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**SENATE BILL NO. 143**

Offered January 8, 2014

Prefiled December 31, 2013

*A BILL to amend and reenact §§ 30-114, 30-117, and 30-118 of the Code of Virginia and to amend the Code of Virginia by adding in Title 30 a chapter numbered 55, consisting of sections numbered 30-348 through 30-351, relating to the Virginia Conflict of Interest and Ethics Advisory Council.*

Patron—Edwards

Referred to Committee on Rules

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

**1. That §§ 30-114, 30-117, and 30-118 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 30 a chapter numbered 55, consisting of sections numbered 30-348 through 30-351, as follows:**

**§ 30-114. Filing of complaints; procedures; disposition.**

A. In response to the signed and sworn complaint of any citizen of the Commonwealth, which is subscribed by the maker as true under penalty of perjury, submitted to the Panel, the Panel shall inquire into any alleged violation of Articles 2 (§ 30-102 et seq.) through 5 (§ 30-109 et seq.) of this chapter by any member of the respective house of the General Assembly in his current term or his immediate prior term. Complaints shall be filed with the ~~Director of the Division of Legislative Services, who Clerk of the Senate for complaints against a member of the Senate of Virginia or the Clerk of the House of Delegates for complaints against a member of the House of Delegates.~~ The respective Clerk shall promptly (i) submit the complaint to the chairman of the appropriate Panel and (ii) forward a copy of the complaint to the legislator named in the complaint. The chairman shall promptly notify the Panel of the complaint. No complaint shall be filed with the Panel 60 or fewer days before a primary election or other nominating event or before a general election in which the cited legislator is running for office, and the Panel shall not accept or act on any complaint received during this period.

B. The Panel shall determine, during its preliminary investigation, whether the facts stated in the complaint taken as true are sufficient to show a violation of Articles 2 (§ 30-102 et seq.) through 5 (§ 30-109 et seq.) of this chapter. If the facts, as stated in the complaint, fail to give rise to such a violation, then the Panel shall dismiss the complaint. If the facts, as stated in the complaint, give rise to such a violation, then the Panel shall request that the complainant appear and testify under oath as to the complaint and the allegations therein. After hearing the testimony and reviewing any other evidence provided by the complainant, the Panel shall dismiss the complaint if the Panel fails to find by a preponderance of the evidence that such violation has occurred. If the Panel finds otherwise, it shall proceed with the inquiry.

C. If after such preliminary investigation, the Panel determines to proceed with an inquiry into the conduct of any legislator, the Panel (i) shall immediately notify in writing the individual who filed the complaint and the cited legislator as to the fact of the inquiry and the charges against the legislator and (ii) shall schedule one or more hearings on the matter. The legislator shall have the right to present evidence, cross-examine witnesses, face and examine the accuser, and be represented by counsel at any hearings. In its discretion, the Panel may grant the legislator any other rights or privileges not specifically enumerated in this subsection. Once the Panel has determined to proceed with an inquiry, its meetings and hearings shall be open to the public.

D. Once the Panel determines to proceed with an inquiry into the conduct of any legislator, the Panel shall complete its investigations and dispose of the matter as provided in § 30-116 notwithstanding the resignation of the legislator during the course of the Panel's proceedings.

**§ 30-117. Confidentiality of proceedings.**

All proceedings during the investigation of any complaint by the Panel shall be confidential. This rule of confidentiality shall apply to Panel members and their staff, ~~and the Committee on Privileges and Elections and its staff and the Division of Legislative Services.~~

**§ 30-118. Staff for Panel.**

The Panel may hire staff and outside counsel to assist the Panel and to conduct examinations of witnesses, subject to the approval of the President Pro Tempore of the Senate for the Senate Ethics Advisory Panel and subject to the approval of the Speaker of the House of Delegates for the House Ethics Advisory Panel. ~~The Panel may have the Director of the Division of Legislative Services, and such additional staff as he may assign, assist the Panel during its preliminary investigation and during its proceedings.~~

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## CHAPTER 55.

## VIRGINIA CONFLICT OF INTEREST AND ETHICS ADVISORY COUNCIL.

**§ 30-348. Virginia Conflict of Interest and Ethics Advisory Council; membership; terms; quorum; expenses.**

A. The Virginia Conflict of Interest and Ethics Advisory Council (the Council) is hereby created as an advisory council in the legislative branch to encourage and facilitate compliance with the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and the General Assembly Conflicts of Interests Act (§ 30-100 et seq.).

B. The Council shall consist of 12 members as follows: the Attorney General or his designee; the Director of the Division of Legislative Services or his designee; four members appointed by the Speaker of the House of Delegates, two of whom shall be members of the House of Delegates and two of whom shall be nonlegislative citizen members; four members appointed by the Senate Committee on Rules, two of whom shall be members of the Senate, and two of whom shall be a nonlegislative citizen members; and two nonlegislative citizen members appointed by the Governor, one of whom shall be or have been an officer of local government,. The local government representative may be selected from a list recommended by the Virginia Association of Counties and the Virginia Municipal League, after due consideration of such list by the Senate Committee on Rules.

C. All appointments following the initial staggering of terms shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms in the same manner as the original appointment. No nonlegislative citizen member shall be eligible to serve for more than two successive four-year terms. However, after the expiration of a term of three years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto. Legislative members and other state government officials shall serve terms coincident with their terms of office. Legislative members may be reappointed for successive terms.

D. The members of the Council shall elect from among their membership a chairman and a vice-chairman for two-year terms. The chairman and vice-chairman may not succeed themselves to the same position. The Council shall hold meetings quarterly or upon the call of the chairman. A majority of the Council shall constitute a quorum.

E. Members of the Council shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813, 2.2-2825 and 30-19.12, as appropriate. Funding for expenses of the members shall be provided from existing appropriations to the Council.

**§ 30-349. Powers and duties of the Council.**

The Council shall:

1. Furnish, upon request, advisory opinions or guidelines and other appropriate information regarding the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and the General Assembly Conflicts of Interests Act (§ 30-100 et seq.), to any person or agency of state or local government, in an expeditious manner;

2. Conduct training seminars and educational programs for the members and staff of public bodies and other interested persons on the requirements of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and the General Assembly Conflicts of Interests Act (§ 30-100 et seq.);

3. Publish such educational materials as it deems appropriate on the provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and the General Assembly Conflicts of Interests Act (§ 30-100 et seq.);

4. Request from any agency of state or local government such assistance, services, and information as will enable the Council to effectively carry out its responsibilities. Information provided to the Council by an agency of state or local government shall not be released to any other party unless authorized by such agency; and

5. Report annually on or before December 1 of each year on its activities and findings regarding the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and the General Assembly Conflicts of Interests Act (§ 30-100 et seq.), including recommendations for changes in the laws, to the General Assembly and the Governor. The annual report shall be published as a state document.

**§ 30-350. Staff.**

Staff assistance to the Council shall be provided by the Division of Legislative Services. Staff shall perform those duties assigned to it by the Council.

**§ 30-351. Cooperation of agencies of state and local government.**

Every department, division, board, bureau, commission, authority, or political subdivision of the Commonwealth shall cooperate with, and provide such assistance to, the Council as the Council may request.

2. That the initial terms of the nonlegislative citizen members of the Virginia Conflict of Interest and Ethics Advisory Council appointed pursuant to this act shall be staggered as follows: (i) two

121 members, one appointed by the Speaker of the House of Delegates, one appointed by the Senate  
122 Committee on Rules, and one appointed by the Governor, for a term of two years; (ii) two  
123 members, one appointed by the Speaker of the House of Delegates and one appointed by the  
124 Governor, for a term of three years; and (iii) two members, one appointed by the Speaker of the  
125 House of Delegates and one appointed by the Senate Committee on Rules for a term of four years.  
126 Thereafter, the terms of members shall be for four years.

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