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SENATE BILL NO. 1026

Offered January 14, 2015

Prefiled January 12, 2015

A BILL to amend and reenact § 2.2-419 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-421.1, relating to lobbying by certain political subdivisions; reporting requirements.

 Patron—Garrett

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-419 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-421.1 as follows:

§ 2.2-419. Definitions.

As used in this article, unless the context requires a different meaning:

"Anything of value" means:

1. A pecuniary item, including money, or a bank bill or note;
 2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
 3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
 4. A stock, bond, note, or other investment interest in an entity;
 5. A receipt given for the payment of money or other property;
 6. A right in action;
 7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
 8. A loan or forgiveness of indebtedness;
 9. A work of art, antique, or collectible;
 10. An automobile or other means of personal transportation;
 11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;
 12. An honorarium or compensation for services;
 13. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive or legislative official, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;
 14. A promise or offer of employment; or
 15. Any other thing of value that is pecuniary or compensatory in value to a person.
- "Anything of value" does not mean a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.
- "Compensation" means:
1. An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value; or
 2. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value, for services rendered or to be rendered.
- "Compensation" does not mean reimbursement of expenses if the reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.
- "Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by an executive agency or official of legislation or executive orders issued by the Governor.
- "Executive agency" means an agency, board, commission, or other body in the executive branch of state government. "Executive agency" includes the State Corporation Commission, the Virginia Workers' Compensation Commission, and the Virginia Lottery.
- "Executive official" means:
1. The Governor;
 2. The Lieutenant Governor;
 3. The Attorney General;

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59 4. Any officer or employee of the office of the Governor or Lieutenant Governor other than a
60 clerical or secretarial employee;

61 5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each
62 executive agency; or

63 6. Members of supervisory and policy boards, commissions and councils, as defined in § 2.2-2100,
64 however selected.

65 "Expenditure" means:

66 1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third
67 party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything
68 of value for any purpose;

69 2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person
70 employing, retaining, or contracting for the services of the lobbyist separately or jointly with other
71 persons;

72 3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct
73 payment of expenses incurred at the request or suggestion of the lobbyist;

74 4. A payment that directly benefits an executive or legislative official or a member of the official's
75 immediate family;

76 5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses
77 of an employee for or in connection with direct communication with an executive or legislative official;

78 6. A payment for or in connection with soliciting or urging other persons to enter into direct
79 communication with an executive or legislative official; or

80 7. A payment or reimbursement for categories of expenditures required to be reported pursuant to
81 this chapter.

82 "Expenditure" does not mean a campaign contribution properly received and reported pursuant to
83 Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

84 "Fair market value" means the price that a good or service would bring between a willing seller and
85 a willing buyer in the open market after negotiations. If the fair market value cannot be determined, the
86 actual price paid for the good or service shall be given consideration.

87 "Gift" means anything of value to the extent that a consideration of equal or greater value is not
88 received.

89 "Gift" does not mean:

90 1. Printed informational or promotional material;

91 2. A gift that is not used and, no later than 60 days after receipt, is returned to the donor or
92 delivered to a charitable organization and is not claimed as a charitable contribution for federal income
93 tax purposes;

94 3. A gift, devise, or inheritance from an individual's spouse, child, parent, grandparent, brother, sister,
95 parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of
96 that individual, if the donor is not acting as the agent or intermediary for someone other than a person
97 covered by this subdivision; or

98 4. A gift of a value of \$50 or less.

99 "Immediate family" means (i) the spouse and (ii) any child who resides in the same household as the
100 executive or legislative official and who is a dependent of the official.

101 "Legislative action" means:

102 1. Preparation, research, drafting, introduction, consideration, modification, amendment, approval,
103 passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion,
104 report, nomination, appointment, or other matter by the General Assembly or a legislative official;

105 2. Action by the Governor in approving, vetoing, or recommending amendments for a bill passed by
106 the General Assembly; or

107 3. Action by the General Assembly in overriding or sustaining a veto by the Governor, considering
108 amendments recommended by the Governor, or considering, confirming, or rejecting an appointment of
109 the Governor.

110 "Legislative official" means:

111 1. A member or member-elect of the General Assembly;

112 2. A member of a committee, subcommittee, commission, or other entity established by and
113 responsible to the General Assembly or either house of the General Assembly; or

114 3. Persons employed by the General Assembly or an entity established by and responsible to the
115 General Assembly.

116 "Lobbying" means:

117 1. Influencing or attempting to influence executive or legislative action through oral or written
118 communication with an executive or legislative official; or

119 2. Solicitation of others to influence an executive or legislative official.

120 "Lobbying" does not mean:

1. Requests for appointments, information on the status of pending executive and legislative actions, or other ministerial contacts if there is no attempt to influence executive or legislative actions;

2. Responses to published notices soliciting public comment submitted to the public official designated in the notice to receive the responses;

3. The solicitation of an association by its members to influence legislative or executive action; or

4. Communications between an association and its members and communications between a principal and its lobbyists.

"Lobbyist" means:

1. An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;

2. An individual who represents an organization, association, or other group for the purpose of lobbying; or

3. A local government employee who lobbies.

"Lobbyist's principal" or "principal" means the entity on whose behalf the lobbyist influences or attempts to influence executive or legislative action. An organization whose employees conduct lobbying activities on its behalf is both a principal and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the principal is the coalition or association and not its individual members.

"Local government" means:

1. Any county, city, town, or other local or regional political subdivision;

2. Any school division;

3. Any organization or entity that exercises governmental powers that is established pursuant to an interstate compact; or

4. Any organization or political subdivision that is composed of, or managed or controlled by, members representing entities listed in subdivisions subdivision 1, 2, or 3 of this definition.

"Local government employee" means a public employee of a local government.

"Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert.

"Value" means the actual cost or fair market value of an item or items, whichever is greater. If the fair market value cannot be determined, the actual amount paid for the item or items shall be given consideration.

§ 2.2-421.1. Reporting requirements for political subdivisions composed of, or managed or controlled by, one or more counties, cities, towns, or other local or regional political subdivisions; prohibition on use of public funds.

A. The governing body of any political subdivision of the Commonwealth that is composed of, or managed or controlled by, one or more counties, cities, towns, or local or regional political subdivisions shall file a separate registration statement with the Secretary of the Commonwealth on behalf of the officers and employees who will be engaged in lobbying as defined in § 2.2-419. Such registration statement shall be in addition to any statement filed by any of the political subdivision's component members in compliance with § 2.2-421. The political subdivision shall comply with the provisions of this article requiring lobbyists to register with the Secretary of the Commonwealth and adhere to the registration requirements as set forth in § 2.2-422.

B. A political subdivision covered by this section shall be prohibited from using public funds to support lobbying efforts on behalf of such political subdivision. Funding for lobbying activities shall be segregated from public funds and held in a separate bank account labeled and designated solely for that purpose.