

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 2.2-3106 of the Code of Virginia, relating to employees of state government;*
 3 *personal interest in certain contracts prohibited; certain exception for certain employees of the Virginia*
 4 *School for the Deaf and the Blind.*

5 [S 816]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 2.2-3106 of the Code of Virginia is amended and reenacted as follows:**9 **§ 2.2-3106. Prohibited contracts by officers and employees of state government.**

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

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

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

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

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

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

33 4. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the
 34 general public;

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

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

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

49 8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract for
 50 research and development or commercialization of intellectual property between a public institution of higher
 51 education in the Commonwealth and a business in which the employee has a personal interest, if (i) the
 52 employee's personal interest has been disclosed to and approved by such public institution of higher
 53 education prior to the time at which the contract is entered into; (ii) the employee promptly files a disclosure
 54 statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before February 1; (iii) the
 55 institution has established a formal policy regarding such contracts, approved by the State Council of Higher
 56 Education for Virginia; and (iv) no later than December 31 of each year, the institution files an annual report

57 with the Secretary of the Commonwealth disclosing each open contract entered into subject to this provision,
58 the names of the parties to each contract, the date each contract was executed and its term, the subject of each
59 contractual arrangement, the nature of the conflict of interest, the institution's employee responsible for
60 administering each contract, the details of the institution's commitment or investment of resources or finances
61 for each contract, and any other information requested by the Secretary of the Commonwealth; or

62 9. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract
63 between a public institution of higher education in the Commonwealth and a business in which the employee
64 has a personal interest, if (i) the personal interest has been disclosed to the institution prior to the time the
65 contract is entered into; (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter
66 annually on or before February 1; (iii) the employee does not participate in the institution's decision to
67 contract; (iv) the president of the institution finds and certifies in writing that the contract is for goods and
68 services needed for quality patient care, including related medical education or research, by the institution's
69 medical center, its affiliated teaching hospitals and other organizations necessary for the fulfillment of its
70 mission, including the acquisition of drugs, therapies and medical technologies; and (v) no later than
71 December 31 of each year, the institution files an annual report with the Secretary of the Commonwealth
72 disclosing each open contract entered subject to this provision, the names of the parties to each contract, the
73 date each contract was executed and its term, the subject of each contractual arrangement, the nature of the
74 conflict of interest, the institution's employee responsible for administering each contract, the details of the
75 institution's commitment or investment of resources or finances for each contract, and any other information
76 requested by the Secretary of the Commonwealth.

77 D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development or
78 commercialization of intellectual property or the employee's personal interest in a contract with a business is
79 subject to policies and regulations governing conflicts of interest promulgated by any agency of the United
80 States government, including the adoption of policies requiring the disclosure and management of such
81 conflicts of interests, the policies established by the Eastern Virginia Health Sciences Center at Old
82 Dominion University pursuant to such federal requirements shall constitute compliance with subdivisions C 8
83 and C 9, upon notification by the Eastern Virginia Health Sciences Center at Old Dominion University to the
84 Secretary of the Commonwealth by January 31 of each year of evidence of their compliance with such federal
85 policies and regulations.

86 E. The board of visitors may delegate the authority granted under subdivision C 8 to the president of the
87 institution. If the board elects to delegate such authority, the board shall include this delegation of authority in
88 the formal policy required by clause (iii) of subdivision C 8. In those instances where the board has delegated
89 such authority, on or before December 1 of each year, the president of the relevant institution shall file a
90 report with the relevant board of visitors disclosing each open contract entered into subject to this provision,
91 the names of the parties to each contract, the date each contract was executed and its term, the subject of each
92 contractual arrangement, the nature of the conflict of interest, the institution's employee responsible for
93 administering each contract, the details of the institution's commitment or investment of resources or finances
94 for each contract, the details of how revenues are to be disbursed, and any other information requested by the
95 board of visitors.