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SENATE BILL NO. 816

Offered January 12, 2018

A *BILL to amend and reenact § 2.2-3115 of the Code of Virginia, relating to the State and Local Government Conflict of Interests Act; disclosure by local government officers and employees.*

Patron—Black

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3115 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3115. Disclosure by local government officers and employees.

A. In accordance with the requirements set forth in § 2.2-3118.2, the members of every governing body and school board of each county and city and of towns with populations in excess of 3,500 shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

In accordance with the requirements set forth in § 2.2-3118.2, the members of the governing body of any authority established in any county or city, or part or combination thereof, and having the power to issue bonds or expend funds in excess of \$10,000 in any fiscal year, shall file, as a condition to assuming office, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such a statement annually on or before February 1, unless the governing body of the jurisdiction that appoints the members requires that the members file the form set forth in § 2.2-3117.

In accordance with the requirements set forth in § 2.2-3118.2, persons occupying such positions of trust appointed by governing bodies and persons occupying such positions of employment with governing bodies as may be designated to file by ordinance of the governing body shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

In accordance with the requirements set forth in § 2.2-3118.2, persons occupying such positions of trust appointed by school boards and persons occupying such positions of employment with school boards as may be designated to file by an adopted policy of the school board shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of local boards, commissions and councils as may be designated by the governing body shall file, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1.

C. No person shall be mandated to file any disclosure not otherwise required by this article.

D. The disclosure forms required by subsections A and B shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council at least 30 days prior to the filing deadline, and the clerks of the governing body and school board shall distribute the forms to designated individuals at least 20 days prior to the filing deadline. Forms shall be filed and maintained as public records for five years in the office of the clerk of the respective governing body or school board. Forms filed by members of governing bodies of authorities shall be filed and maintained as public records for five years in the office of the clerk of the governing body of the county or city. Such forms shall be made public no later than six weeks after the filing deadline.

E. Candidates for membership in the governing body or school board of any county, city or town with a population of more than 3,500 persons shall file a disclosure statement of their personal interests as required by § 24.2-502.

F. Any officer or employee of local government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112 or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall be reflected in the public records of the

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59 agency for five years in the office of the administrative head of the officer's or employee's governmental
60 or advisory agency.

61 G. In addition to any disclosure required by subsections A and B, in each county and city and in
62 towns with populations in excess of 3,500, members of planning commissions, boards of zoning appeals,
63 real estate assessors, and all county, city and town managers or executive officers shall make annual
64 disclosures of all their interests in real estate located in the county, city or town in which they are
65 elected, appointed, or employed. Such disclosure shall include any business in which such persons own
66 an interest, or from which income is received, if the primary purpose of the business is to own, develop
67 or derive compensation through the sale, exchange or development of real estate in the county, city or
68 town. In accordance with the requirements set forth in § 2.2-3118.2, such disclosure shall be filed as a
69 condition to assuming office or employment, and thereafter shall be filed annually with the clerk of the
70 governing body of such county, city, or town on or before February 1. Such disclosures shall be filed
71 and maintained as public records for five years. Such forms shall be made public no later than six
72 weeks after the filing deadline. Forms for the filing of such reports shall be made available by the
73 Virginia Conflict of Interest and Ethics Advisory Council to the clerk of each governing body.

74 H. An officer or employee of local government who is required to declare his interest pursuant to
75 subdivision B 1 of § 2.2-3112 shall declare his interest by stating *at the first meeting at which the*
76 *transaction is discussed* (i) the transaction involved, (ii) the nature of the officer's or employee's personal
77 interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or
78 group the members of which are affected by the transaction, and (iv) that he is able to participate in the
79 transaction fairly, objectively, and in the public interest. The officer or employee shall either make his
80 declaration orally to be recorded in written minutes for his agency or file a signed written declaration
81 with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall,
82 in either case, retain and make available for public inspection such declaration for a period of five years
83 from the date of recording or receipt. If reasonable time is not available to comply with the provisions
84 of this subsection prior to participation in the transaction, the officer or employee shall prepare and file
85 the required declaration by the end of the next business day. The officer or employee shall also orally
86 disclose the existence of the interest during ~~each~~ *at least one subsequent* meeting of the governmental or
87 advisory agency at which the transaction is discussed and such disclosure shall be recorded in the
88 minutes of the meeting.

89 I. An officer or employee of local government who is required to declare his interest pursuant to
90 subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a
91 party to the transaction is a client of his firm, (iii) that he does not personally represent or provide
92 services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in
93 the public interest. The officer or employee shall either make his declaration orally to be recorded in
94 written minutes for his agency or file a signed written declaration with the clerk or administrative head
95 of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make
96 available for public inspection such declaration for a period of five years from the date of recording or
97 receipt. If reasonable time is not available to comply with the provisions of this subsection prior to
98 participation in the transaction, the officer or employee shall prepare and file the required declaration by
99 the end of the next business day.

100 J. The clerk of the governing body or school board that releases any form to the public pursuant to
101 this section shall redact from the form any residential address, personal telephone number, or signature
102 contained on such form; however, any form filed pursuant to subsection G shall not have any residential
103 addresses redacted.