

Department of Planning and Budget

2015 Fiscal Impact Statement

1. Bill Number: HB1689

| | | | |
|-----------------|--|-------------------------------------|------------------------------------|
| House of Origin | <input checked="" type="checkbox"/> Introduced | <input type="checkbox"/> Substitute | <input type="checkbox"/> Engrossed |
| Second House | <input type="checkbox"/> In Committee | <input type="checkbox"/> Substitute | <input type="checkbox"/> Enrolled |

2. Patron: Minchew

3. Committee: Courts of Justice

4. Title: State and Local Government Conflict of Interests Act and the General Assembly Conflicts of Interest; certain gifts prohibited; penalties.

5. Summary: The bill prohibits state government officers and employees, constitutional officers, legislators, and candidates required to file the disclosure form prescribed in § 2.2-3117 or 30-111 from soliciting, accepting, or receiving within any calendar year any single gift or any combination of gifts with a value exceeding \$100 from any person, reduced from the current \$250 limit. Such gift given to a member of the immediate family of an officer, employee, legislator, or candidate shall be considered a gift to the officer, employee, legislator, or candidate for purposes of the prohibition and the disclosure requirements if (i) the gift was given with his knowledge and acquiescence and (ii) he knows or has reason to know that the gift was given to the member of his immediate family because of his official position. The prohibition does not apply to gifts given by relatives, personal friends, or business associates who are acting without the intent to gain access to or influence the officer, employee, legislator, or candidate in his official duties. The bill permits the acceptance of a gift or a combination of gifts with a value exceeding \$100 if the gifts are accepted while in attendance at a widely attended event, which is defined as a nonpartisan event to which at least 25 persons have been invited and are anticipated to attend, and does not include overnight accommodations and more than one meal. The bill also permits the acceptance of a travel-related thing of value that exceeds \$100 in value and is provided by a third party if a written request for a waiver has been submitted to and has been approved by the Virginia Conflict of Interest and Ethics Advisory Council. Waivers are not required for travel paid for or provided by the government of the United States, any of its territories, or another state in the United States or a political subdivision of such other state. Such gifts must still be disclosed on the prescribed form. The bill further prohibits any officer, employee, legislator, or candidate, or member of his immediate family, from soliciting, accepting, or receiving any gift of any value when he knows or has reason to know that such gift was offered or given with the intent to induce any conduct or action by him related to the performance of his official duties. A knowing violation of this prohibition is punishable by a civil penalty in an amount equal to \$250, and any officer, employee, legislator, or candidate who knowingly commits a second or subsequent violation within four years of a previous violation is guilty of a Class 1 misdemeanor. The bill removes the distinction between tangible and intangible gifts and the five-year dollar adjustment to the limitation on annual gifts.

6. Budget Amendment Necessary: Yes.

7. Fiscal Impact Estimates:

7a. Expenditure Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Positions</i> | <i>Fund</i> |
|--------------------|----------------|------------------|--------------|
| 2015 | | | |
| 2016 | \$96,000 | 1 | General Fund |
| 2017 | \$96,000 | 1 | General Fund |
| 2018 | \$96,000 | 1 | General Fund |
| 2018 | \$96,000 | 1 | General Fund |
| 2020 | \$96,000 | 1 | General Fund |
| 2021 | \$96,000 | 1 | General Fund |

- 8. Fiscal Implications:** It should be noted that the Council is currently unfunded. This statement of fiscal impact makes no attempt to address the duties of the Council previously established in Code. Instead, this statement will only address changes in impact for responsibilities beyond current Code as presented by this bill. The bill presents fiscal impacts related to staffing of the Council. Per § 30-357 of the Code, the Division of Legislative Services (DLS) is assigned staffing responsibilities to perform duties as assigned by the Council, including the duties enumerated in the Council's authorizing language. This bill expands these duties to include duties involving waiver processing for waiver requests for travel-related things of value. DLS believes the bill presents the need for \$96,000 per year to cover a staffing position and associated costs. Other changes to disclosure rules set-out in this bill do not appear to create a significant cost to state agencies or other political subdivisions.

As mentioned in item 5 above, the bill establishes that any officer, employee, legislator, or candidate who knowingly commits a second or subsequent violation within four years of a previous violation is guilty of a Class 1 misdemeanor. Although insufficient data exists to determine the fiscal impact due to this proposal, the proposed legislation could result in an increase in the jail population since Class 1 misdemeanor outcomes result in sentences of up to 12 months in jail (and a fine up to \$2,500). Any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds a significant portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's FY2013 Jail Cost Report (November 1, 2014), the estimated total state support for local and regional jails averaged \$30.54 per state inmate, per day in FY 2013.

- 9. Specific Agency or Political Subdivisions Affected:** All state and local agencies and political subdivisions; The Virginia Conflict of Interest and Ethics Advisory Council; The Division of Legislative Services.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.