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SENATE BILL NO. 703

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact § 2.2-3115 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act; disclosure by executive directors and members of industrial development authorities and economic development authorities; penalty.*

Patrons—Obenshain and Chase

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3115 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3115. Disclosure by local government officers and employees.

A. In accordance with the requirements set forth in § 2.2-3118.2, the members of every governing body and school board of each county and city and of towns with populations in excess of 3,500 *and the executive director and members of each industrial development authority and economic development authority, as created by the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.),* shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

In accordance with the requirements set forth in § 2.2-3118.2, the members of the governing body of any authority established in any county or city, or part or combination thereof, and having the power to issue bonds or expend funds in excess of \$10,000 in any fiscal year, *other than the executive director and members of each industrial development authority and economic development authority, as created by the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.),* shall file, as a condition to assuming office, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1, unless the governing body of the jurisdiction that appoints the members requires that the members file the form set forth in § 2.2-3117.

In accordance with the requirements set forth in § 2.2-3118.2, persons occupying such positions of trust appointed by governing bodies and persons occupying such positions of employment with governing bodies as may be designated to file by ordinance of the governing body shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

In accordance with the requirements set forth in § 2.2-3118.2, persons occupying such positions of trust appointed by school boards and persons occupying such positions of employment with school boards as may be designated to file by an adopted policy of the school board shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of local boards, commissions and councils as may be designated by the governing body shall file, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1.

C. No person shall be mandated to file any disclosure not otherwise required by this article.

D. The disclosure forms required by subsections A and B shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council at least 30 days prior to the filing deadline, and the clerks of the governing body and school board shall distribute the forms to designated individuals at least 20 days prior to the filing deadline. Forms shall be filed and maintained as public records for five years in the office of the clerk of the respective governing body or school board. Forms filed by members of governing bodies of authorities shall be filed and maintained as public records for five years in the office of the clerk of the governing body of the county or city. Such forms shall be made public no later than six weeks after the filing deadline.

E. Candidates for membership in the governing body or school board of any county, city or town with a population of more than 3,500 persons shall file a disclosure statement of their personal interests as required by § 24.2-502.

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59 F. Any officer or employee of local government who has a personal interest in any transaction before
60 the governmental or advisory agency of which he is an officer or employee and who is disqualified
61 from participating in that transaction pursuant to subsection A of § 2.2-3112 or otherwise elects to
62 disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full
63 name and address of the business and the address or parcel number for the real estate if the interest
64 involves a business or real estate, and his disclosure shall be reflected in the public records of the
65 agency for five years in the office of the administrative head of the officer's or employee's governmental
66 or advisory agency.

67 G. In addition to any disclosure required by subsections A and B, in each county and city and in
68 towns with populations in excess of 3,500, members of planning commissions, boards of zoning appeals,
69 real estate assessors, and all county, city and town managers or executive officers shall make annual
70 disclosures of all their interests in real estate located in the county, city or town in which they are
71 elected, appointed, or employed. Such disclosure shall include any business in which such persons own
72 an interest, or from which income is received, if the primary purpose of the business is to own, develop
73 or derive compensation through the sale, exchange or development of real estate in the county, city or
74 town. In accordance with the requirements set forth in § 2.2-3118.2, such disclosure shall be filed as a
75 condition to assuming office or employment, and thereafter shall be filed annually with the clerk of the
76 governing body of such county, city, or town on or before February 1. Such disclosures shall be filed
77 and maintained as public records for five years. Such forms shall be made public no later than six
78 weeks after the filing deadline. Forms for the filing of such reports shall be made available by the
79 Virginia Conflict of Interest and Ethics Advisory Council to the clerk of each governing body.

80 H. An officer or employee of local government who is required to declare his interest pursuant to
81 subdivision B 1 of § 2.2-3112 shall declare his interest by stating (i) the transaction involved, (ii) the
82 nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a
83 member of a business, profession, occupation, or group the members of which are affected by the
84 transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public
85 interest. The officer or employee shall either make his declaration orally to be recorded in written
86 minutes for his agency or file a signed written declaration with the clerk or administrative head of his
87 governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for
88 public inspection such declaration for a period of five years from the date of recording or receipt. If
89 reasonable time is not available to comply with the provisions of this subsection prior to participation in
90 the transaction, the officer or employee shall prepare and file the required declaration by the end of the
91 next business day. The officer or employee shall also orally disclose the existence of the interest during
92 each meeting of the governmental or advisory agency at which the transaction is discussed and such
93 disclosure shall be recorded in the minutes of the meeting.

94 I. An officer or employee of local government who is required to declare his interest pursuant to
95 subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a
96 party to the transaction is a client of his firm, (iii) that he does not personally represent or provide
97 services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in
98 the public interest. The officer or employee shall either make his declaration orally to be recorded in
99 written minutes for his agency or file a signed written declaration with the clerk or administrative head
100 of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make
101 available for public inspection such declaration for a period of five years from the date of recording or
102 receipt. If reasonable time is not available to comply with the provisions of this subsection prior to
103 participation in the transaction, the officer or employee shall prepare and file the required declaration by
104 the end of the next business day.

105 J. The clerk of the governing body or school board that releases any form to the public pursuant to
106 this section shall redact from the form any residential address, personal telephone number, or signature
107 contained on such form; however, any form filed pursuant to subsection G shall not have any residential
108 addresses redacted.

109 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
110 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
111 **necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and**
112 **\$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

113 **3. That an executive director or member of an industrial development authority or economic**
114 **development authority holding office on July 1, 2020, shall file the disclosure form required by**
115 **§ 2.2-3115 of the Code of Virginia, as amended by this act, no later than August 1, 2020, for the**
116 **preceding 12-month period complete through the last day of June.**