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HOUSE BILL NO. 860

Offered January 13, 2016

Prefiled January 12, 2016

A BILL to amend and reenact § 30-356 of the Code of Virginia, relating to the Virginia Conflict of Interest and Ethics Advisory Council; public access to requests for opinions and related records.

Patrons—McClellan and Gilbert

Referred to Committee for Courts of Justice**Be it enacted by the General Assembly of Virginia:****1. That § 30-356 of the Code of Virginia is amended and reenacted as follows:****§ 30-356. Powers and duties of the Council.**

The Council shall:

1. Review all disclosure forms filed by lobbyists pursuant to Article 3 and by state government officers and employees and legislators pursuant to the Acts. The Council may review disclosure forms for completeness, including reviewing the information contained on the face of the form to determine if the disclosure form has been fully completed and comparing the disclosures contained in any disclosure form filed by a lobbyist pursuant to § 2.2-426 with other disclosure forms filed with the Council, and requesting any amendments to ensure the completeness of and correction of errors in the forms, if necessary. If a disclosure form is found to have not been filed or to have been incomplete as filed, the Council shall notify the filer in writing and direct the filer to file a completed disclosure form within a prescribed period of time, and such notification shall be confidential and is excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.);

2. (Effective until July 1, 2016) Accept any disclosure forms by computer or electronic means in accordance with the standards approved by the Council and using software meeting standards approved by it. The Council shall provide software or electronic access for filing the required disclosure forms to all filers without charge. The Council shall prescribe the method of execution and certification of electronically filed forms, including the use of an electronic signature as authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.);

2. (Effective July 1, 2016) Require all disclosure forms to be filed electronically in accordance with the standards approved by the Council. The Council shall provide software or electronic access for filing the required disclosure forms to all filers without charge. The Council shall prescribe the method of execution and certification of electronically filed forms, including the use of an electronic signature as authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.);

3. Accept and review any statement received from a filer disputing the receipt by such filer of a gift that has been disclosed on the form filed by a lobbyist pursuant to Article 3;

4. Beginning July 1, 2016, establish and maintain a searchable electronic database comprising disclosure forms filed pursuant to §§ 2.2-426, 2.2-3117, 2.2-3118, and 30-111. Such database shall be available to the public through the Council's official website;

5. Furnish, upon request, formal advisory opinions or guidelines and other appropriate information, including informal advice, regarding ethics, conflicts issues arising under Article 3 or the Acts, or a person's duties under Article 3 or the Acts to any person covered by Article 3 or the Acts or to any agency of state or local government, in an expeditious manner. The Council may authorize a designee to furnish formal opinions or informal advice. Formal advisory opinions are public record and shall be published on the Council's website; however, no formal advisory opinion furnished by a designee of the Council shall be *available to the public or* published until such opinion has been approved by the Council. Published formal advisory opinions may have such deletions and changes as may be necessary to protect the identity of the person involved *or other persons supplying information*. Informal advice given by the Council or the Council's designee is confidential; ~~protected by the attorney-client privilege,~~ and is excluded from the *mandatory disclosure* provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). *Other records relating to formal advisory opinions or informal advice, including records of requests, notes, correspondence, and draft versions of such opinions or advice shall also be confidential and excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act;*

6. Conduct training seminars and educational programs for lobbyists, state and local government officers and employees, legislators, and other interested persons on the requirements of Article 3 and the Acts and provide ethics orientation sessions for legislators in compliance with Article 6 (§ 30-129.1 et seq.) of Chapter 13;

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- 59 7. Approve orientation courses conducted pursuant to § 2.2-3128 and, upon request, review the
60 educational materials and approve any training or course on the requirements of Article 3 and the Acts
61 conducted for state and local government officers and employees;
- 62 8. Publish such educational materials as it deems appropriate on the provisions of Article 3 and the
63 Acts;
- 64 9. Review actions taken in the General Assembly with respect to the discipline of its members for
65 the purpose of offering nonbinding advice;
- 66 10. Request from any agency of state or local government such assistance, services, and information
67 as will enable the Council to effectively carry out its responsibilities. Information provided to the
68 Council by an agency of state or local government shall not be released to any other party unless
69 authorized by such agency;
- 70 11. Redact from any document or form that is to be made available to the public any residential
71 address, personal telephone number, or signature contained on that document or form; and
- 72 12. Report on or before December 1 of each year on its activities and findings regarding Article 3
73 and the Acts, including recommendations for changes in the laws, to the General Assembly and the
74 Governor. The annual report shall be submitted by the chairman as provided in the procedures of the
75 Division of Legislative Automated Systems for the processing of legislative documents and reports and
76 shall be published as a state document.