



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 703 (Patron – Obenshain)

LD#: 20102809

Date: 12/18/2019

Topic: Disclosure of economic interests by industrial development authorities

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Direct Care:**
None (\$0)*
- **Juvenile Detention Facilities:**
None (\$0)*

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposed legislation amends § 2.2-3115 related to disclosure statements filed by local government officials. The proposal would require the executive director and members of industrial development authorities and economic development authorities to file a Statement of Economic Interests (a “disclosure form”) with the Virginia Conflict of Interest and Ethics Advisory Council as a condition of assuming office and thereafter annually on or before February 1.

Currently, under § 2.2-3115, specified local government officers and employees must file an annual statement disclosing their economic interests. The proposal expands the list of individuals who must file such statements to explicitly include certain persons associated with industrial development and economic development authorities.

A state or local official who knowingly and intentionally makes a false statement of a material fact on a statement of economic interest/disclosure form is guilty of a Class 5 felony per § 2.2-3117. Pursuant to § 2.2-3120, failure to file the required statement of economic interest/disclosure form is a Class 1 misdemeanor. Under § 2.2-3120, an official who knowingly violates the provisions of the State and Local Government Conflict of Interests Act (§§ 2.2-3102 through 2.2-3119) is guilty of a Class 1 misdemeanor or, for certain violations, a Class 3 misdemeanor.

Analysis:

According to General District Court Case Management System (CMS) data for fiscal year (FY) 2014 to FY2019, no officials were convicted of misdemeanor under § 2.2-3115 for failing to file the required statement. One local official was convicted of a misdemeanor under § 2.2-3112 for failing to disqualify

himself from participating in a government transaction in which they had a personal interest. This individual did not receive an active term of incarceration to serve after sentencing.

Circuit Court CMS data for the same six-year period indicate that there were no felony convictions under § 2.2-3117 for making a false statement on an economic interest/disclosure form filed by a state and local official.

According to the Virginia Conflict of Interest and Ethics Advisory Council, 12,086 Statements of Economic Interests and Financial Disclosure Statements were filed with the Council in calendar year 2018.¹ For calendar year 2019 through November 1, 11,744 statements have been filed.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal expands the list of officials who are required to file statements of economic interests/disclosure forms and, thus, expands the number of people who could potentially make false statements on the form. However, of the approximately 24,000 statements filed by state and local officials in 2018 and 2019, none have resulted in a felony conviction under § 2.2-3117 for making a false statement. Thus, it is unlikely that expanding the filing requirements to add directors and members of development boards will increase the state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Similarly, the proposal is unlikely to increase the local-responsible (jail) bed space needs of the Commonwealth.

Adult community corrections programs. The proposal is not expected to impact adult community corrections resources.

Virginia's sentencing guidelines. Convictions under the State and Local Government Conflict of Interests Act (§§ 2.2-3102 through 2.2-3119) are not covered by the sentencing guidelines when the offense is the primary, or most serious, offense in a case. However, convictions under these provisions could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. The Department of Juvenile Justice (DJJ) reports that the proposal is not expected to have an impact on direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to impact the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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¹ Virginia Conflict of Interest and Ethics Advisory Council, *2019 Annual Report*, <https://rga.lis.virginia.gov/Published/2019/RD626/PDF>.