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SENATE BILL NO. 812

Offered January 14, 2015

Prefiled January 2, 2015

A *BILL to amend and reenact § 2.2-419 of the Code of Virginia, relating to lobbyist disclosure; definition of executive action; procurement transactions.*

Patron—Watkins

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 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 action" includes procurement transactions.*

"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;
4. Any officer or employee of the office of the Governor or Lieutenant Governor other than a

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59 clerical or secretarial employee;

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

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

64 "Expenditure" means:

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

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

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

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

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

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

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

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

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

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

88 "Gift" does not mean:

89 1. Printed informational or promotional material;

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

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

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

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

100 "Legislative action" means:

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

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

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

109 "Legislative official" means:

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

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

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

115 "Lobbying" means:

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

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

119 "Lobbying" does not mean:

120 1. Requests for appointments, information on the status of pending executive and legislative actions,

121 or other ministerial contacts if there is no attempt to influence executive or legislative actions;
122 2. Responses to published notices soliciting public comment submitted to the public official
123 designated in the notice to receive the responses;
124 3. The solicitation of an association by its members to influence legislative or executive action; or
125 4. Communications between an association and its members and communications between a principal
126 and its lobbyists.
127 "Lobbyist" means:
128 1. An individual who is employed and receives payments, or who contracts for economic
129 consideration, including reimbursement for reasonable travel and living expenses, for the purpose of
130 lobbying;
131 2. An individual who represents an organization, association, or other group for the purpose of
132 lobbying; or
133 3. A local government employee who lobbies.
134 "Lobbyist's principal" or "principal" means the entity on whose behalf the lobbyist influences or
135 attempts to influence executive or legislative action. An organization whose employees conduct lobbying
136 activities on its behalf is both a principal and an employer of the lobbyists. In the case of a coalition or
137 association that employs or retains others to conduct lobbying activities on behalf of its membership, the
138 principal is the coalition or association and not its individual members.
139 "Local government" means:
140 1. Any county, city, town, or other local or regional political subdivision;
141 2. Any school division;
142 3. Any organization or entity that exercises governmental powers that is established pursuant to an
143 interstate compact; or
144 4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of
145 this definition.
146 "Local government employee" means a public employee of a local government.
147 "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company,
148 syndicate, business trust, estate, company, corporation, association, club, committee, organization, or
149 group of persons acting in concert.
150 "*Procurement transaction*" means all functions that pertain to obtaining all goods, services, or
151 construction on behalf of an executive agency, including description of requirements, selection and
152 solicitation of sources, preparation and award of contract, and all phases of contract administration.
153 "Value" means the actual cost or fair market value of an item or items, whichever is greater. If the
154 fair market value cannot be determined, the actual amount paid for the item or items shall be given
155 consideration.