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HOUSE BILL NO. 2122

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact §§ 2.2-3106 and 2.2-3132 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act; Virginia Conflict of Interest and Ethics Advisory Council; training for members of appointed school boards.

Patron—Watts

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 2.2-3106 and 2.2-3132 of the Code of Virginia are amended and reenacted as follows:****§ 2.2-3106. Prohibited contracts by officers and employees of state government and Eastern Virginia Medical School.**

A. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with the governmental agency of which he is an officer or employee, other than his own contract of employment.

B. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with any other governmental agency of state government unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over the employment or the employment activities of the member of his immediate family and the employee is not in a position to influence those activities;

2. The personal interest of an officer or employee of a public institution of higher education or the Eastern Virginia Medical School in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are engaged in teaching, research or administrative support positions at the educational institution or the Eastern Virginia Medical School, (ii) the governing board of the educational institution finds that it is in the best interests of the institution or the Eastern Virginia Medical School and the Commonwealth for such dual employment to exist, and (iii) after such finding, the governing board of the educational institution or the Eastern Virginia Medical School ensures that the officer or employee, or the immediate family member, does not have sole authority to supervise, evaluate or make personnel decisions regarding the other;

3. An officer's or employee's personal interest in a contract of employment with any other governmental agency of state government;

4. Contracts for the sale by a governmental agency or the Eastern Virginia Medical School of services or goods at uniform prices available to the general public;

5. An employee's personal interest in a contract between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or materials;

6. An employee's personal interest in a contract with his or her employing public institution of higher education to acquire the collections or scholarly works owned by the employee, including manuscripts, musical scores, poetry, paintings, books or other materials, writings, or papers of an academic, research, or cultural value to the institution, provided the president of the institution approves the acquisition of such collections or scholarly works as being in the best interests of the institution's public mission of service, research, or education;

7. Subject to approval by the board of visitors, an employee's personal interest in a contract between the Eastern Virginia Medical School or a public institution of higher education in the Commonwealth that operates a school of medicine or dentistry and a not-for-profit nonstock corporation that operates a clinical practice within such public institution of higher education or the Eastern Virginia Medical School and of which such employee is a member or employee;

8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract

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59 for research and development or commercialization of intellectual property between a public institution
60 of higher education in the Commonwealth or the Eastern Virginia Medical School and a business in
61 which the employee has a personal interest, if (i) the employee's personal interest has been disclosed to
62 and approved by such public institution of higher education or the Eastern Virginia Medical School prior
63 to the time at which the contract is entered into; (ii) the employee promptly files a disclosure statement
64 pursuant to § 2.2-3117 and thereafter files such statement annually on or before ~~January 15~~ *February 1*;
65 (iii) the institution has established a formal policy regarding such contracts, approved by the State
66 Council of Higher Education or, in the case of the Eastern Virginia Medical School, a formal policy
67 regarding such contracts in conformity with any applicable federal regulations that has been approved by
68 its board of visitors; and (iv) no later than December 31 of each year, the institution or the Eastern
69 Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each
70 open contract entered into subject to this provision, the names of the parties to each contract, the date
71 each contract was executed and its term, the subject of each contractual arrangement, the nature of the
72 conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for
73 administering each contract, the details of the institution's or the Eastern Virginia Medical School's
74 commitment or investment of resources or finances for each contract, and any other information
75 requested by the Secretary of the Commonwealth; or

76 9. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract
77 between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical
78 School and a business in which the employee has a personal interest, if (i) the personal interest has been
79 disclosed to the institution or the Eastern Virginia Medical School prior to the time the contract is
80 entered into; (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually
81 on or before ~~January 15~~ *February 1*; (iii) the employee does not participate in the institution's or the
82 Eastern Virginia Medical School's decision to contract; (iv) the president of the institution or the Eastern
83 Virginia Medical School finds and certifies in writing that the contract is for goods and services needed
84 for quality patient care, including related medical education or research, by the institution's medical
85 center or the Eastern Virginia Medical School, its affiliated teaching hospitals and other organizations
86 necessary for the fulfillment of its mission, including the acquisition of drugs, therapies and medical
87 technologies; and (v) no later than December 31 of each year, the institution or the Eastern Virginia
88 Medical School files an annual report with the Secretary of the Commonwealth disclosing each open
89 contract entered subject to this provision, the names of the parties to each contract, the date each
90 contract was executed and its term, the subject of each contractual arrangement, the nature of the
91 conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for
92 administering each contract, the details of the institution's or the Eastern Virginia Medical School's
93 commitment or investment of resources or finances for each contract, and any other information
94 requested by the Secretary of the Commonwealth.

95 D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development or
96 commercialization of intellectual property or the employee's personal interest in a contract with a
97 business is subject to policies and regulations governing conflicts of interest promulgated by any agency
98 of the United States government, including the adoption of policies requiring the disclosure and
99 management of such conflicts of interests, the policies established by the Eastern Virginia Medical
100 School pursuant to such federal requirements shall constitute compliance with subdivisions C 8 and C 9,
101 upon notification by the Eastern Virginia Medical School to the Secretary of the Commonwealth by
102 January 31 of each year of evidence of their compliance with such federal policies and regulations.

103 E. The board of visitors may delegate the authority granted under subdivision C 8 to the president of
104 the institution. If the board elects to delegate such authority, the board shall include this delegation of
105 authority in the formal policy required by clause (iii) of subdivision C 8. In those instances where the
106 board has delegated such authority, on or before December 1 of each year, the president of the relevant
107 institution shall file a report with the relevant board of visitors disclosing each open contract entered
108 into subject to this provision, the names of the parties to each contract, the date each contract was
109 executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest,
110 the institution's or the Eastern Virginia Medical School's employee responsible for administering each
111 contract, the details of the institution's or the Eastern Virginia Medical School's commitment or
112 investment of resources or finances for each contract, the details of how revenues are to be dispersed,
113 and any other information requested by the board of visitors.

114 **§ 2.2-3132. Training on prohibited conduct and conflicts of interest.**

115 A. The Council shall provide training sessions for local elected officials, *the members of appointed*
116 *school boards*, and the executive directors and members of industrial development authorities and
117 economic development authorities, as created by the Industrial Development and Revenue Bond Act (§
118 15.2-4900 et seq.), on the provisions of the State and Local Government Conflict of Interests Act
119 (§ 2.2-3100 et seq.). The Council may provide such training sessions by online means.

120 B. Each local elected official *and member of an appointed school board*, and the executive director

121 and members of each industrial development authority and economic development authority, as created
122 by the Industrial Development and Revenue Bond Act, shall complete the training session described in
123 subsection A within two months after assuming the local elected office and thereafter at least once
124 during each consecutive period of two calendar years while he holds such office, commencing with the
125 date on which he last completed a training session. No penalty shall be imposed on a local elected
126 official, *a member of an appointed school board*, or an executive director or member of an industrial
127 development authority or an economic development authority for failing to complete a training session.

128 C. The clerk of the respective governing body or school board shall maintain records indicating local
129 elected officials, *members of appointed school boards*, and executive directors and members of industrial
130 development authorities and economic development authorities subject to the training requirement and
131 the dates of their completion of a training session pursuant to subsection B. Such records shall be
132 maintained as public records for five years in the office of the clerk of the respective governing body or
133 school board.