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HOUSE BILL NO. 1911

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact §§ 2.2-3103.1 and 30-103.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 23.1-106.1, relating to State and Local Government Conflict of Interests Act; certain gifts prohibited; foreign countries of concern.

Patrons—Batten, Avoli, Ballard, Brewer, Byron, Campbell, E.H., Cordoza, Durant, Fowler, Freitas, Greenhalgh, Head, LaRock, Marshall, Runion, Webert, Wiley and Wilt

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3103.1 and 30-103.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 23.1-106.1 as follows:

§ 2.2-3103.1. Certain gifts prohibited.

A. For purposes of this section:

"Foreign country of concern" means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Bolivarian Republic of Venezuela, and the Syrian Arab Republic, including any agency, representative, or other entity under significant control of such countries.

"Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

B. No officer or employee of a local governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the local agency of which he is an officer or an employee. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

C. No officer or employee of a state governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the state governmental or advisory agency of which he is an officer or an employee or over which he has the authority to direct such agency's activities. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

E. Notwithstanding the provisions of subsections B and C, such officer or employee or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged so long as such foreign dignitary is not a representative of a foreign country of concern. Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed.

F. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a

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HB1911

58 member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from
59 a person listed in subsection B or C if such gift was provided to such officer, employee, or candidate or
60 a member of his immediate family on the basis of a personal friendship. Notwithstanding any other
61 provision of law, a person listed in subsection B or C may be a personal friend of such officer,
62 employee, or candidate or his immediate family for purposes of this subsection. In determining whether
63 a person listed in subsection B or C is a personal friend, the following factors shall be considered: (i)
64 the circumstances under which the gift was offered; (ii) the history of the relationship between the
65 person and the donor, including the nature and length of the friendship and any previous exchange of
66 gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the
67 gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has
68 given the same or similar gifts to other persons required to file the disclosure form prescribed in
69 § 2.2-3117 or 30-111.

70 G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a
71 member of his immediate family may accept or receive gifts of travel, including travel-related
72 transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of
73 \$100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or
74 candidate has submitted a request for approval of such travel to the Council and has received the
75 approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form
76 prescribed in § 2.2-3117.

77 H. During the pendency of a civil action in any state or federal court to which the Commonwealth is
78 a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General
79 who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any
80 person that he knows or has reason to know is a person, organization, or business that is a party to such
81 civil action. A person, organization, or business that is a party to such civil action shall not knowingly
82 give any gift to the Governor or the Attorney General or any of their employees who are subject to the
83 provisions of this chapter.

84 I. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every
85 five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year
86 period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U),
87 as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest
88 whole dollar.

89 J. The provisions of this section shall not apply to any justice of the Supreme Court of Virginia,
90 judge of the Court of Appeals of Virginia, judge of any circuit court, or judge or substitute judge of any
91 district court. However, nothing in this subsection shall be construed to authorize the acceptance of any
92 gift if such acceptance would constitute a violation of the Canons of Judicial Conduct for the State of
93 Virginia.

94 **§ 23.1-106.1. Gifts from foreign dignitaries.**

95 *No employee of a private institution of higher education shall accept or receive a gift from a foreign*
96 *dignitary who is a representative of a foreign country of concern, as defined in § 2.2-3103.1.*

97 **§ 30-103.1. Certain gifts prohibited.**

98 A. For purposes of this section:

99 "Widely attended event" means an event at which at least 25 persons have been invited to attend or
100 there is a reasonable expectation that at least 25 persons will attend the event and the event is open to
101 individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are
102 from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

103 B. No legislator or candidate for the General Assembly required to file the disclosure form prescribed
104 in § 30-111 or a member of his immediate family shall solicit, accept, or receive any single gift for
105 himself or a member of his immediate family with a value in excess of \$100 or any combination of
106 gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his
107 immediate family from any person that he or a member of his immediate family knows or has reason to
108 know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (ii)
109 a lobbyist's principal as defined in § 2.2-419. Gifts with a value of less than \$20 are not subject to
110 aggregation for purposes of this prohibition.

111 C. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his
112 immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of
113 admission with a value in excess in \$100 when such gift is accepted or received while in attendance at a
114 widely attended event and is associated with the event. Such gifts shall be reported on the disclosure
115 form prescribed in § 30-111.

116 D. Notwithstanding the provisions of subsection B, a legislator or a member of his immediate family
117 may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair
118 market value or a gift of greater or equal value has not been provided or exchanged *so long as such*
119 *foreign dignitary is not a representative of a foreign country of concern, as defined in § 2.2-3103.1.*

120 Such gift shall be accepted on behalf of the Commonwealth and archived in accordance with guidelines
121 established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of
122 the Commonwealth, but the value of such gift shall not be required to be disclosed.

123 E. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his
124 immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed
125 in subsection B if such gift was provided to the legislator or candidate or a member of his immediate
126 family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed
127 in subsection B may be a personal friend of the legislator or candidate or his immediate family for
128 purposes of this subsection. In determining whether a person listed in subsection B is a personal friend,
129 the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the
130 history of the relationship between the person and the donor, including the nature and length of the
131 friendship and any previous exchange of gifts between them; (iii) to the extent known to the person,
132 whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for
133 the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file
134 the disclosure form prescribed in § 2.2-3117 or 30-111.

135 F. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his
136 immediate family may accept or receive gifts of travel, including travel-related transportation, lodging,
137 hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or
138 provided by a person listed in subsection B when the legislator or candidate has submitted a request for
139 approval of such travel to the Council and has received the approval of the Council pursuant to §
140 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

141 G. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council
142 every five years, as of January 1 of that year, in an amount equal to the annual increases for that
143 five-year period in the United States Average Consumer Price Index for all items, all urban consumers
144 (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the
145 nearest whole dollar.