CHAPTER 546

An Act to amend and reenact § 2.2-3110 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act; prohibited contracts; exceptions for certain contracts entered into by officer or employee or immediate family member of officer or employee of soil and water conservation district.

[S 965]

Approved March 16, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3110 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3110. Further exceptions.

A. The provisions of Article 3 (§ 2.2-3106 et seq.) shall not apply to:

1. The sale, lease or exchange of real property between an officer or employee and a governmental agency, provided the officer or employee does not participate in any way as such officer or employee in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof;

2. The publication of official notices;

3. Contracts between the government or school board of a town or city with a population of less than 10,000 and an officer or employee of that town or city government or school board when the total of such contracts between the town or city government or school board and the officer or employee of that town or city government or school board or a business controlled by him does not exceed $10,000 per year or such amount exceeds $10,000 and is less than $25,000 but results from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as provided for in § 2.2-3115;

4. An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of $10,000 per year, provided the officer or employee or a member of his immediate family does not participate and has no authority to participate in the procurement or letting of such contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

5. When the governmental agency is a public institution of higher education, an officer or employee whose personal interest in a contract with the institution is by reason of an ownership in the contracting firm in excess of three percent of the contracting firm's equity or such ownership interest and income from the contracting firm is in excess of $10,000 per year, provided that (i) the officer or employee's ownership interest, or ownership and income interest, and that of any immediate family member in the contracting firm is disclosed in writing to the president of the institution, which writing certifies that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the institution, (ii) the president of the institution makes a written finding as a matter of public record that the contract is in the best interests of the institution, (iii) the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of the institution or disqualifies himself as a matter of public record, and (iv) does not participate on behalf of the institution in negotiating the contract or approving the contract;

6. Except when the governmental agency is the Virginia Retirement System, contracts between an officer's or employee's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the officer or employee has a personal interest, provided the officer or employee disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

7. Contracts for the purchase of goods or services when the contract does not exceed $500;

8. Grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency;

9. An officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of his marriage to his spouse who is employed by the same agency, if the spouse was employed by such agency for five or more years prior to marrying such officer or employee; or

10. Contracts entered into by an officer or employee *or immediate family member of an officer or employee* of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 to participate in the Virginia Agricultural Best Management Practices Cost-Share Program (the Program) established in accordance with § 10.1-546.1 *or to participate in other cost-share*

programs for the installation of best management practices to improve water quality. This subdivision shall not apply to subcontracts or other agreements entered into by an officer or employee of a soil and water conservation district to provide services for implementation of a cost-share contract established under the Program *or such other cost-share programs*.

B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f)(4) of § 2.1-348 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household and the annual salary of such subordinate is $35,000 or more.

2. That the provisions of this act shall apply to contracts entered into on and after July 1, 2017, and to any contract entered into by an officer or employee or an immediate family member of such officer or employee with a soil and water conservation district to participate in a cost-share program for the installation of best management practices to improve water quality prior to the effective date of this act.