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## SENATE BILL NO. 1294

Offered January 11, 2017

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*A BILL to amend and reenact §§ 2.2-3103.1, 2.2-3103.2, 30-103.1, 30-103.2, and 30-356.1 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act and General Assembly Conflicts of Interests Act; certain gifts prohibited.*

Patron—Vogel

Referred to Committee on Rules

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3103.1, 2.2-3103.2, 30-103.1, 30-103.2, and 30-356.1 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.

"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. 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. 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. E. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or  
68 a 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. F. During the pendency of a civil action in any state or federal court to which the Commonwealth  
75 is a party, the Governor or the Attorney General or any employee of the Governor or the Attorney  
76 General who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from  
77 any person that he knows or has reason to know is a person, organization, or business that is a party to  
78 such civil action. A person, organization, or business that is a party to such civil action shall not  
79 knowingly give any gift to the Governor or the Attorney General or any of their employees who are  
80 subject to the 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 § 2.2-3103.2. Return of gifts.

87 No person shall be in violation of any provision of this chapter prohibiting the acceptance of a gift if  
88 (i) the gift is not used by such person and the gift or its equivalent in money is returned to the donor or  
89 delivered to a charitable organization within a reasonable period of time upon the discovery of the value  
90 of the gift and is not claimed as a charitable contribution for federal income tax purposes or (ii)  
91 consideration is given by the donee to the donor for the *fair market* value of the gift within a reasonable  
92 period of time upon the discovery of the value of the gift provided that such consideration reduces the  
93 value of the gift to an amount not in excess of \$100 as provided in subsection B or C of § 2.2-3103.1.

#### 94 § 30-103.1. Certain gifts prohibited.

95 A. For purposes of this section:

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

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

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

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

120 E. Notwithstanding the provisions of subsection B, a legislator 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 if such gift was provided to the legislator 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 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. C. Notwithstanding the provisions of subsection B A, 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 A 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.

#### § 30-103.2. Return of gifts.

No person shall be in violation of any provision of this chapter prohibiting the acceptance of a gift if the gift is not used by such person and the gift or its equivalent in money is returned to the donor or delivered to a charitable organization within a reasonable period of time upon the discovery of the value of the gift and is not claimed as a charitable contribution for federal income tax purposes or (ii) consideration is given by the donee to the donor for the *fair market* value of the gift within a reasonable period of time upon the discovery of the value of the gift ~~provided that such consideration reduces the value of the gift to an amount not in excess of \$100 as provided in subsection B of § 30-103.1.~~

#### § 30-356.1. Request for approval for certain travel.

A. The Council shall receive and review a request for the approval of travel submitted by a person required to file the disclosure form prescribed in § 2.2-3117 or 30-111 to accept any travel-related transportation, lodging, hospitality, food or beverage, or other thing of value that has a value exceeding \$100 where such approval is required pursuant to subsection G E of § 2.2-3103.1 or subsection F C of § 30-103.1. A request for the approval of travel shall not be required for the following, but such travel shall be disclosed as may be required by the Acts:

1. Travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.);
2. Travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state;
3. Travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman; or
4. Travel related to an official meeting of the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment.

B. When reviewing a request for the approval of travel, the Council shall consider the purpose of the travel as it relates to the official duties of the requester. The Council shall approve any request for travel that bears a reasonable relationship between the purpose of the travel and the official duties of the requester. Such travel shall include any meeting, conference, or other event (i) composed primarily of public officials, (ii) at which public policy related to the duties of the requester will be discussed in a substantial manner, (iii) reasonably expected to educate the requester on issues relevant to his official duties or to enhance the requester's knowledge and skills relative to his official duties, or (iv) at which the requester has been invited to speak regarding matters reasonably related to the requester's official duties.

C. The Council shall not approve any travel requests that bear no reasonable relationship between the purpose of the proposed travel and the official duties of the requester. In making such determination, the Council shall consider the duration of travel, the destination of travel, the estimated value of travel, and any previous or recurring travel.

182 D. Within five business days of receipt of a request for the approval of travel, the Council shall grant  
183 or deny the request, unless additional information has been requested. If additional information has been  
184 requested, the Council shall grant or deny the request for the approval within five business days of  
185 receipt of such information. If the Council has not granted or denied the request for approval of travel  
186 or requested additional information within such five-day period, such travel shall be deemed to have  
187 been approved by the Council. Nothing in this subsection shall preclude a person from amending or  
188 resubmitting a request for the approval of travel. The Council may authorize a designee to review and  
189 grant or deny requests for the approval of travel.

190 E. A request for the approval of travel shall be on a form prescribed by the Council and made  
191 available on its website. Such form may be submitted by electronic means, facsimile, in-person  
192 submission, or mail or commercial mail delivery.

193 F. No person shall be prosecuted, assessed a civil penalty, or otherwise disciplined for acceptance of  
194 a travel-related thing of value if he accepted the travel-related thing of value after receiving approval  
195 under this section, regardless of whether such approval is later withdrawn, provided the travel occurred  
196 prior to the withdrawal of the approval.