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HOUSE BILL NO. 1517

Offered January 19, 2018

A BILL to amend and reenact §§ 2.2-3110 and 30-106 of the Code of Virginia, relating to the State and Local Government Conflict of Interests Act; General Assembly Conflicts of Interests Act; prohibited contracts; exceptions.

Patron—Rush (By Request)

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3110 and 30-106 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3110. Further exceptions.

A. The provisions of Article 3 (§ 2.2-3106 et seq.) shall not apply to:

1. The sale, lease or exchange of real property between an officer or employee and a governmental agency, provided the officer or employee does not participate in any way as such officer or employee 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. Contracts between the government or school board of a county, city, or town with a population of less than 10,000 and an officer or employee of that county, city, or town government or school board when the total of such contracts between the government or school board and the officer or employee of that government or school board or a business controlled by him does not exceed \$5,000 per year or such amount exceeds \$5,000 and is less than \$25,000 but results from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as provided for in § 2.2-3115;

4. An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of \$5,000 per year, provided the officer or employee or a 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 officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

5. When the governmental agency is a public institution of higher education, an officer or employee whose personal interest in a contract with the institution is by reason of an ownership in the contracting firm in excess of three percent of the contracting firm's equity or such ownership interest and income from the contracting firm is in excess of \$5,000 per year, provided that (i) the officer or employee's ownership interest, or ownership and income interest, and that of any immediate family member in the contracting firm is disclosed in writing to the president of the institution, which writing certifies that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the institution, (ii) the president of the institution makes a written finding as a matter of public record that the contract is in the best interests of the institution, (iii) the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of the institution or disqualifies himself as a matter of public record, and (iv) does not participate on behalf of the institution in negotiating the contract or approving the contract;

6. Except when the governmental agency is the Virginia Retirement System, contracts between an officer's or employee's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the officer or employee has a personal interest, provided the officer or employee disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

7. Contracts for the purchase of goods or services when the contract does not exceed \$500 \$5,000;

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

9. An officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of his marriage to his spouse who is employed by the same agency, if the spouse was employed by such agency for five or more years prior to marrying such officer or employee; or

10. Contracts entered into by an officer or employee or immediate family member of an officer or employee of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of

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59 Chapter 5 of Title 10.1 to participate in the Virginia Agricultural Best Management Practices Cost-Share
60 Program (the Program) established in accordance with § 10.1-546.1 or to participate in other cost-share
61 programs for the installation of best management practices to improve water quality. This subdivision
62 shall not apply to subcontracts or other agreements entered into by an officer or employee of a soil and
63 water conservation district to provide services for implementation of a cost-share contract established
64 under the Program or such other cost-share programs.

65 B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments
66 thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered
67 into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of
68 Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act,
69 Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts
70 shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the
71 provisions of subdivision (f)(4) of former § 2.1-348 of Title 2.1 in effect prior to July 1, 1983, the
72 employment by the same governmental agency of an officer or employee and spouse or any other
73 relative residing in the same household shall not be deemed to create a material financial interest except
74 when one of such persons is employed in a direct supervisory or administrative position, or both, with
75 respect to such spouse or other relative residing in his household and the annual salary of such
76 subordinate is \$35,000 or more.

77 **§ 30-106. Further exceptions.**

78 A. The provisions of § 30-105 shall not apply to:

79 1. The sale, lease or exchange of real property between a legislator and a governmental agency,
80 provided the legislator does not participate in any way as a legislator in such sale, lease or exchange,
81 and this fact is set forth as a matter of public record by the governing body of the governmental agency
82 or by the administrative head thereof. The legislator shall disclose any lease with a state governmental
83 agency in his statement of economic interests as provided in § 30-111;

84 2. The publication of official notices;

85 3. A legislator whose sole personal interest in a contract with an agency of the legislative branch is
86 by reason of income from the contracting firm or General Assembly in excess of \$5,000 per year,
87 provided the legislator or member of his immediate family does not participate and has no authority to
88 participate in the procurement or letting of the contract on behalf of the contracting firm and the
89 legislator either does not have authority to participate in the procurement or letting of the contract on
90 behalf of the agency or he disqualifies himself as a matter of public record and does not participate on
91 behalf of the agency in negotiating the contract or in approving the contract;

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

96 5. Contracts for the purchase of goods or services when the contract does not exceed ~~\$500~~ \$5,000; or

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

99 B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments
100 thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered
101 into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of
102 Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act,
103 Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts
104 shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the
105 provisions of subdivision (f)(4) of former § 2.1-348 of Chapter 22 of Title 2.1 in effect prior to July 1,
106 1983, the employment by the same governmental agency of a legislator and spouse or any other relative
107 residing in the same household shall not be deemed to create a material financial interest except when
108 one of such persons is employed in a direct supervisory or administrative position, or both, with respect
109 to such spouse or other relative residing in his household, and the annual salary of such subordinate is
110 \$15,000 or more.