

15101196D

HOUSE BILL NO. 1598

Offered January 14, 2015

Prefiled January 8, 2015

A BILL to amend and reenact §§ 2.2-3103, 2.2-3124, 30-103, and 30-126 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act and General Assembly Conflicts of Interests Act; prohibited gifts; civil penalty.

Patron—Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3103, 2.2-3124, 30-103, and 30-126 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. *For purposes of this subdivision, any money, loan, gift, favor, service, or business or professional opportunity accepted by a member of his immediate family shall be considered to have been accepted by him if (i) such money, loan, gift, favor, service, or business or professional opportunity was accepted or retained with his knowledge and acquiescence and (ii) he knows or has reason to know that such money, loan, gift, favor, service, or business or professional opportunity was given to the member of his immediate family because of his official position.* 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.

§ 2.2-3124. Civil penalty from violation of this chapter.

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

INTRODUCED

HB1598

59 value between the time of the violation and the time of discovery of the violation, the greater value shall
60 determine the amount of the civil penalty. Further, all money or other things of value received as a
61 result of such violation shall be forfeited in accordance with the provisions of § 19.2-386.33.

62 *An officer or employee who knowingly commits a second or subsequent violation of the provisions of*
63 *subdivision 5 of § 2.2-3103 within a calendar year shall be subject to an additional civil penalty of no*
64 *less than \$2,500.*

65 **§ 30-103. Prohibited conduct.**

66 No legislator shall:

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

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

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

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

77 5. Accept any money, loan, gift, favor, service, or business or professional opportunity that
78 reasonably tends to influence him in the performance of his official duties. *For purposes of this*
79 *subdivision, any money, loan, gift, favor, service, or business or professional opportunity accepted by a*
80 *member of his immediate family shall be considered to have been accepted by him if (i) such money,*
81 *loan, gift, favor, service, or business or professional opportunity was accepted or retained with his*
82 *knowledge and acquiescence and (ii) he knows or has reason to know that such money, loan, gift, favor,*
83 *service, or business or professional opportunity was given to the member of his immediate family*
84 *because of his official position.* This subdivision shall not apply to any political contribution actually
85 used for political campaign or constituent service purposes and reported as required by Chapter 9.3
86 (§ 24.2-945 et seq.) of Title 24.2;

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

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

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

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

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

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

116 **§ 30-126. Civil penalty from violation of this chapter.**

117 In addition to any other fine or penalty provided by law, any money or other thing of value derived
118 by a legislator from a violation of §§ 30-103 through 30-108 shall be forfeited and, in the event of a
119 knowing violation, there may also be imposed a civil penalty in an amount equal to the amount of
120 money or thing of value forfeited to the Commonwealth. If the thing of value received by the legislator

121 in violation of this chapter should enhance in value between the time of the violation and the time of
122 discovery of the violation, the greater value shall determine the amount of the civil penalty.
123 *A legislator who knowingly commits a second or subsequent violation of the provisions of subdivision*
124 *5 of § 30-103 within a calendar year shall be subject to an additional civil penalty of no less than*
125 *\$2,500.*