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HOUSE BILL NO. 1745

Offered January 13, 2025

Prefiled January 4, 2025

A *BILL to amend and reenact §§ 2.2-3101 and 30-101 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act and General Assembly Conflicts of Interests Act; definition of "personal interest in a transaction."*

Patron—Watts

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3101 and 30-101 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3101. Definitions.

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

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Affiliated business entity relationship" means a relationship, other than a parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. The candidate shall become subject to the provisions of this chapter upon the filing of a statement of qualification pursuant to § 24.2-501. The State Board of Elections or general registrar shall notify each such candidate of the provisions of this chapter. Notification made by the general registrar shall consist of information developed by the State Board of Elections.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own governmental agency.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Employee" means all persons employed by a governmental or advisory agency, unless otherwise limited by the context of its use.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred.

"Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the private profession or occupation or volunteer service of an officer or employee or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public

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59 service; (vii) food and beverages received at or registration or attendance fees waived for any event at which
60 the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in
61 the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic,
62 charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign
63 Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United
64 States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to
65 facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a
66 legislative committee or commission, or a national conference where attendance is approved by the House
67 Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman; (xiii) travel related
68 to an official meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its
69 political subdivisions, or any board, commission, authority, or other entity, or any charitable organization
70 established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such
71 person has been appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a
72 value of less than \$20; (xv) attendance at a reception or similar function where food, such as hors d'oeuvres,
73 and beverages that can be conveniently consumed by a person while standing or walking are offered; (xvi)
74 tickets or the registration or admission fees to an event that are provided by an agency to its own officers or
75 employees for the purposes of performing official duties related to their public service; or (xvii) gifts from
76 relatives or personal friends.

77 For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, nephew,
78 or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent,
79 grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-
80 sister; or the donee's brother's or sister's spouse or the donee's son-in-law or daughter-in-law.

81 For the purpose of this definition, "personal friend" does not include any person that the filer knows or has
82 reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2;
83 (b) a lobbyist's principal as defined in § 2.2-419; (c) for an officer or employee of a local governmental or
84 advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a
85 contract with the local agency of which he is an officer or an employee; or (d) for an officer or employee of a
86 state governmental or advisory agency, a person, organization, or business who is a party to or is seeking to
87 become a party to a contract with the Commonwealth.

88 For purposes of this definition, "person, organization, or business" includes individuals who are officers,
89 directors, or owners of or who have a controlling ownership interest in such organization or business.

90 "Governmental agency" means each component part of the legislative, executive or judicial branches of
91 state and local government, including each office, department, authority, post, commission, committee, and
92 each institution or board created by law to exercise some regulatory or sovereign power or duty as
93 distinguished from purely advisory powers or duties. Corporations organized or controlled by the Virginia
94 Retirement System are "governmental agencies" for purposes of this chapter.

95 "Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the
96 officer or employee and who is a dependent of the officer or employee.

97 "Officer" means any person appointed or elected to any governmental or advisory agency including local
98 school boards, whether or not he receives compensation or other emolument of office. Unless the context
99 requires otherwise, "officer" includes members of the judiciary.

100 "Parent-subsidiary relationship" means a relationship that exists when one corporation directly or
101 indirectly owns shares possessing more than 50 percent of the voting power of another corporation.

102 "Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member
103 of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership
104 interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may
105 reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business; (iii)
106 salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof,
107 paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to
108 exceed, \$5,000 annually; (iv) ownership of real or personal property if the interest exceeds \$5,000 in value
109 and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits
110 from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability
111 exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real
112 or personal property if the ownership interest will consist of clause (i) or (iv).

113 "Personal interest in a contract" means a personal interest that an officer or employee has in a contract
114 with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a
115 business that is a party to the contract.

116 "Personal interest in a transaction" means a personal interest of an officer or employee in any matter
117 considered by his agency. Such personal interest exists when *a subject of the transaction is the spouse of the*
118 *officer or employee, or when* an officer or employee or a member of his immediate family has a personal
119 interest in property or a business or governmental agency, or represents or provides services to any individual

120 or business and such property, business or represented or served individual or business (i) is the subject of the
 121 transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the
 122 action of the agency considering the transaction. Notwithstanding the above, such personal interest in a
 123 transaction shall not be deemed to exist where (a) an elected member of a local governing body serves
 124 without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member
 125 or member of his immediate family has no personal interest related to the not-for-profit entity or (b) an
 126 officer, employee, or elected member of a local governing body is appointed by such local governing body to
 127 serve on a governmental agency, or an officer, employee, or elected member of a separate local governmental
 128 agency formed by a local governing body is appointed to serve on a governmental agency, and the personal
 129 interest in the transaction of the governmental agency is the result of the salary, other compensation, fringe
 130 benefits, or benefits provided by the local governing body or the separate governmental agency to the officer,
 131 employee, elected member, or member of his immediate family.

132 "State and local government officers and employees" shall not include members of the General Assembly.

133 "State filer" means those officers and employees required to file a disclosure statement of their personal
 134 interests pursuant to subsection A or B of § 2.2-3114.

135 "Transaction" means any matter considered by any governmental or advisory agency, whether in a
 136 committee, subcommittee, or other entity of that agency or before the agency itself, on which official action
 137 is taken or contemplated.

138 **§ 30-101. Definitions.**

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

140 "Advisory agency" means any board, commission, committee or post which does not exercise any
 141 sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the
 142 purpose of making studies or recommendations, or advising or consulting with a governmental agency.

143 "Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association,
 144 trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for
 145 profit.

146 "Candidate" means a person who seeks or campaigns for election to the General Assembly in a general,
 147 primary, or special election and who is qualified to have his name placed on the ballot for the office. The
 148 candidate shall become subject to the provisions of this section upon the filing of a statement of qualification
 149 pursuant to § 24.2-501. The State Board of Elections shall notify each such candidate of the provisions of this
 150 chapter.

151 "Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf
 152 of a governmental agency that involves the payment of money appropriated by the General Assembly or a
 153 political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some
 154 political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is
 155 with the legislator's own governmental agency.

156 "Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

157 "Financial institution" means any bank, trust company, savings institution, industrial loan association,
 158 consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-501, or
 159 investment company or advisor registered under the federal Investment Advisors Act or Investment Company
 160 Act of 1940.

161 "Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item
 162 having monetary value. It includes services as well as gifts of transportation, lodgings and meals, whether
 163 provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been
 164 incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket,
 165 coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship
 166 or any other financial aid awarded by a public or private school, institution of higher education, or other
 167 educational program pursuant to such school, institution, or program's financial aid standards and procedures
 168 applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to
 169 Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the private profession or occupation or
 170 volunteer service of a legislator or of a member of his immediate family; (vi) food or beverages consumed
 171 while attending an event at which the filer is performing official duties related to his public service; (vii) food
 172 and beverages received at or registration or attendance fees waived for any event at which the filer is a
 173 featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of
 174 a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or
 175 professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance
 176 Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United States,
 177 any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate
 178 attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative
 179 committee or commission, or a national conference where attendance is approved by the House Committee
 180 on Rules or its Chairman or the Senate Committee on Rules or its Chairman; (xiii) travel related to an official

181 meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its political
182 subdivisions, or any board, commission, authority, or other entity, or any charitable organization established
183 pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has
184 been appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a value of
185 less than \$20; (xv) attendance at a reception or similar function where food, such as hors d'oeuvres, and
186 beverages that can be conveniently consumed by a person while standing or walking are offered; or (xvi) gifts
187 from relatives or personal friends. For the purpose of this definition, "relative" means the donee's spouse,
188 child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the
189 donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent,
190 step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse or the donee's
191 son-in-law or daughter-in-law. For the purpose of this definition, "personal friend" does not include any
192 person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418
193 et seq.) of Chapter 4 of Title 2.2 or (b) a lobbyist's principal as defined in § 2.2-419.

194 "Governmental agency" means each component part of the legislative, executive or judicial branches of
195 state and local government, including each office, department, authority, post, commission, committee, and
196 each institution or board created by law to exercise some regulatory or sovereign power or duty as
197 distinguished from purely advisory powers or duties.

198 "Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the
199 legislator and who is a dependent of the legislator.

200 "Legislator" means a member of the General Assembly.

201 "Personal interest" means a financial benefit or liability accruing to a legislator or to a member of his
202 immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest
203 exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably
204 be anticipated to exceed, \$5,000 from ownership in real or personal property or a business; (iii) salary, other
205 compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or
206 provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed,
207 \$5,000 annually; (iv) ownership of real or personal property if the interest exceeds \$5,000 in value and
208 excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the
209 use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three
210 percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal
211 property if the ownership interest will consist of clause (i) or (iv).

212 "Personal interest in a contract" means a personal interest that a legislator has in a contract with a
213 governmental agency, whether due to his being a party to the contract or due to a personal interest in a
214 business that is a party to the contract.

215 "Personal interest in a transaction" means a personal interest of a legislator in any matter considered by
216 the General Assembly. Such personal interest exists when *a subject of the transaction is the spouse of the*
217 *legislator, or when* a legislator or a member of his immediate family has a personal interest in property or a
218 business, or represents or provides services to any individual or business and such property, business or
219 represented or served individual or business (i) is the subject of the transaction or (ii) may realize a
220 reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency
221 considering the transaction. A "personal interest in a transaction" exists only if the legislator or member of his
222 immediate family or an individual or business represented or served by the legislator is affected in a way that
223 is substantially different from the general public or from persons comprising a profession, occupation, trade,
224 business or other comparable and generally recognizable class or group of which he or the individual or
225 business he represents or serves is a member.

226 "Transaction" means any matter considered by the General Assembly, whether in a committee,
227 subcommittee, or other entity of the General Assembly or before the General Assembly itself, on which
228 official action is taken or contemplated.