

SENATE BILL NO. 530

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology

on _____)

(Patron Prior to Substitute—Senator Srinivasan)

A BILL to amend and reenact §§ 2.2-3115, 24.2-502, and 30-356 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act; electronic disclosure by local government officers and employees.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3115, 24.2-502, and 30-356 of the Code of Virginia are 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 *with the Council*, 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 *with the Council*, 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 § 2.2-3118 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, the members of the Northern Virginia Transportation Authority and the Northern Virginia Transportation Commission shall file *with the Council*, as a condition to assuming office, a disclosure of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 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 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 *with the Council*, 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 *with the Council*, 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 *with the Council*, 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 be responsible for coordinating the electronic filing by~~ 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. All forms shall be maintained as public records for five years in the office of the Council.~~ 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.

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

71 G. In addition to any disclosure required by subsections A and B, in each county and city and in towns
72 with populations in excess of 3,500, members of planning commissions, boards of zoning appeals, real estate
73 assessors, and all county, city and town managers or executive officers shall make annual disclosures of all
74 their interests in real estate located in the county, city or town in which they are elected, appointed, or
75 employed. Such disclosure shall include any business in which such persons own an interest, or from which
76 income is received, if the primary purpose of the business is to own, develop or derive compensation through
77 the sale, exchange or development of real estate in the county, city or town. In accordance with the
78 requirements set forth in § 2.2-3118.2, such disclosure shall be filed as a condition to assuming office or
79 employment, and thereafter shall be filed annually ~~with the clerk of the governing body of such county, city,~~
80 ~~or town~~ on or before February 1. Such disclosures shall be filed *electronically with the Council in accordance*
81 *with the standards approved by it pursuant to § 30-356* and maintained as public records for five years. Such
82 forms shall be made public no later than six weeks after the filing deadline. Forms for the filing of such
83 reports shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council ~~to the clerk~~
84 ~~of each governing body.~~

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

and file the required declaration by the end of the next business day. The officer or employee shall also orally disclose the existence of the interest during each meeting of the governmental or advisory agency at which the transaction is discussed and such disclosure shall be recorded in the minutes of the meeting.

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

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

§ 24.2-502. Statement of economic interests as requirement of candidacy.

It shall be a requirement of candidacy that a written statement of economic interests shall be filed by ~~(i)~~ a candidate for Governor, Lieutenant Governor, or Attorney General ~~and~~; a candidate for the Senate or House of Delegates ~~with the State Board~~; ~~(ii)~~; a candidate for a constitutional office ~~with the general registrar for the county or city~~; and ~~(iii)~~ a candidate for member of the governing body or elected school board of any county, city, or town with a population in excess of 3,500 persons with the ~~general registrar for the county or city~~ Virginia Conflict of Interest and Ethics Advisory Council. The statement of economic interests shall be that specified in § 30-111 for candidates for the General Assembly and in § 2.2-3117 for all other candidates. *All completed forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. The Department shall be responsible for coordinating the electronic filing by candidates for Governor, Lieutenant Governor, Attorney General, the Senate, or the House of Delegates, and the general registrars shall be responsible for coordinating the electronic filing by candidates for constitutional offices, local governing bodies, and elected school boards.*

The foregoing requirement set forth in this section shall not apply to a candidate for reelection to the same

office who has met the requirement of annually filing a statement pursuant to § 2.2-3114, 2.2-3115, 2.2-3116, or 30-110.

~~The general registrar, the clerk of the local governing body, or the clerk of the school board, as appropriate,~~ Council shall transmit to the *State Board or the* local electoral board, *as appropriate for the office sought immediately after the filing deadline,* a list of the candidates who have filed initial or annual statements of economic interests, *immediately after the filing deadline.*

§ 30-356. Powers and duties of the Council.

The Council shall:

1. Prescribe the forms required for complying with the disclosure requirements of Article 3 and the Acts. These forms shall be the only forms used to comply with the provisions of Article 3 or the Acts. The Council shall make available the disclosure forms and shall provide guidance and other instructions to assist in the completion of the forms;

2. Review all disclosure forms filed by lobbyists pursuant to Article 3 and by state government officers and employees and legislators pursuant to the Acts. The Council may review disclosure forms for completeness, including reviewing the information contained on the face of the form to determine if the disclosure form has been fully completed and comparing the disclosures contained in any disclosure form filed by a lobbyist pursuant to § 2.2-426 with other disclosure forms filed with the Council, and requesting any amendments to ensure the completeness of and correction of errors in the forms, if necessary. If a disclosure form is found to have not been filed or to have been incomplete as filed, the Council shall notify the filer in writing and direct the filer to file a completed disclosure form within a prescribed period of time, and such notification shall be confidential and is excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.);

3. Require all disclosure forms and lobbyist registration statements that are required to be filed with the Council to be filed electronically in accordance with the standards approved by the Council. The Council shall provide software or electronic access for filing the required disclosure forms and registration statements without charge to all individuals required to file with the Council. The Council shall prescribe the method of execution and certification of electronically filed forms, including the use of an electronic signature as authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.). The Council may grant extensions as provided in § 30-356.2 and may authorize a designee to grant such extensions;

4. Accept and review any statement received from a filer disputing the receipt by such filer of a gift that

156 has been disclosed on the form filed by a lobbyist pursuant to Article 3;

157 5. Beginning July 1, 2016, establish and maintain a searchable electronic database comprising those
158 disclosure forms that are filed with the Council pursuant to §§ 2.2-426, 2.2-3117, 2.2-3118, and 30-111. Such
159 database shall be available to the public through the Council's official website;

160 6. Furnish, upon request, formal advisory opinions or guidelines and other appropriate information,
161 including informal advice, regarding ethics, conflicts issues arising under Article 3 or the Acts, or a person's
162 duties under Article 3 or the Acts to any person covered by Article 3 or the Acts or to any agency of state or
163 local government, in an expeditious manner. The Council may authorize a designee to furnish formal
164 opinions or informal advice. Formal advisory opinions are public record and shall be published on the
165 Council's website; however, no formal advisory opinion furnished by a designee of the Council shall be
166 available to the public or published until such opinion has been approved by the Council. Published formal
167 advisory opinions may have such deletions and changes as may be necessary to protect the identity of the
168 person involved or other persons supplying information. Informal advice given by the Council or the
169 Council's designee is confidential and is excluded from the mandatory disclosure provisions of the Virginia
170 Freedom of Information Act (§ 2.2-3700 et seq.); however, if the recipient invokes the immunity provisions
171 of § 2.2-3121 or 30-124, the record of the request and the informal advice given shall be deemed to be a
172 public record and shall be released upon request. Other records relating to formal advisory opinions or
173 informal advice, including records of requests, notes, correspondence, and draft versions of such opinions or
174 advice, shall also be confidential and excluded from the mandatory disclosure provisions of the Virginia
175 Freedom of Information Act;

176 7. Conduct training seminars and educational programs for lobbyists, state and local government officers
177 and employees, legislators, and other interested persons on the requirements of Article 3 and the Acts and
178 provide training sessions for local elected officials in compliance with Article 9 (§ 2.2-3132) of Chapter 31 of
179 Title 2.2 and ethics orientation sessions for legislators in compliance with Article 6 (§ 30-129.1 et seq.) of
180 Chapter 13;

181 8. Approve orientation courses conducted pursuant to § 2.2-3128 and, upon request, review the
182 educational materials and approve any training or course on the requirements of Article 3 and the Acts
183 conducted for state and local government officers and employees;

184 9. Publish such educational materials as it deems appropriate on the provisions of Article 3 and the Acts;

185 10. Review actions taken in the General Assembly with respect to the discipline of its members for the
186 purpose of offering nonbinding advice;

11. Request from any agency of state or local government such assistance, services, and information as will enable the Council to effectively carry out its responsibilities. Information provided to the Council by an agency of state or local government shall not be released to any other party unless authorized by such agency;

12. Redact from any document or form that is to be made available to the public any residential address, personal telephone number, email address, or signature contained on that document or form, *except that any form filed pursuant to subsection G of § 2.2-3115 shall not have any residential address redacted*; and

13. Report on or before December 1 of each year on its activities and findings regarding Article 3 and the Acts, including recommendations for changes in the laws, to the General Assembly and the Governor. The annual report shall be submitted by the chairman as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be published as a state document.

2. That those persons required by § 2.2-3115 of the Code of Virginia, as amended by this act, to file a disclosure form shall be able to file such form electronically with the Virginia Conflict of Interest and Ethics Advisory Council beginning with the statement due on or before February 1, 2027. Electronic filing shall be required (i) for localities with populations in excess of 250,000, beginning January 1, 2028; (ii) for localities with populations in excess of 100,000 but not more than 250,000, beginning January 1, 2029; and (iii) for localities with populations not exceeding 100,000, beginning January 1, 2030.