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SENATE BILL NO. 1251

Offered January 14, 2015

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A *BILL to amend and reenact §§ 2.2-419 and 2.2-426 of the Code of Virginia, relating to lobbyist reporting; disclosure statement.*

Patron—Smith

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:**1. That §§ 2.2-419 and 2.2-426 of the Code of Virginia are amended and reenacted as follows:****§ 2.2-419. Definitions.**

As used in this article, unless the context requires a different meaning:

"Anything of value" means:

1. A pecuniary item, including money, or a bank bill or note;
 2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
 3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
 4. A stock, bond, note, or other investment interest in an entity;
 5. A receipt given for the payment of money or other property;
 6. A right in action;
 7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
 8. A loan or forgiveness of indebtedness;
 9. A work of art, antique, or collectible;
 10. An automobile or other means of personal transportation;
 11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;
 12. An honorarium or compensation for services;
 13. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive or legislative official, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;
 14. A promise or offer of employment; or
 15. Any other thing of value that is pecuniary or compensatory in value to a person.
- "Anything of value" does not mean a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.
- "Compensation" means:
1. An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value; or
 2. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value, for services rendered or to be rendered.
- "Compensation" does not mean reimbursement of expenses if the reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.
- "Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by an executive agency or official of legislation or executive orders issued by the Governor.
- "Executive agency" means an agency, board, commission, or other body in the executive branch of state government. "Executive agency" includes the State Corporation Commission, the Virginia Workers' Compensation Commission, and the Virginia Lottery.
- "Executive official" means:
1. The Governor;
 2. The Lieutenant Governor;
 3. The Attorney General;
 4. Any officer or employee of the office of the Governor or Lieutenant Governor other than a clerical or secretarial employee;

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59 5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each
60 executive agency; or

61 6. Members of supervisory and policy boards, commissions and councils, as defined in § 2.2-2100,
62 however selected.

63 "Expenditure" means:

64 1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third
65 party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything
66 of value for any purpose;

67 2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person
68 employing, retaining, or contracting for the services of the lobbyist separately or jointly with other
69 persons;

70 3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct
71 payment of expenses incurred at the request or suggestion of the lobbyist;

72 4. A payment that directly benefits an executive or legislative official or a member of the official's
73 immediate family;

74 5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses
75 of an employee for or in connection with direct communication with an executive or legislative official;

76 6. A payment for or in connection with soliciting or urging other persons to enter into direct
77 communication with an executive or legislative official; or

78 7. A payment or reimbursement for categories of expenditures required to be reported pursuant to
79 this chapter.

80 "Expenditure" does not mean a campaign contribution properly received and reported pursuant to
81 Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

82 "Fair market value" means the price that a good or service would bring between a willing seller and
83 a willing buyer in the open market after negotiations. If the fair market value cannot be determined, the
84 actual price paid for the good or service shall be given consideration.

85 "Gift" means anything of value to the extent that a consideration of equal or greater value is not
86 received.

87 "Gift" does not mean:

88 1. Printed informational or promotional material;

89 2. A gift that is not used and, no later than 60 days after receipt, is returned to the donor or
90 delivered to a charitable organization and is not claimed as a charitable contribution for federal income
91 tax purposes;

92 3. A gift, devise, or inheritance from an individual's spouse, child, parent, grandparent, brother, sister,
93 parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of
94 that individual, if the donor is not acting as the agent or intermediary for someone other than a person
95 covered by this subdivision; or

96 4. A gift of a value of \$50 or less.

97 "Immediate family" means (i) the spouse and (ii) any child who resides in the same household as the
98 executive or legislative official and who is a dependent of the official.

99 "Legislative action" means:

100 1. Preparation, research, drafting, introduction, consideration, modification, amendment, approval,
101 passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion,
102 report, nomination, appointment, or other matter by the General Assembly or a legislative official;

103 2. Action by the Governor in approving, vetoing, or recommending amendments for a bill passed by
104 the General Assembly; or

105 3. Action by the General Assembly in overriding or sustaining a veto by the Governor, considering
106 amendments recommended by the Governor, or considering, confirming, or rejecting an appointment of
107 the Governor.

108 "Legislative official" means:

109 1. A member or member-elect of the General Assembly;

110 2. A member of a committee, subcommittee, commission, or other entity established by and
111 responsible to the General Assembly or either house of the General Assembly; or

112 3. Persons employed by the General Assembly or an entity established by and responsible to the
113 General Assembly.

114 "Lobbying" means:

115 1. Influencing or attempting to influence executive or legislative action through oral or written
116 communication with an executive or legislative official; or

117 2. Solicitation of others to influence an executive or legislative official.

118 "Lobbying" does not mean:

119 1. Requests for appointments, information on the status of pending executive and legislative actions,
120 or other ministerial contacts if there is no attempt to influence executive or legislative actions;

2. Responses to published notices soliciting public comment submitted to the public official designated in the notice to receive the responses;

3. The solicitation of an association by its members to influence legislative or executive action; or

4. Communications between an association and its members and communications between a principal and its lobbyists.

"Lobbyist" means:

1. An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;

2. An individual who represents an organization, association, or other group for the purpose of lobbying; or

3. A local government employee who lobbies.

"Lobbyist's principal" or "principal" means the entity on whose behalf the lobbyist influences or attempts to influence executive or legislative action. An organization whose employees conduct lobbying activities on its behalf is both a principal and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the principal is the coalition or association and not its individual members.

"Local government" means:

1. Any county, city, town, or other local or regional political subdivision;

2. Any school division;

3. Any organization or entity that exercises governmental powers that is established pursuant to an interstate compact; or

4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of this definition.

"Local government employee" means a public employee of a local government.

"Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert.

"Procurement transaction" means all functions that pertain to the obtaining of any goods, services, or construction, including description of requirements, selection of sources, preparation and award of contract, and all phases of contract administration.

"Sought to influence" means any direct contact by any means with a member of the (i) legislature or legislative staff, (ii) executive branch or staff, or (iii) public seeking support of or opposition to a particular issue.

"Value" means the actual cost or fair market value of an item or items, whichever is greater. If the fair market value cannot be determined, the actual amount paid for the item or items shall be given consideration.

§ 2.2-426. Lobbyist reporting; penalty.

A. Each lobbyist shall file with the Virginia Conflict of Interest and Ethics Advisory Council a separate semiannual report of expenditures, including gifts, for each principal for whom he lobbies by December 15 for the preceding six-month period complete through the last day of October and June 15 for the preceding six-month period complete through the last day of April.

B. Each principal who expends more than \$500 to employ or compensate multiple lobbyists shall be responsible for filing a consolidated lobbyist report pursuant to this section in any case in which the lobbyists are each exempt under the provisions of subdivision 7 or 8 of § 2.2-420 from the reporting requirements of this section.

C. The report shall be on a form provided by the Virginia Conflict of Interest and Ethics Advisory Council, which shall be substantially as follows and shall be accompanied by instructions provided by the Council.

LOBBYIST'S DISCLOSURE STATEMENT

PART I:

(1) PRINCIPAL: _____

In Part I, item 2a, provide the name of the individual authorizing your employment as a lobbyist. The lobbyist filing this statement MAY NOT list his name in item 2a.

(2a) Name: _____

(2b) Permanent Business Address: _____

(2c) Business Telephone: _____

~~(3) Provide a list of executive and legislative actions (with as much specificity as possible) for which you lobbied and a~~

- 181 ~~description of activities conducted.~~
 182 Did the lobbyist actually engage in lobbying on the principal's
 183 behalf during the time period covered? Yes _____ No _____
 184 (3a) List the general matters of concern that you and any other
 185 lobbyist included in an incorporated filing lobbied on behalf
 186 of the principal.)
 187 _____
 188 _____
 189 _____
 190 (Attach separate sheet if necessary.)
 191 (3b) List all legislative actions, including where appropriate the
 192 assigned House of Delegates or Senate bill numbers, that you
 193 and any other lobbyist included in an incorporated filing
 194 sought to influence the outcome of during the disclosure period.
 195 _____
 196 _____
 197 _____
 198 (Attach separate sheet if necessary.)
 199 (3c) List all executive actions that you and any other lobbyist
 200 included in an incorporated filing sought to influence the
 201 outcome of during the disclosure period.
 202 _____
 203 _____
 204 _____
 205 (Attach separate sheet if necessary.)
 206 (3d) List all procurement transactions that you and any other
 207 lobbyist included in an incorporated filing sought to influence
 208 the outcome of during the disclosure period.
 209 _____
 210 _____
 211 _____
 212 (Attach separate sheet if necessary.)
 213 (4) INCORPORATED FILINGS: If you are filing an incorporated
 214 disclosure statement, please complete the following:
 215 Individual filing financial information: _____
 216 Individuals to be included in the filing: _____
 217 _____
 218 (5) Please indicate which schedules will be attached to your
 219 disclosure statement:
 220 [] Schedule A: Entertainment Expenses
 221 [] Schedule B: Gifts
 222 [] Schedule C: Other Expenses
 223 (6) EXPENDITURE TOTALS:
 224 a) ENTERTAINMENT \$ _____
 225 b) GIFTS \$ _____
 226 c) COMMUNICATIONS \$ _____
 227 d) PERSONAL LIVING AND TRAVEL EXPENSES \$ _____
 228 e) COMPENSATION OF LOBBYISTS \$ _____
 229 f) HONORARIA \$ _____
 230 g) OTHER \$ _____
 231 TOTAL \$ _____
 232 PART II:
 233 (1a) NAME OF LOBBYIST: _____
 234 (1b) Permanent Business Address: _____
 235 (1c) Business Telephone: _____
 236 (2) As a lobbyist, you are (check one)
 237 [] EMPLOYED (on the payroll of the principal)

238 [] RETAINED (not on the payroll of the principal, however
 239 compensated)
 240 [] NOT COMPENSATED (not compensated; expenses may be reimbursed)
 241 (3) List all lobbyists other than yourself who registered to
 242 represent your principal.
 243 _____
 244 _____
 245 _____
 246 (4) If you selected "EMPLOYED" as your answer to Part II, item 2,
 247 provide your job title.
 248 _____
 249 PLEASE NOTE: Some lobbyists are not individually compensated for
 250 lobbying activities. This may occur when several members of a firm
 251 represent a single principal. The principal, in turn, makes a single
 252 payment to the firm. If this describes your situation, do not answer
 253 Part II, items 5a and 5b. Instead, complete Part III, items 1 and 2.
 254 (5a) What was the DOLLAR AMOUNT OF YOUR COMPENSATION as a lobbyist?
 255 (If you have job responsibilities other than those involving
 256 lobbying, you may have to prorate to determine the part of your
 257 salary attributable to your lobbying activities.) Transfer your
 258 answer to this item to Part I, item 6e.
 259 (5b) Explain how you arrived at your answer to Part II, item 5a.
 260 _____
 261 _____
 262 _____
 263 PART III:
 264 PLEASE NOTE: If you answered Part II, items 5a and 5b, you WILL NOT
 265 complete this section.
 266 (1) List all members of your firm, organization, association,
 267 corporation, or other entity who furnished lobbying services to
 268 your principal.
 269 _____
 270 _____
 271 _____
 272 (2) Indicate the total amount paid to your firm, organization,
 273 association, corporation or other entity for services rendered.
 274 Transfer your answer to this item to Part I, item 6e_____
 275 SCHEDULE A
 276 ENTERTAINMENT EXPENSES
 277 PLEASE NOTE: Any single entertainment event included in the expense
 278 totals of the principal, with a value greater than \$50, should be
 279 itemized below. Transfer any totals from this schedule to Part I,
 280 item 6a. (Please duplicate as needed.)
 281 Date and Location of Event:
 282 _____
 283 _____
 284 Description of Event:
 285 _____
 286 _____
 287 Total Number of Persons Attending:
 288
 289 Names of Legislative and Executive Officials or Members of Their
 290 Immediate Families Attending: (List names only if the average value
 291 for each person attending the event was greater than \$50.)
 292 _____
 293 _____

294		
295		
296	Food	\$ _____
297	Beverages	\$ _____
298	Transportation of Legislative and Executive Officials	
299	or Members of Their Immediate Families	\$ _____
300	Lodging of Legislative and Executive Officials or	
301	Members of Their Immediate Families	\$ _____
302	Performers, Speakers, Etc.	\$ _____
303	Displays	\$ _____
304	Rentals	\$ _____
305	Service Personnel	\$ _____
306	Miscellaneous	\$ _____
307	TOTAL	\$ _____

SCHEDULE B

GIFTS

310 PLEASE NOTE: Any single gift reported in the expense totals of the
 311 principal, with a value greater than \$50, should be itemized below.
 312 (Report meals, entertainment and travel under Schedule A.) Transfer
 313 any totals from this schedule to Part I, item 6b. (Please duplicate
 314 as needed.)

315			Name of each	
316			legislative or	
317			executive official	
318			or member of his	
319			immediate family	Cost of
320	Date	Description	who is a recipient	individual
321	of gift:	of gift:	of a gift:	gift:
322	_____	_____	_____	\$ _____
323	_____	_____	_____	\$ _____
324	_____	_____	_____	\$ _____
325	_____	_____	_____	\$ _____
326	TOTAL COST TO PRINCIPAL			\$ _____

SCHEDULE C

OTHER EXPENSES

329 PLEASE NOTE: This section is provided for any lobbying-related
 330 expenses not covered in Part I, items 6a - 6f. An example of an
 331 expenditure to be listed on schedule C would be the rental of a
 332 bill box during the General Assembly session. Transfer the total
 333 from this schedule to Part I, item 6g. (Please duplicate as needed.)

334	DATE OF EXPENSE	DESCRIPTION OF EXPENSE	AMOUNT
335	_____	_____	\$ _____
336	_____	_____	\$ _____
337	_____	_____	\$ _____
338	_____	_____	\$ _____
339	_____	_____	\$ _____
340	_____	_____	\$ _____
341	_____	_____	\$ _____
342	_____	_____	\$ _____
343	_____	_____	\$ _____
344	TOTAL "OTHER" EXPENSES		\$ _____

PART IV: STATEMENTS

346 The following items are mandatory and if they are not properly
 347 completed, the entire filing will be rejected and returned to
 348 the lobbyist:

349 (1) All signatures on the statement must be ORIGINAL in the format
 350 specified in the instructions provided by the Council that

351 accompany this form. No stamps, or other reproductions of the
 352 individual's signature will be accepted.
 353 (2) An individual MAY NOT sign the disclosure statement as lobbyist
 354 and principal officer.

355 STATEMENT OF LOBBYIST

356 I, the undersigned registered lobbyist, do state that the information
 357 furnished on this disclosure statement and on all accompanying
 358 attachments required to be made thereto is, to the best of my
 359 knowledge and belief, complete and accurate.

360
 361 _____
 362 Signature of lobbyist

363
 364 _____
 365 Date

366 STATEMENT OF PRINCIPAL

367 I, the undersigned principal (or an authorized official thereof), do
 368 state that the information furnished on this disclosure statement
 369 and on all accompanying attachments required to be made thereto is,
 370 to the best of my knowledge and belief, complete and accurate.

371
 372 _____
 373 Signature of principal

374
 375 _____
 376 Date

377 D. A person who signs the disclosure statement knowing it to contain a material misstatement of fact
 378 is guilty of a Class 5 felony.

379 E. Each lobbyist shall send to each legislative and executive official who is required to be identified
 380 by name on Schedule A or B of the Lobbyist's Disclosure Form a copy of Schedule A or B or a
 381 summary of the information pertaining to that official. Copies or summaries shall be provided to the
 382 official by November 21 for the preceding six-month period complete through the last day of October
 383 and by May 21 for the preceding six-month period complete through the last day of April.

384 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
 385 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
 386 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**
 387 **2 of the Acts of Assembly of 2014, Special Session I, requires the Virginia Criminal Sentencing**
 388 **Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated**
 389 **amount of the necessary appropriation cannot be determined for periods of commitment to the**
 390 **custody of the Department of Juvenile Justice.**