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HOUSE BILL NO. 862

Offered January 13, 2016

Prefiled January 12, 2016

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

Patrons—McClellan and Gilbert

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

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

§ 2.2-3103.1. Certain gifts prohibited.

A. For purposes of this section:

"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.

"Reporting year" means the period beginning November 1 and ending October 31.

"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~~ reporting 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. 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~~ reporting 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. 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,

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59 employee, or candidate or his immediate family for purposes of this subsection. In determining whether
60 a person listed in subsection B or C is a personal friend, the following factors shall be considered: (i)
61 the circumstances under which the gift was offered; (ii) the history of the relationship between the
62 person and the donor, including the nature and length of the friendship and any previous exchange of
63 gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the
64 gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has
65 given the same or similar gifts to other persons required to file the disclosure form prescribed in
66 § 2.2-3117 or 30-111.

67 G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a
68 member of his immediate family may accept or receive gifts of travel, including travel-related
69 transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of
70 \$100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or
71 candidate has submitted a request for approval of such travel to the Council and has received the
72 approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form
73 prescribed in § 2.2-3117.

74 H. During the pendency of a civil action in any state or federal court to which the Commonwealth is
75 a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General
76 who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any
77 person that he knows or has reason to know is a person, organization, or business that is a party to such
78 civil action. A person, organization, or business that is a party to such civil action shall not knowingly
79 give any gift to the Governor or the Attorney General or any of their employees who are subject to the
80 provisions of this chapter.

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

86 **§ 30-103.1. Certain gifts prohibited.**

87 A. For purposes of this section:

88 *"Reporting year" means the period between November 1 and October 31.*

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

94 B. No legislator or candidate for the General Assembly required to file the disclosure form prescribed
95 in § 30-111 or a member of his immediate family shall solicit, accept, or receive any single gift for
96 himself or a member of his immediate family with a value in excess of \$100 or any combination of
97 gifts with an aggregate value in excess of \$100 within any ~~calendar~~ reporting year for himself or a
98 member of his immediate family from any person that he or a member of his immediate family knows
99 or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4
100 of Title 2.2 or (ii) a lobbyist's principal as defined in § 2.2-419. Gifts with a value of less than \$20 are
101 not subject to aggregation for purposes of this prohibition.

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

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

113 E. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his
114 immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed
115 in subsection B if such gift was provided to the legislator or candidate or a member of his immediate
116 family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed
117 in subsection B may be a personal friend of the legislator or candidate or his immediate family for
118 purposes of this subsection. In determining whether a person listed in subsection B is a personal friend,
119 the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the
120 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.