

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 2.2-3106, 2.2-3107 and 2.2-3108 of the Code of Virginia and
2 to amend the Code of Virginia by adding a section numbered 30-111.1, relating to
3 conflict of interests; prohibited contracts and required disclosures.

4 **Be it enacted by the General Assembly of Virginia:**

5 **1. That §§ 2.2-3106, 2.2-3107 and 2.2-3108 of the Code of Virginia are amended and**
6 **reenacted and that the Code of Virginia is amended by adding a section numbered 30-**
7 **111.1 as follows:**

8 § 2.2-3106. Prohibited contracts by officers and employees of state government and
9 Eastern Virginia Medical School.

10 A. No officer or employee of any governmental agency of state government or Eastern
11 Virginia Medical School shall have a personal interest in a contract, including a comprehensive
12 agreement as defined in § 56-557 or 56-575.1, with the governmental agency of which he is an
13 officer or employee, other than his own contract of employment.

14 B. No officer or employee of any governmental agency of state government or Eastern
15 Virginia Medical School shall have a personal interest in a contract with any other
16 governmental agency of state government unless such contract is (i) awarded as a result of
17 competitive sealed bidding or competitive negotiation as defined in § 2.2-4301 or (ii) is
18 awarded after a finding, in writing, by the administrative head of the governmental agency that
19 competitive bidding or negotiation is contrary to the best interest of the public.

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

21 1. An employee's personal interest in additional contracts of employment with his own
22 governmental agency that accrue to him because of a member of his immediate family,
23 provided the employee does not exercise any control over the employment or the employment

24 activities of the member of his immediate family and the employee is not in a position to
25 influence those activities;

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

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

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

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

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

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

70 8. Subject to approval by the relevant board of visitors, an employee's personal interest
71 in a contract between a public institution of higher education in Virginia or the Eastern Virginia
72 Medical School and a business in which the employee has a personal interest, if (i) the
73 personal interest has been disclosed to the institution or the Eastern Virginia Medical School
74 prior to the time the contract is entered into; (ii) the employee files a disclosure statement
75 pursuant to § 2.2-3117 and thereafter annually on or before January 15; (iii) the employee
76 does not participate in the institution's or the Eastern Virginia Medical School's decision to

77 contract; (iv) the president of the institution or the Eastern Virginia Medical School finds and
78 certifies in writing that the contract is for goods and services needed for quality patient care,
79 including related medical education or research, by the institution's medical center or the
80 Eastern Virginia Medical School, its affiliated teaching hospitals and other organizations
81 necessary for the fulfillment of its mission, including the acquisition of drugs, therapies and
82 medical technologies; and (v) no later than December 31 of each year, the institution or the
83 Eastern Virginia Medical School files an annual report with the Secretary of the
84 Commonwealth disclosing each open contract entered subject to this provision, the names of
85 the parties to each contract, the date each contract was executed and its term, the subject of
86 each contractual arrangement, the nature of the conflict of interest, the institution's or the
87 Eastern Virginia Medical School's employee responsible for administering each contract, the
88 details of the institution's or the Eastern Virginia Medical School's commitment or investment of
89 resources or finances for each contract, and any other information requested by the Secretary
90 of the Commonwealth.

91 D. Notwithstanding the provisions of subdivisions C 7 and C 8, if the research and
92 development or commercialization of intellectual property or the employee's personal interest
93 in a contract with a business is subject to policies and regulations governing conflicts of
94 interest promulgated by any agency of the United States government, including the adoption of
95 policies requiring the disclosure and management of such conflicts of interests, the policies
96 established by the Eastern Virginia Medical School pursuant to such federal requirements shall
97 constitute compliance with subdivisions C 7 and C 8, upon notification by the Eastern Virginia
98 Medical School to the Secretary of the Commonwealth by January 31 of each year of evidence
99 of their compliance with such federal policies and regulations.

100 E. The board of visitors may delegate the authority granted under subdivision C 7 to the
101 president of the institution. If the board elects to delegate such authority, the board shall
102 include this delegation of authority in the formal policy required by clause (iii) of subdivision C
103 7. In those instances where the board has delegated such authority, on or before December 1

104 of each year, the president of the relevant institution shall file a report with the relevant board
 105 of visitors disclosing each open contract entered into subject to this provision, the names of the
 106 parties to each contract, the date each contract was executed and its term, the subject of each
 107 contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern
 108 Virginia Medical School's employee responsible for administering each contract, the details of
 109 the institution's or the Eastern Virginia Medical School's commitment or investment of
 110 resources or finances for each contract, the details of how revenues are to be dispersed, and
 111 any other information requested by the board of visitors.

112 § 2.2-3107. Prohibited contracts by members of county boards of supervisors, city
 113 councils and town councils.

114 A. No person elected or appointed as a member of the governing body of a county, city
 115 or town shall have a personal interest in (i) any contract, including a comprehensive agreement
 116 as defined in § 56-557 or 56-575.1, with his governing body, or (ii) any contract with any
 117 governmental agency that is a component part of his local government and which is subject to
 118 the ultimate control of the governing body of which he is a member, or (iii) any contract other
 119 than a contract of employment with any other governmental agency if such person's governing
 120 body appoints a majority of the members of the governing body of the second governmental
 121 agency.

122 B. The provisions of this section shall not apply to:

123 1. A member's personal interest in a contract of employment provided (i) the officer or
 124 employee was employed by the governmental agency prior to July 1, 1983, in accordance with
 125 the provisions of the former Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) of Title 2.1
 126 as it existed on June 30, 1983, or (ii) the employment first began prior to the member
 127 becoming a member of the governing body;

128 2. Contracts for the sale by a governmental agency of services or goods at uniform
 129 prices available to the public; ~~or~~

130 3. A contract awarded to a member of a governing body as a result of competitive
 131 sealed bidding where the governing body has established a need for the same or substantially
 132 similar goods through purchases prior to the election or appointment of the member to serve
 133 on the governing body. However, the member shall have no involvement in the preparation of
 134 the specifications for such contract, and the remaining members of the governing body, by
 135 written resolution, shall state that it is in the public interest for the member to bid on such
 136 contract; or

137 4. A member's personal interest in a comprehensive agreement as defined in § 56-557
 138 or 56-575.1 when the remaining members of the governing body, by written resolution, state
 139 that the agreement is in the public interest and there is only one source practicably available.

140 § 2.2-3108. Prohibited contracts by members of school boards.

141 A. No person elected or appointed as a member of a local school board shall have a
 142 personal interest in (i) any contract, including a comprehensive agreement as defined in § 56-
 143 557 or 56-575.1, with his school board or (ii) any contract with any governmental agency that is
 144 subject to the ultimate control of the school board of which he is a member.

145 B. The provisions of this section shall not apply to:

146 1. A member's personal interest in a contract of employment provided the employment
 147 first began prior to the member becoming a member of the school board;

148 2. Contracts for the sale by a governmental agency of services or goods at uniform
 149 prices available to the public; ~~or~~

150 3. A contract awarded to a member of a school board as a result of competitive sealed
 151 bidding where the school board has established a need for the same or substantially similar
 152 goods through purchases prior to the election or appointment of the member to serve on the
 153 school board. However, the member shall have no involvement in the preparation of the
 154 specifications for such contract, and the remaining members of the school board, by written
 155 resolution, shall state that it is in the public interest for the member to bid on such contract; or

156 4. A member's personal interest in a comprehensive agreement as defined in § 56-557
157 or 56-575.1 when the remaining members of the school board, state, by written resolution,
158 that the agreement is in the public interest and there is only one source practicably available.

159 § 30-111.1. Special disclosure requirements.

160 Any legislator having a personal interest in, or under contract to provide services to, a
161 business that is a proposer of a qualified project or has entered into a comprehensive
162 agreement with a governmental agency in the executive branch of state government shall
163 disclose such interest in writing to the agency. For the purposes of this section,
164 "comprehensive agreement" and "qualifying project" mean the same as those terms are
165 defined in § 56-557 or 56-575.1.

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