

LD2141661

SENATE BILL NO. 155

Offered January 20, 1994

A BILL to amend and reenact §§ 2.1-639.36 and 2.1-639.41 of the Code of Virginia, relating to the General Assembly Conflict of Interests Act; real estate contracts; disclosure.

Patrons—Gartlan, Andrews, Barry, Bell, Benedetti, Calhoun, Colgan, Cross, Earley, Goode, Hawkins, Holland, C.A., Holland, E.M., Holland, R.J., Houck, Howell, Lambert, Lucas, Marsh, Marye, Maxwell, Miller, K.G., Miller, Y.B., Nolen, Norment, Potts, Quayle, Reasor, Robb, Russell, Saslaw, Schewel, Stolle, Stosch, Trumbo, Waddell, Walker, Wampler and Woods

Referred to the Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-639.36 and 2.1-639.41 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-639.36. Further exceptions.

A. The provisions of § 2.1-639.35 shall not apply to:

1. The sale, lease or exchange of real property between a legislator and a governmental agency, provided the legislator does not participate in any way as a legislator 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. *The legislator shall disclose such sale, lease, or exchange in his statement of economic interests as provided in § 2.1-639.41;*

2. The publication of official notices;

3. A legislator whose sole personal interest in a contract with an agency of the legislative branch is by reason of income from the contracting firm or General Assembly in excess of \$10,000 per year, provided the legislator or 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 legislator either does not have authority to participate in the procurement or letting of the contract on behalf of the agency or he disqualifies himself as a matter of public record and does not participate on behalf of the agency in negotiating the contract or in approving the contract;

4. Contracts between a legislator's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the legislator has a personal interest, provided he disqualifies himself as a matter of public record and does not participate on behalf of the agency in negotiating the contract or in approving the contract;

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

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

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 Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the 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 Chapter 22 of Title 2.1 of the Code of Virginia in effect prior to July 1, 1983, the employment by the same governmental agency of a legislator 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 \$15,000 or more.

§ 2.1-639.41. Disclosure form.

A. The disclosure form to be used for filings required by § 2.1-639.40 A and B shall be substantially as follows:

STATEMENT OF ECONOMIC INTERESTS.

Name
Office or position held or sought
Home address
Names of members of immediate family

DEFINITIONS AND EXPLANATORY MATERIAL.

INTRODUCED

SB155

59 "Immediate family" means (i) a spouse and (ii) any other person
60 residing in the same household as the officer or employee, who
61 is a dependent of the officer or employee or of whom the officer
62 or employee is a dependent.

63 "Dependent" means any person, whether or not related by blood or
64 marriage, who receives from the officer or employee, or provides
65 to the officer or employee, more than one-half of his financial
66 support.

67 "Business" means a corporation, partnership, sole proprietorship,
68 firm, enterprise, franchise, association, trust or foundation, or
69 any other individual or entity carrying on a business or
70 profession, whether or not for profit.

71 TRUST. If you or your immediate family, separately or together,
72 are the only beneficiaries of a trust, treat the trust's assets
73 as if you own them directly. If you or your immediate family has
74 a proportional interest in a trust, treat that proportion of the
75 trust's assets as if you own them directly. For example, if you
76 and your immediate family have a one-third interest in a trust,
77 complete your Statement as if you own one-third of each of the
78 trust's assets. If you or a member of your immediate family
79 created a trust and can revoke it without the beneficiaries'
80 consent, treat its assets as if you own them directly.

81 REPORT TO THE BEST OF INFORMATION AND BELIEF. Information
82 required on this Statement must be provided on the basis of the
83 best knowledge, information and belief of the individual filing
84 the Statement as of the date of this report unless otherwise
85 stated.

86 COMPLETE ITEMS 1 THROUGH 9. REFER TO SCHEDULES ONLY IF DIRECTED.
87 You may attach additional explanatory information.

88 1. Offices and Directorships.

89 Are you or a member of your immediate family a paid officer
90 or paid director of a business?

91 EITHER check NO / / OR check YES / / and complete
92 Schedule A.

93 2. Personal Liabilities.

94 Do you or a member of your immediate family owe more than
95 \$10,000 to any one creditor including contingent liabilities?
96 (Exclude debts to any government and loans secured by recorded
97 liens on property at least equal in value to the loan.)

98 EITHER check NO / / OR check YES / / and complete
99 Schedule B.

100 3. Securities.

101 Do you or a member of your immediate family, directly or
102 indirectly, separately or together, own securities valued
103 in excess of \$10,000 invested in one business? Account for
104 mutual funds, limited partnerships and trusts.

105 EITHER check NO / / OR check YES / / and complete
106 Schedule C.

107 4. Payments for Talks, Meetings, and Publications.

108 During the past 12 months did you receive lodging,
109 transportation, money, or anything else of value with a combined
110 value exceeding \$200 for a single talk, meeting, or published
111 work in your capacity as a legislator?

112 EITHER check NO / / OR check YES / / and complete
113 Schedule D.

114 5. Gifts, Travel, and Business Entertainment.

115 During the past 12 months did a business, government, or

individual other than a relative or personal friend furnish you with tickets to sporting events or shows, travel expenses, meals or lodging, favors, services, property, loans, money, gifts, or anything else of value the total value of which exceeded \$200 and for which you neither paid nor rendered, services in exchange? Account for all business entertainment (except if related to your private profession or occupation) even if unrelated to your official duties.

EITHER check NO / / OR check YES / / and complete Schedule E.

6. Salary and Wages.

List each employer that pays you or a member of your immediate family salary or wages in excess of \$10,000 annually. (Exclude state or local government or advisory agencies.)

If no reportable salary or wages, check here / /.

7. Business Interests.

Do you or a member of your immediate family separately or together, operate your own business, or own or control an interest in excess of \$10,000 in a business?

EITHER check NO / / OR check YES / / and complete Schedule F.

8. Payments for Representation.

8A. Did you represent any businesses before any state governmental agencies, excluding courts or judges, for which you received total compensation during the past 12 months in excess of \$1,000, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers?

EITHER check NO / / OR check YES / / and complete Schedule G-1.

8B. Subject to the same exceptions as in 8A, did persons with whom you have a close financial association (partners, associates or others) represent any businesses before any state governmental agency for which total compensation was received during the past 12 months in excess of \$1,000?

EITHER check NO / / OR check YES / / and complete Schedule G-2.

8C. Did you or persons with whom you have a close financial association furnish services to businesses operating in Virginia for which total compensation in excess of \$1,000 was received during the past 12 months?

EITHER check NO / / OR check YES / / and complete Schedule G-3.

9. Real Estate.

Do you or a member of your immediate family hold an interest, including a partnership interest, valued at \$10,000 or more in real property located in Virginia (other than your principal residence) for which you have not already listed the full address on Schedule F? Account for real estate held in trust.

EITHER check NO / / OR check YES / / and complete Schedule H.

10. Real Estate Contracts.

Do you or a member of your immediate family hold an interest in

172 real estate, including a partnership interest, option, easement,
 173 or land contract, valued at \$10,000 or more, which is the
 174 subject of a contract for the sale, lease, or exchange of real
 175 estate with a state governmental agency? Account for all such
 176 contracts whether or not your interest is reported in schedules
 177 F or H.

178 EITHER check NO / / OR check YES / / and complete
 179 Schedule J.

180 Statements of Economic Interests are open for public inspection.

181
 182 AFFIRMATION

183 In accordance with the rules of the house in which I serve, if I
 184 receive a request that this disclosure statement be corrected,
 185 augmented, or revised in any respect, I hereby pledge that I shall
 186 respond promptly to the request. I understand that if a determination
 187 is made that the statement is insufficient, I will satisfy such
 188 request or be subjected to disciplinary action of my house.

189 I swear or affirm that the foregoing information is full, true and
 190 correct to the best of my knowledge.

191 Signature.....

192 Commonwealth of Virginia

193of.....to wit:

194 The foregoing disclosure form was acknowledged before me

195 This.....day of.....19.. by

196 Notary Public

197 My commission expires.....

198 (Return only if needed to complete Statement.)

199
 200 SCHEDULES

201 to

202 STATEMENT OF ECONOMIC INTERESTS

203 NAME.....

204 SCHEDULE A - OFFICES AND DIRECTORSHIPS.

205 Identify each business of which you or a member of your
 206 immediate family is a paid officer or paid director.

207
 208
 209 Name of Business Address of Business Position Held

210 _____
 211 _____
 212 _____
 213 _____
 214 _____

215 _____

216
 217 RETURN TO ITEM 2

218
 219
 220 SCHEDULE B - PERSONAL LIABILITIES.

221 Report personal liability by checking each category. Report only
 222 debts in excess of \$10,000. Do not report debts to any government.
 223 Do not report loans secured by recorded liens on property at least
 224 equal in value to the loan.

225 Report contingent liabilities below and indicate which debts are contingent.

226 1. My personal debts are as follows:

227
 228 Check Check one

	appropriate	\$10,001 to	More than
	categories	\$50,000	\$50,000
229			
230			
231			
232	Banks	_____	_____
233	Savings and loan associations	_____	_____
234	Other loan or finance companies	_____	_____
235	Insurance companies	_____	_____
236	Stock, commodity or other brokerage		
237	companies	_____	_____
238	Other businesses:		
239	(State principal business activity for each		
240	creditor.)	_____	_____
241	_____	_____	_____
242	_____	_____	_____
243	Individual creditors:		
244	(State principal business or		
245	occupation of each creditor.)	_____	_____
246	_____	_____	_____
247	_____	_____	_____

248

249 2. The personal debts of the members of my immediate family are as

250 follows:

	Check	Check one	
	appropriate	\$10,001 to	More than
	categories	\$50,000	\$50,000
252			
253			
254			
255			
256	Banks	_____	_____
257	Savings and loan associations	_____	_____
258	Other loan or finance companies	_____	_____
259	Insurance companies	_____	_____
260	Stock, commodity or other brokerage		
261	companies	_____	_____
262	Other businesses:		
263	(State principal business activity		
264	for each creditor.)	_____	_____
265	_____	_____	_____
266	Individual creditors:		
267	(State principal business or		
268	occupation of each creditor.)	_____	_____
269	_____	_____	_____
270	_____	_____	_____

271

272 RETURN TO ITEM 3

273

274 SCHEDULE C - SECURITIES.

275 "Securities" INCLUDES stocks, bonds,	"Securities" EXCLUDES
276 mutual funds, money market funds,	certificates of deposit,
277 imited partnerships, and commodity	annuity contracts, and
278 futures contracts.	insurance policies.
279 Identify each business or Virginia governmental entity in which you	
280 or a member of your immediate family, directly or indirectly,	
281 separately or together, own securities valued in excess of \$10,000.	
282 Do not list U.S. Bonds or other government securities not issued by	
283 the Commonwealth of Virginia or its authorities, agencies, or local	
284 governments. Do not list organizations that do not do business in	

285 this Commonwealth, but most major businesses conduct business in
 286 Virginia. Account for securities held in trust.
 287 If no reportable securities, check here / /

288				
289		Type of Security	Check one	
290		(stocks, bonds, mutual	More	
291	Type of	or money market funds, \$10,001 to	than	
292	Name of Issuer	Entity etc.)	\$50,000	\$50,000
293	_____	_____	_____	_____
294				

295 RETURN TO ITEM 4

296
 297 SCHEDULE D - PAYMENTS FOR TALKS, MEETINGS, AND PUBLICATIONS.

298 List each source from which you received during the past 12 months
 299 lodging, transportation, money, or any other thing of value
 300 (excluding meals or drinks coincident with a meeting) with
 301 combined value exceeding \$200 for your presentation of a single
 302 talk, participation in one meeting, or publication of a work in
 303 your capacity as a legislator.

304 List payments or reimbursements by the Commonwealth only for
 305 meetings or travel outside the Commonwealth.

306 List a payment even if you donated it to charity.

307 Do not list information about a payment if you returned it within
 308 60 days or if you received it from an employer already listed
 309 under Item 6 or from a source of income listed on Schedule F.

310 If no payment must be listed, check here / /

311				
312			Type of payment	
313			(e.g. Honoraria,	
314			travel reimburse-	
315	Payer	Approximate Value	Circumstances	ment, etc.)
316	_____	_____	_____	_____
317	_____	_____	_____	_____
318	_____	_____	_____	_____
319	_____	_____	_____	_____
320				

321 RETURN TO ITEM 5

322 SCHEDULE E - GIFTS, TRAVEL, AND BUSINESS ENTERTAINMENT.

323 List each business, governmental entity, or individual that
 324 furnished you with tickets to sporting events or shows, travel
 325 expenses, meals or lodging, favors, services, property, loans,
 326 money, gifts, or other thing of pecuniary value, whose total value
 327 exceeded \$200 during the past 12 months and for which you neither
 328 paid nor rendered services in exchange. Do not list business
 329 entertainment related to your private profession or occupation. Do
 330 not list gifts or other things of value given by a relative or
 331 personal friend for reasons clearly unrelated to your public
 332 position.

333 When calculating value, you need not consider:

334 Meals, lodging, or hospitality that an individual furnished you
 335 at his own expense and not as a business expense if clearly
 336 unrelated to your public position, or
 337 Campaign contributions publicly reported as required by Chapter
 338 9 of Title 24.1 of the Code of Virginia.

339 "Relative" means: your spouse, child, uncle, aunt, niece,
 340 nephew, or person to whom you are engaged to be married;
 341 your or your spouse's parent, grandparent, grandchild,

brother, or sister; or your brother's or sister's spouse.

Name of Business,

Organization, or

Individual

City or County

and State

Approximate Value

RETURN TO ITEM 6

SCHEDULE F - BUSINESS INTERESTS.

Complete this Schedule for each self or family owned business

(including rental property, a farm, or consulting work),

partnership, or corporation in which you or a member of your

immediate family, separately or together, own an interest having

a value in excess of \$10,000.

If the enterprise is owned or operated under a trade, partnership,

or corporate name, list that name; otherwise merely explain the

nature of the enterprise. If rental property is owned or operated

under a trade, partnership, or corporate name, list the name only;

otherwise, give the address of each property. Account for business

interests held in trust.

Name of

Gross income

Business,

Corporation,

Partnership,

Farm; Address

City or

Nature of Enterprise

of Rental

County

(farming, law,

\$50,000

More than

Property

and State

rental property, etc.) or less

\$50,000

RETURN TO ITEM 8

SCHEDULE G-1 - PAYMENTS FOR REPRESENTATION BY YOU.

List the businesses you represented before any state governmental

agency, excluding any court or judge, for which you received

total compensation during the past 12 months in excess of \$1,000,

excluding compensation for other services to such businesses and

representation consisting solely of the filing of mandatory

papers.

Identify each business, the nature of the representation and the

amount received by category from each such business.

Name of Business	Type of Business	Purpose of Representation	Name of Agency	Amount Received \$1,001 to \$10,000	More than \$10,000
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

SCHEDULE G-2 - PAYMENTS FOR REPRESENTATION BY ASSOCIATES.

List the businesses that have been represented before any state

398 governmental agency, excluding any court or judge, by persons who
 399 are your partners, associates or others with whom you have a close
 400 financial association and who received total compensation in
 401 excess of \$1,000 for such representation during the past 12
 402 months, excluding representation consisting solely of the filing
 403 of mandatory papers.
 404 Identify such businesses by type and also name the state
 405 governmental agencies before which such person appeared on behalf
 406 of such businesses.

407		
408	Type of business	Name of state government agency
409	_____	_____
410	_____	_____
411	_____	_____
412	_____	_____

413
 414 SCHEDULE G-3 - PAYMENTS FOR REPRESENTATION GENERALLY.

415 Indicate below types of businesses that operate in Virginia to
 416 which services were furnished by you or persons with whom you have
 417 a close financial association and for which total compensation in
 418 excess of \$1,000 was received during the past 12 months.
 419 Identify opposite each category of businesses listed below (i) the
 420 type of business, (ii) the type of service rendered and (iii) the
 421 value of the compensation received for all businesses falling
 422 within each category.

423				
424			Value of Compensation	
425		Check if	Type of	\$1,001 More
426		services	service	to than
427		were rendered	rendered	\$10,000 \$10,000
428	Electric utilities	_____	_____	_____
429	Gas utilities	_____	_____	_____
430	Telephone utilities	_____	_____	_____
431	Water utilities	_____	_____	_____
432	Cable television	_____	_____	_____
433	companies	_____	_____	_____
434	Interstate	_____	_____	_____
435	transportation	_____	_____	_____
436	companies	_____	_____	_____
437	Intrastate	_____	_____	_____
438	transportation	_____	_____	_____
439	companies	_____	_____	_____
440	Oil or gas	_____	_____	_____
441	retail	_____	_____	_____
442	companies	_____	_____	_____
443	Banks	_____	_____	_____
444	Savings and	_____	_____	_____
445	loan	_____	_____	_____
446	associations	_____	_____	_____
447	Loan or finance	_____	_____	_____
448	companies	_____	_____	_____
449	Manufacturing	_____	_____	_____
450	companies	_____	_____	_____
451	(state type of	_____	_____	_____
452	product,	_____	_____	_____
453	e.g., textile,	_____	_____	_____
454	furniture	_____	_____	_____

455	etc.)	_____	_____	_____	_____
456	Mining companies	_____	_____	_____	_____
457	Life insurance	_____	_____	_____	_____
458	companies	_____	_____	_____	_____
459	Casualty insurance	_____	_____	_____	_____
460	companies	_____	_____	_____	_____
461	Other insurance	_____	_____	_____	_____
462	companies	_____	_____	_____	_____
463	Retail companies	_____	_____	_____	_____
464	Beer, wine or	_____	_____	_____	_____
465	liquor companies	_____	_____	_____	_____
466	or distributors	_____	_____	_____	_____
467	Trade associations	_____	_____	_____	_____
468	Professional	_____	_____	_____	_____
469	associations	_____	_____	_____	_____
470	Associations of	_____	_____	_____	_____
471	public employees	_____	_____	_____	_____
472	or officials	_____	_____	_____	_____
473	Counties, cities or	_____	_____	_____	_____
474	towns	_____	_____	_____	_____
475	Labor organizations	_____	_____	_____	_____
476	Other	_____	_____	_____	_____

RETURN TO ITEM 9

478
479 SCHEDULE H - REAL ESTATE.

480 List real estate located in Virginia other than your principal
481 residence in which you or a member of your immediate family hold
482 an interest, including a partnership interest, option, easement,
483 or land contract, valued at \$10,000 or more. You may list each
484 parcel of real estate individually if you wish.

486	List the counties	Describe the type of	If the real estate
487	and cities in which	real estate you own	is owned or recorded
488	you own real estate	in each county or city	in a name other than
489		(business, recreational,	your own, list that
490		apartment, commercial,	name
491		open land, etc.)	

492	_____	_____	_____
493	_____	_____	_____
494	_____	_____	_____
495	_____	_____	_____
496	_____	_____	_____

497
498 SCHEDULE J - REAL ESTATE CONTRACTS WITH GOVERNMENT AGENCIES.

499 List all contracts with a state governmental agency for the sale,
500 lease, or exchange of real estate in which you or a member of your
501 immediate family holds an interest, including a partnership
502 interest, option, easement, or land contract, valued at \$10,000
503 or more.

505	List your real	List each state	State the value of
506	estate interest	governmental agency	the contract and
507	and the person	which is a party to	the amount, if any,
508	or entity which	the contract	of income you derive
509	is party to the		annually from the
510	contract		contract

511			
512			
513			
514			
515			
516			

517
518 B. Any legislator who makes a knowing misstatement of a material fact on the Statement of
519 Economic Interests shall be subject to disciplinary action for such violations by the house in which the
520 legislator sits.

521 C. In accordance with the rules of each house, the Statement of Economic Interests of all members
522 of each house shall be reviewed. If a legislator's Statement is found to be inadequate as filed, the
523 legislator shall be notified in writing, directed to file an amended Statement correcting the indicated
524 deficiencies, and a time set within which such amendment shall be filed. If the Statement of Economic
525 Interests, in either its original or amended form, is found to be adequate as filed, the legislator's filing
526 shall be deemed in full compliance with this section as to the information disclosed thereon.

527 D. Ten percent of the membership of a house, on the basis of newly discovered facts, may in writing
528 request the house in which those members sit, in accordance with the rules of that house, to review the
529 Statement of Economic Interests of another member of that house in order to determine the adequacy of
530 his filing. In accordance with the rules of each house, each Statement of Economic Interests shall be
531 promptly reviewed, the adequacy of the filing determined, and notice given in writing to the legislator
532 whose Statement is in issue. Should it be determined that the Statement requires correction,
533 augmentation or revision, the legislator involved shall be directed to make the changes required within
534 such time as shall be set under the rules of each house.

535 If a legislator, after having been notified in writing in accordance with the rules of the house in
536 which he sits that his Statement is inadequate as filed, fails to amend his Statement so as to come into
537 compliance within the time limit set, he shall be subject to disciplinary action by the house in which he
538 sits. No legislator shall vote on any question relating to his own Statement.