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HOUSE BILL NO. 665

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Privileges and Elections
on February 5, 1994)

(Patron Prior to Substitute—Delegate O'Brien)

A BILL to amend and reenact §§ 2.1-639.35 and 2.1-639.36 of the Code of Virginia, relating to the General Assembly Conflict of Interests Act; prohibited contracts; exceptions.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-639.35 and 2.1-639.36 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-639.35. Prohibited contracts by legislators.

A. No legislator shall have a personal interest in a contract with the legislative branch of state government.

B. No legislator shall have a personal interest in a contract with any governmental agency of the executive or judicial branches of state government, other than in a contract of regular employment, unless such contract is awarded as a result of competitive sealed bidding or competitive negotiation as defined in § 11-37. *No legislator shall have a personal interest in any such contract which is awarded as a result of competitive negotiation if he is a party to the contract and will realize more than \$10,000 in income in any one year from the contract or if he has a personal interest in a business which is a party to the contract and the business will realize more than \$10,000 in income in any one year from the contract.*

C. No legislator shall have a personal interest in a contract with any governmental agency of local government, other than in a contract of regular employment, unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as defined in § 11-37 or is awarded as a result of a procedure embodying competitive principles as authorized by subsection D of § 11-35, or (ii) is awarded after a finding, in writing, by the administrative head of the local governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

D. The provisions of this section shall not be applicable to contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public.

E. The provisions of this section shall not be applicable to a legislator's personal interest in a contract between a state institution of higher education and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or materials.

§ 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 *local* 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;

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

60 continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions
61 of subdivision (f)(4) of § 2.1-348 of Chapter 22 of Title 2.1 of the Code of Virginia in effect prior to
62 July 1, 1983, the employment by the same governmental agency of a legislator and spouse or any other
63 relative residing in the same household shall not be deemed to create a material financial interest except
64 when one of such persons is employed in a direct supervisory or administrative position, or both, with
65 respect to such spouse or other relative residing in his household, and the annual salary of such
66 subordinate is \$15,000 or more.