

16100914D

HOUSE BILL NO. 154

Offered January 13, 2016

Prefiled December 22, 2015

A BILL to amend and reenact §§ 2.2-426, 2.2-3103.1, and 30-103.1 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act, General Assembly Conflicts of Interests Act; bundled gifts; penalty.

Patron—Simon

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-426, 2.2-3103.1, and 30-103.1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-426. Lobbyist reporting; penalty.

A. Each lobbyist shall file with the Council a separate semiannual report of expenditures, including gifts, for each principal for whom he lobbies by December 15 for the preceding six-month period complete through the last day of October and June 15 for the preceding six-month period complete through the last day of April.

B. Each principal who expends more than \$500 to employ or compensate multiple lobbyists shall be responsible for filing a consolidated lobbyist report pursuant to this section in any case in which the lobbyists are each exempt under the provisions of subdivision 7 or 8 of § 2.2-420 from the reporting requirements of this section.

C. (Effective January 1, 2016, through July 1, 2016) The report shall be on a form provided by the Council, which shall be substantially similar to the following and shall be accompanied by instructions provided by the Council.

C. (Effective July 1, 2016) The report shall be on a form provided by the Council, which shall be substantially similar to the following and shall be accompanied by instructions provided by the Council. All reports shall be submitted electronically and in accordance with the standards approved by the Council pursuant to the provisions of § 30-356.

LOBBYIST'S DISCLOSURE STATEMENT

PART I:

- (1) **PRINCIPAL:** _____
In Part I, item 2a, provide the name of the individual authorizing your employment as a lobbyist. The lobbyist filing this statement MAY NOT list his name in item 2a.
- (2a) **Name:** _____
- (2b) **Permanent Business Address:** _____
- (2c) **Business Telephone:** _____
- (3) Provide a list of executive and legislative actions (with as much specificity as possible) for which you lobbied and a description of activities conducted.

- (4) **INCORPORATED FILINGS:** If you are filing an incorporated disclosure statement, please complete the following:
Individual filing financial information: _____
Individuals to be included in the filing: _____
- (5) Please indicate which schedules will be attached to your disclosure statement:
[] Schedule A: Entertainment Expenses
[] Schedule B: Gifts
[] Schedule C: Other Expenses
- (6) **EXPENDITURE TOTALS:**

56 a) ENTERTAINMENT \$ _____
 57 b) GIFTS \$ _____
 58 c) COMMUNICATIONS \$ _____
 59 d) PERSONAL LIVING AND TRAVEL EXPENSES \$ _____
 60 e) COMPENSATION OF LOBBYISTS \$ _____
 61 f) HONORARIA \$ _____
 62 g) OTHER \$ _____
 63 TOTAL \$ _____

PART II:

- 65 (1a) NAME OF LOBBYIST: _____
 66 (1b) Permanent Business Address: _____
 67 (1c) Business Telephone: _____
 68 (2) As a lobbyist, you are (check one)
 69 [] EMPLOYED (on the payroll of the principal)
 70 [] RETAINED (not on the payroll of the principal, however
 71 compensated)
 72 [] NOT COMPENSATED (not compensated; expenses may be reimbursed)
 73 (3) List all lobbyists other than yourself who registered to
 74 represent your principal.
 75 _____
 76 _____
 77 _____
 78 (4) If you selected "EMPLOYED" as your answer to Part II, item 2,
 79 provide your job title.
 80 _____

81 PLEASE NOTE: Some lobbyists are not individually compensated for
 82 lobbying activities. This may occur when several members of a firm
 83 represent a single principal. The principal, in turn, makes a single
 84 payment to the firm. If this describes your situation, do not answer
 85 Part II, items 5a and 5b. Instead, complete Part III, items 1 and 2.

- 86 (5a) What was the DOLLAR AMOUNT OF YOUR COMPENSATION as a lobbyist?
 87 (If you have job responsibilities other than those involving
 88 lobbying, you may have to prorate to determine the part of your
 89 salary attributable to your lobbying activities.) Transfer your
 90 answer to this item to Part I, item 6e.
 91 (5b) Explain how you arrived at your answer to Part II, item 5a.
 92 _____
 93 _____
 94 _____

PART III:

96 PLEASE NOTE: If you answered Part II, items 5a and 5b, you WILL NOT
 97 complete this section.

- 98 (1) List all members of your firm, organization, association,
 99 corporation, or other entity who furnished lobbying services to
 100 your principal.
 101 _____
 102 _____
 103 _____

- 104 (2) Indicate the total amount paid to your firm, organization,
 105 association, corporation, or other entity for services rendered.
 106 Transfer your answer to this item to Part I, item 6e. _____

SCHEDULE A

ENTERTAINMENT EXPENSES

109 PLEASE NOTE: Any single entertainment event included in the expense
 110 totals of the principal, with a value greater than \$50, should be
 111 itemized below. *Any entertainment event, including meals, provided*
 112 *to an executive or legislative official with a value greater than*

147 GIFTS

148 PLEASE NOTE: Any ~~single gift reported in the expense totals of the~~
149 ~~principal~~, to an executive or legislative official with a value
150 greater than \$50, ~~should~~ of which the principal contributed all or
151 part, shall be itemized below. Complete this form even if the
152 principal's share of the gift was less than \$50.
153 (Report meals, entertainment and travel under Schedule A.) Transfer
154 any totals from this schedule to Part I, item 6b. (Please duplicate
155 as needed.)

156			Name of each	
157			legislative or	
158			executive official	
159			or member of his	
160			immediate family	Cost of
161	Date	Description	who is a recipient	individual
162	of gift:	of gift:	of a gift:	gift:
163				\$
164				\$
165				\$
166				\$
167	TOTAL COST TO PRINCIPAL			\$
168	Date of Gift:		Total Cost of Gift:	\$

169 Did principal's share account for the total value of the gift?

170 Yes ____ No ____

171 If No, list the principal's share of the cost of the total gift:

172 \$ _____

173 Description of Gift: _____

174 Recipient's Last Name: _____ Suffix: _____

175 Recipient's First Name: _____ Middle Name: _____

176 Recipient's Title: _____

177 SCHEDULE C

178 OTHER EXPENSES

179 PLEASE NOTE: This section is provided for any lobbying-related
180 expenses not covered in Part I, items 6a - 6f. An example of an
181 expenditure to be listed on schedule C would be the rental of a
182 bill box during the General Assembly session. Transfer the total
183 from this schedule to Part I, item 6g. (Please duplicate as needed.)

184 DATE OF EXPENSE	DESCRIPTION OF EXPENSE	AMOUNT
185 _____	_____	\$ _____
186 _____	_____	\$ _____
187 _____	_____	\$ _____
188 _____	_____	\$ _____
189 _____	_____	\$ _____
190 _____	_____	\$ _____
191 _____	_____	\$ _____
192 _____	_____	\$ _____
193 _____	_____	\$ _____
194 TOTAL "OTHER" EXPENSES	_____	\$ _____

195 PART IV: STATEMENTS

196 The following items are mandatory and if they are not properly
197 completed, the entire filing will be rejected and returned to
198 the lobbyist:

- 199 (1) All signatures on the statement must be ORIGINAL in the format
200 specified in the instructions provided by the Council that
201 accompany this form. No stamps, or other reproductions of the
202 individual's signature will be accepted.
203 (2) An individual MAY NOT sign the disclosure statement as lobbyist
204 and principal officer.

205 STATEMENT OF LOBBYIST

206 I, the undersigned registered lobbyist, do state that the information
207 furnished on this disclosure statement and on all accompanying
208 attachments required to be made thereto is, to the best of my
209 knowledge and belief, complete and accurate.

210 _____
211 Signature of lobbyist

212 _____
213 _____
214 Date

215 STATEMENT OF PRINCIPAL

216 I, the undersigned principal (or an authorized official thereof), do
217 state that the information furnished on this disclosure statement
218 and on all accompanying attachments required to be made thereto is,
219 to the best of my knowledge and belief, complete and accurate.

220 _____
221 Signature of principal

222 _____
223 _____
224 Date

225 D. A person who knowingly and intentionally makes a false statement of a material fact on the

disclosure statement is guilty of a Class 5 felony.

E. Each lobbyist shall send to each legislative and executive official who is required to be identified by name on Schedule A or B of the Lobbyist's Disclosure Form a copy of Schedule A or B or a summary of the information pertaining to that official. Copies or summaries shall be provided to the official by November 21 for the preceding six-month period complete through the last day of October and by May 21 for the preceding six-month period complete through the last day of April.

§ 2.2-3103.1. Certain gifts prohibited.

A. For purposes of this section:

"Bundled gift" means separate gifts that are paid for or otherwise provided by (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business that is or is seeking to become a party to a contract with a local agency or state governmental or advisory agency and are delivered by a single source.

"Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who share a common interest, (ii) who are members of a public, civic, charitable, or professional organization, (iii) who are from a particular industry or profession, or (iv) who represent persons interested in a particular issue.

B. No officer or employee of a local governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the local agency of which he is an officer or an employee. *For purposes of this prohibition and the disclosure requirements, the total aggregated value of a bundled gift shall be attributed to each person contributing to the bundled gift.* Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

C. No officer or employee of a state governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the state governmental or advisory agency of which he is an officer or an employee or over which he has the authority to direct such agency's activities. *For purposes of this prohibition and the disclosure requirements, the total aggregated value of a bundled gift shall be attributed to each person contributing to the bundled gift.* Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

E. Notwithstanding the provisions of subsections B and C, such officer or employee or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged. Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed.

F. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed in subsection B or C if such gift was provided to such officer, employee, or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B or C may be a personal friend of such officer, employee, or candidate or his immediate family for purposes of this subsection. In determining whether

287 a person listed in subsection B or C is a personal friend, the following factors shall be considered: (i)
288 the circumstances under which the gift was offered; (ii) the history of the relationship between the
289 person and the donor, including the nature and length of the friendship and any previous exchange of
290 gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the
291 gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has
292 given the same or similar gifts to other persons required to file the disclosure form prescribed in
293 § 2.2-3117 or 30-111.

294 G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a
295 member of his immediate family may accept or receive gifts of travel, including travel-related
296 transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of
297 \$100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or
298 candidate has submitted a request for approval of such travel to the Council and has received the
299 approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form
300 prescribed in § 2.2-3117.

301 H. During the pendency of a civil action in any state or federal court to which the Commonwealth is
302 a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General
303 who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any
304 person that he knows or has reason to know is a person, organization, or business that is a party to such
305 civil action. A person, organization, or business that is a party to such civil action shall not knowingly
306 give any gift to the Governor or the Attorney General or any of their employees who are subject to the
307 provisions of this chapter.

308 I. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every
309 five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year
310 period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U),
311 as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest
312 whole dollar.

313 **§ 30-103.1. Certain gifts prohibited.**

314 A. For purposes of this section:

315 *"Bundled gift" means separate gifts that are paid for or otherwise provided by (i) a lobbyist*
316 *registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (ii) a lobbyist's principal*
317 *as defined in § 2.2-419 and are delivered by a single source.*

318 *"Widely attended event" means an event at which at least 25 persons have been invited to attend or*
319 *there is a reasonable expectation that at least 25 persons will attend the event and the event is open to*
320 *individuals (i) who share a common interest, (ii) who are members of a public, civic, charitable, or*
321 *professional organization, (iii) who are from a particular industry or profession, or (iv) who represent*
322 *persons interested in a particular issue.*

323 B. No legislator or candidate for the General Assembly required to file the disclosure form prescribed
324 in § 30-111 or a member of his immediate family shall solicit, accept, or receive any single gift for
325 himself or a member of his immediate family with a value in excess of \$100 or any combination of
326 gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his
327 immediate family from any person that he or a member of his immediate family knows or has reason to
328 know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (ii)
329 a lobbyist's principal as defined in § 2.2-419. *For purposes of this prohibition and the disclosure*
330 *requirements, the total aggregated value of a bundled gift shall be attributed to each person*
331 *contributing to the bundled gift. Gifts with a value of less than \$20 are not subject to aggregation for*
332 *purposes of this prohibition.*

333 C. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his
334 immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of
335 admission with a value in excess in \$100 when such gift is accepted or received while in attendance at a
336 widely attended event and is associated with the event. Such gifts shall be reported on the disclosure
337 form prescribed in § 30-111.

338 D. Notwithstanding the provisions of subsection B, a legislator or a member of his immediate family
339 may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair
340 market value or a gift of greater or equal value has not been provided or exchanged. Such gift shall be
341 accepted on behalf of the Commonwealth and archived in accordance with guidelines established by the
342 Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the
343 Commonwealth, but the value of such gift shall not be required to be disclosed.

344 E. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his
345 immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed
346 in subsection B if such gift was provided to the legislator or candidate or a member of his immediate
347 family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed
348 in subsection B may be a personal friend of the legislator or candidate or his immediate family for

purposes of this subsection. In determining whether a person listed in subsection B is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

F. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or provided by a person listed in subsection B when the legislator or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

G. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the Acts of Assembly of 2015 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.