statement of a General Assembly member who is appointed to a position for which a statement is required pursuant to § 2.2-3114. No General Assembly member, member-elect, or candidate shall be required to file a separate statement of economic interests for the purposes of § 2.2-3114.

§ 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.

When the filing deadline falls on a Saturday, Sunday, or legal holiday, the deadline shall be by the

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59 *next day that is not a Saturday, Sunday, or legal holiday.*

60 The members of the governing body of any authority established in any county or city, or part or
61 combination thereof, and having the power to issue bonds or expend funds in excess of \$10,000 in any
62 fiscal year, shall file, as a condition to assuming office, a disclosure statement of their personal interests
63 and other information as is specified on the form set forth in § 2.2-3118 and thereafter shall file such a
64 statement annually on or before January 15, unless the governing body of the jurisdiction that appoints
65 the members requires that the members file the form set forth in § 2.2-3117. *When the filing deadline*
66 *falls on a Saturday, Sunday, or legal holiday, the deadline shall be by the next day that is not a*
67 *Saturday, Sunday, or legal holiday.*

68 Persons occupying such positions of trust appointed by governing bodies and persons occupying such
69 positions of employment with governing bodies as may be designated to file by ordinance of the
70 governing body shall file, as a condition to assuming office or employment, a disclosure statement of
71 their personal interests and other information as is specified on the form set forth in § 2.2-3117 and
72 thereafter shall file such a statement annually on or before January 15. *When the filing deadline falls on*
73 *a Saturday, Sunday, or legal holiday, the deadline shall be by the next day that is not a Saturday,*
74 *Sunday, or legal holiday.*

75 Persons occupying such positions of trust appointed by school boards and persons occupying such
76 positions of employment with school boards as may be designated to file by an adopted policy of the
77 school board shall file, as a condition to assuming office or employment, a disclosure statement of their
78 personal interests and other information as is specified on the form set forth in § 2.2-3117 and thereafter
79 shall file such a statement annually on or before January 15. *When the filing deadline falls on a*
80 *Saturday, Sunday, or legal holiday, the deadline shall be by the next day that is not a Saturday, Sunday,*
81 *or legal holiday.*

82 B. Nonsalaried citizen members of local boards, commissions and councils as may be designated by
83 the governing body shall file, as a condition to assuming office, a disclosure form of their personal
84 interests and such other information as is specified on the form set forth in § 2.2-3118 and thereafter
85 shall file such form annually on or before January 15. *When the filing deadline falls on a Saturday,*
86 *Sunday, or legal holiday, the deadline shall be by the next day that is not a Saturday, Sunday, or legal*
87 *holiday.*

88 C. No person shall be mandated to file any disclosure not otherwise required by this article.

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

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

101 F. Any officer or employee of local government who has a personal interest in any transaction before
102 the governmental or advisory agency of which he is an officer or employee and who is disqualified
103 from participating in that transaction pursuant to subdivision A 1 of § 2.2-3112 or otherwise elects to
104 disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full
105 name and address of the business and the address or parcel number for the real estate if the interest
106 involves a business or real estate, and his disclosure shall be reflected in the public records of the
107 agency for five years in the office of the administrative head of the officer's or employee's governmental
108 or advisory agency.

109 G. In addition to any disclosure required by subsections A and B, in each county and city and in
110 towns with populations in excess of 3,500, members of planning commissions, boards of zoning appeals,
111 real estate assessors, and all county, city and town managers or executive officers shall make annual
112 disclosures of all their interests in real estate located in the county, city or town in which they are
113 elected, appointed, or employed. Such disclosure shall include any business in which such persons own
114 an interest, or from which income is received, if the primary purpose of the business is to own, develop
115 or derive compensation through the sale, exchange or development of real estate in the county, city or
116 town. Such disclosure shall be filed as a condition to assuming office or employment, and thereafter
117 shall be filed annually with the ~~clerk of the governing body of such county, city or town~~ *Secretary of*
118 *the Commonwealth* on or before January 15. Such disclosures shall be ~~filed and maintained as public~~
119 records for five years. Forms for the filing of such reports shall be prepared and distributed by the
120 Secretary of the Commonwealth to the clerk of each governing body.

H. 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.

I. An officer or employee of local government who is required to declare his interest pursuant to subdivision A 3 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, 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 for 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.

§ 2.2-3124. Civil penalties for violation of this chapter.

A. In addition to any other fine or penalty provided by law, an officer or employee who knowingly violates any provision of §§ 2.2-3103 through 2.2-3112 shall be subject to a civil penalty in an amount equal to the amount of money or thing of value received as a result of such violation. If the thing of value received by the officer or employee in violation of §§ 2.2-3103 through 2.2-3112 increases in value between the time of the violation and the time of discovery of the violation, the greater value shall determine the amount of the civil penalty. Further, all money or other things of value received as a result of such violation shall be forfeited in accordance with the provisions of § 19.2-386.33.

B. *In addition to any fine or penalty provided in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) or General Assembly Conflicts of Interests Act (§ 30-100 et seq.), any person required to file a statement of economic interests pursuant to § 2.2-3117 or 30-111 who fails to file any statement in a timely manner or files an incomplete statement may be assessed a civil penalty by the Secretary of the Commonwealth pursuant to this subsection. Prior to assessing a penalty pursuant to this subsection, the Secretary shall notify in writing, within 14 days following the deadline for the required statement, the person required to file in writing that a statement has not been filed or that a filed statement has not been completed, citing the omissions from the statement. No penalty shall be assessed pursuant to this subsection if the statement or information required to complete the statement is filed within seven days of the date of mailing the written notice. If the report or information required to complete the statement is not filed within the seven-day period, the Secretary shall assess against the filer a civil penalty of \$500 for each day that the violation continues on and after the eighth day following the date of mailing the written notice. The Secretary may grant an additional period for compliance, not to exceed two weeks, for good cause shown and in response to a request filed within the seven-day period. The Secretary shall notify the public through the Secretary's official website of the violation and identity of the violator. If requested by the Secretary, the attorney for the Commonwealth of the City of Richmond shall assist the Secretary in collecting the civil penalty. Civil penalties collected pursuant to this subsection shall be payable to the State Treasurer for deposit to the general fund.*

§ 24.2-502. (Effective until July 1, 2014) Statement of economic interests as requirement of candidacy.

It shall be a requirement of candidacy that a written statement of economic interests shall be filed with the Secretary of the Commonwealth by (i) a candidate for Governor, Lieutenant Governor, or Attorney General with the Secretary of the Commonwealth, (ii) a candidate for Senate or House of Delegates with the clerk of the appropriate house, (iii) a candidate for a constitutional office with the general registrar for the county or city, and (iv) a candidate for member of the governing body or elected school board of any county, city, or town with a population in excess of 3,500 persons with the general registrar for the county or city. The statement of economic interests shall be that specified in § 30-111 for candidates for the General Assembly and in § 2.2-3117 for all other candidates. The

foregoing requirement shall not apply to a candidate for reelection to the same office who has met the requirement of annually filing a statement pursuant to § 2.2-3114, 2.2-3115, or 30-110.

The Secretary of the Commonwealth, the clerks of the Senate and House of Delegates, the general registrar, and the clerk of the local governing body shall transmit to the State Board, immediately after the filing deadline, a list of the candidates who have filed initial or annual statements of economic interests. The Secretary of the State Board shall notify the appropriate local electoral boards of the filings.

§ 24.2-502. (Effective July 1, 2014) Statement of economic interests as requirement of candidacy.

It shall be a requirement of candidacy that a written statement of economic interests shall be filed with the Secretary of the Commonwealth by (i) a candidate for Governor, Lieutenant Governor, or Attorney General with the Secretary of the Commonwealth, (ii) a candidate for Senate or House of Delegates with the clerk of the appropriate house, (iii) a candidate for a constitutional office with the general registrar for the county or city, and (iv) a candidate for member of the governing body or elected school board of any county, city, or town with a population in excess of 3,500 persons with the general registrar for the county or city. The statement of economic interests shall be that specified in § 30-111 for candidates for the General Assembly and in § 2.2-3117 for all other candidates. The foregoing requirement shall not apply to a candidate for reelection to the same office who has met the requirement of annually filing a statement pursuant to § 2.2-3114, 2.2-3115, or 30-110.

The Secretary of the Commonwealth, the clerks of the Senate and House of Delegates, the general registrar, and the clerk of the local governing body shall transmit to the State Board, immediately after the filing deadline, a list of the candidates who have filed initial or annual statements of economic interests. The Commissioner of Elections shall notify the appropriate local electoral boards of the filings.

§ 30-110. Disclosure.

A. Every legislator and legislator-elect shall file, as a condition to assuming office, a disclosure statement of his personal interests and such other information as is specified on the form set forth in § 30-111 and thereafter shall file such a statement annually on or before January 8 with the Secretary of the Commonwealth. When the filing deadline falls on a Saturday, Sunday, or legal holiday, the disclosure statement deadline shall be filed on by the next day that is not a Saturday, Sunday, or legal holiday.

Disclosure forms shall be provided by the clerk of the appropriate house Secretary of the Commonwealth to each legislator and legislator-elect not later than November 30 of each year. Members of the Senate shall file their disclosure forms with the Clerk of the Senate and members of the House of Delegates shall file their disclosure forms with the Clerk of the House of Delegates. The disclosure forms of the members of the General Assembly shall be maintained as public records for five years in the office of the clerk of the appropriate house Disclosure forms shall be filed and maintained as public records for five years in the Office of the Secretary of the Commonwealth.

B. Candidates for the General Assembly shall file a disclosure statement of their personal interests as required by §§ 24.2-500 through 24.2-503.

C. Any legislator who has a personal interest in any transaction pending before the General Assembly and who is disqualified from participating in that transaction pursuant to § 30-108 and the rules of his house shall disclose his interest in accordance with the applicable rule of his house.