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**SENATE BILL NO. 218**

Offered January 8, 2014

Prefiled January 3, 2014

*A BILL to amend and reenact §§ 2.2-3103, 2.2-3120, 30-103, and 30-123 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-502.1, by adding in Chapter 9.3 of Title 24.2 an article numbered 3.1, consisting of sections numbered 24.2-948.5 through 24.2-948.9, and by adding in Article 8 of Chapter 9.3 of Title 24.2 a section numbered 24.2-953.6, relating to State and Local Government Conflict of Interests Act, General Assembly Conflicts of Interests Act, and Campaign Finance Disclosure Act of 2006; limitations on gifts and campaign contributions.*

Patrons—Petersen and Marsden

Referred to Committee on Rules

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3103, 2.2-3120, 30-103, and 30-123 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-502.1, by adding in Chapter 9.3 of Title 24.2 an article numbered 3.1, consisting of sections numbered 24.2-948.5 through 24.2-948.9, and by adding in Article 8 of Chapter 9.3 of Title 24.2 a section numbered 24.2-953.6 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. Accept from any one person in a single calendar year any single gift with a value in excess of \$2,000 or multiple gifts with an aggregate value in excess of \$2,000. Gifts from relatives or personal friends are not prohibited by this subdivision. The prohibition in this subdivision shall apply only to the Governor, Lieutenant Governor, and Attorney General. Violations of this subdivision shall not be subject to criminal law penalties.

INTRODUCED

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59 **§ 2.2-3120. Knowing violation of chapter a misdemeanor.**

60 A. Any person who knowingly violates any of the provisions of Articles 2 through 6 (§§ 2.2-3102  
61 through 2.2-3119) of this chapter shall be guilty of a Class 1 misdemeanor, except that any member of a  
62 local governing body who knowingly violates subsection A of § 2.2-3112 or subsection D or F of  
63 § 2.2-3115 shall be guilty of a Class 3 misdemeanor.

64 B. Any person who knowingly accepts any single gift with a value in excess of \$2,000 or gifts with  
65 an aggregate value in excess of \$2,000 as prohibited by subdivision 10 of § 2.2-3103 shall be subject to  
66 a civil penalty of up to two times the amount by which the value of the gift or gifts exceeds the limit.

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

70 **§ 24.2-502.1. Compliance with certain provisions of State and Local Government Conflict of**  
71 **Interests Act and General Assembly Conflicts of Interests Act as requirement of candidacy.**

72 It shall be a requirement of candidacy for Governor, Lieutenant Governor, and Attorney General  
73 that a person comply with the limitation on gifts received by those officers set out in subdivision 10 of  
74 § 2.2-3103. It shall be a requirement of candidacy for the General Assembly that a person comply with  
75 the limitation on gifts received by legislators set out in subdivision 12 of § 30-103.

76 **Article 3.1.**

77 **Contribution Limits.**

78 **§ 24.2-948.5. Limits on contributions to candidates for statewide office and the General Assembly.**

79 A. No person, other than a political party committee or political action committee, shall make any  
80 single contribution or any combination of contributions that exceeds \$20,000 to any one candidate for  
81 Governor, Lieutenant Governor, Attorney General, or the General Assembly in any one election cycle.  
82 No political action committee shall make any single contribution or any combination of contributions  
83 that exceeds \$50,000 to any one candidate for Governor, Lieutenant Governor, Attorney General, or the  
84 General Assembly in any one election cycle. For purposes of this section, "election cycle" has the  
85 meaning set forth in § 24.2-947.

86 B. No person, other than a political party committee or political action committee, shall make any  
87 single contribution or any combination of contributions that exceeds \$10,000 to any one candidate for  
88 Governor, Lieutenant Governor, Attorney General, or the General Assembly in a primary or other  
89 method of political party nomination immediately preceding the general or special election. No political  
90 action committee shall make any single contribution or any combination of contributions that exceeds  
91 \$25,000 to any one candidate for Governor, Lieutenant Governor, Attorney General, or the General  
92 Assembly in a primary or other method of political party nomination immediately preceding the general  
93 or special election.

94 C. No candidate shall solicit or accept contributions in excess of the limits set forth in this section.

95 D. The limits on contributions set forth in this section shall not apply to contributions by (i) the  
96 candidate to his own campaign, (ii) the candidate's spouse, children, parents, or siblings, or (iii) a  
97 political party committee to the candidate.

98 E. For purposes of this article, "candidate" means the candidate, the candidate's treasurer, and the  
99 candidate's campaign committee. Any contribution to the candidate's treasurer or campaign committee  
100 shall be deemed to be a contribution to the candidate.

101 F. The limits set forth in this section shall apply without regard to whether the candidate is opposed  
102 or unopposed in the election or nomination process.

103 G. A contributor may designate all or a portion of a contribution made by him during the 60 days  
104 following the primary date as a contribution for the primary or other nomination process. Contributions  
105 made after the primary date shall be deemed contributions for the general or special election unless  
106 otherwise designated as provided in this subsection.

107 H. A candidate who is defeated in the primary or nomination process and has a campaign deficit  
108 may continue to accept contributions to retire the deficit subject to the limits applicable to the primary  
109 or other nomination process.

110 I. The candidate shall report separately (i) contributions received prior to the primary date or  
111 designated for the primary or other nominating method pursuant to subsection G and (ii) contributions  
112 received after the primary date and not so designated. Candidates may otherwise maintain records of  
113 receipts and expenditures for the campaign both before and after the primary date on a continuing  
114 basis.

115 J. Any contribution or portion thereof returned within 60 days after receipt shall not be deemed to  
116 be a contribution for the purposes of applying the limits set forth in this section.

117 **§ 24.2-948.6. Prohibition on indirect contributions.**

118 For purposes of applying the contribution limits set forth in § 24.2-948.5, all direct or indirect  
119 contributions made by a person to benefit a candidate, including any contributions that are knowingly  
120 earmarked or otherwise directed through any other person, political committee, political party

committee, or political action committee, shall be deemed to be contributions from such person to such candidate.

**§ 24.2-948.7. Aggregation of contributions.**

For purposes of applying the contribution limits set forth in § 24.2-948.5:

1. All contributions made by a person or political action committee whose contribution or expenditure activity is financed, maintained, or controlled by the same corporation, labor organization, association, or any other person, including a parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, association, or any other person, or by any group of such persons shall be deemed to be made by the same person or political action committee; and

2. For entities not described in subdivision 1, two or more entities shall be deemed to be a single entity sharing the same contribution limit if the entities (i) share the majority of members on their boards of directors and share two or more officers; (ii) are owned or controlled by the same majority shareholder or shareholders; (iii) are in a parent-subsidiary relationship; or (iv) have bylaws stating that one organization has the power to control the other.

**§ 24.2-948.8. Attribution and aggregation of family contributions.**

For purposes of applying the contribution limits set forth in § 24.2-948.5:

1. Contributions by spouses shall be deemed to be separate contributions and are aggregated per individual; and

2. Contributions by unemancipated children under 18 years of age shall be considered contributions by their parents and 50 percent of the contributions shall be attributed to each parent, or in the case of a single custodial parent, the total amount shall be attributed to the parent.

**§ 24.2-948.9. Restrictions on loans.**

Any loan to a candidate for Governor, Lieutenant Governor, Attorney General, or the General Assembly shall be deemed to be a contribution from the maker and the guarantor of the loan and is subject to the contribution limits set forth in § 24.2-948.5. A loan to a candidate or the candidate's campaign committee must be by written agreement. The proceeds of a loan made to a candidate shall not be subject to the contribution limits stated in § 24.2-948.5 if the loan is made by the candidate to his own campaign committee or is made by a commercial lending institution in the regular course of business and on the same terms ordinarily available to members of the public and is secured or guaranteed only by the candidate.

**§ 24.2-953.6. Violation of contribution limits.**

Any candidate for Governor, Lieutenant Governor, Attorney General, or the General Assembly whose campaign committee knowingly accepts, or any contributor who knowingly makes to such candidate, contributions in excess of the limits imposed in Article 3.1 (§ 24.2-948.5 et seq.) shall be subject to a civil penalty of up to two times the amount by which the contribution exceeds the limit.

**§ 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;

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

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

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

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

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

201 12. *Accept from any one person in a single calendar year any single gift with a value in excess of*  
202 *\$2,000 or multiple gifts with an aggregate value in excess of \$2,000. Gifts from relatives or personal*  
203 *friends are not prohibited by this subdivision. Violations of this subdivision shall not be subject to*  
204 *criminal law penalties.*

205 **§ 30-123. Knowing violation of chapter a misdemeanor.**

206 A. Any legislator who knowingly violates any of the provisions of Articles 2 through 5 (§§ 30-102  
207 through 30-111) ~~of this chapter~~ shall be guilty of a Class 1 misdemeanor. ~~A knowing violation under~~  
208 ~~this section is one in which the person engages in conduct, performs an act or refuses to perform an act~~  
209 ~~when he knows that the conduct is prohibited or required by this chapter.~~ There shall be no prosecution  
210 for a violation of § 30-108 or subsection C of § 30-110 unless the house in which the member sits has  
211 referred the matter to the Attorney General as provided in subdivision 4 of § 30-116.

212 B. *Any person who knowingly accepts any gift with a value in excess of \$2,000 or gifts with an*  
213 *aggregate value in excess of \$2,000 as prohibited by subdivision 12 of § 30-103 shall be subject to a*  
214 *civil penalty of up to two times the amount by which the value of the gift or gifts exceeds the limit.*

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