

# Suggestions on Subjects to be Covered by the Integrity Commission in its December Recommendations

1. Gifts and loans to public officials. Under current law, tangible gifts to elected officials and most executive level officials over \$250 are prohibited. There are no limits on intangible gifts such as travel, meals or entertainment. Covered officials must disclose gifts they or their immediate family members receive in excess of \$50. Gifts from personal friends are not prohibited but may need to be disclosed if they are in any way related to the official position. The disclosure form indicates that gifts from personal friends for reasons clearly unrelated to the public position are exempt. Gifts to spouses are not prohibited by current law.

Suggestion: The best practices and policy recommendations developed in coordination with staff and synthesized from other states' laws recommends that both tangible and intangible gifts above \$100 for elected officials, public employees and their immediate family members be prohibited. Gifts from personal friends over \$250 must receive a waiver from the newly created ethics commission in the case of non-legislative elected officials. Legislators could apply for a waiver from the newly created unicameral legislative ethics committee. All elected officials should be prohibited from accepting cash prizes or awards. Exemptions would be provided for third-party sponsored travel required to fulfill public duties or pursue economic development subject to a preclearance waiver from the ethics commission, or as appropriate, the unicameral legislative ethics committee, for travel over \$1000. Exemptions would be provided for attendance at widely attended events (in practice these would-be dinners attended by something on the order of 20 or more individuals). For preclearance of travel expenses over \$1000, a form would be submitted to the ethics commission (or unicameral legislative ethics committee) describing the purpose of the travel, the sponsoring entity, the length of the travel and a description of the activities to be undertaken during the trip. Some limit should be considered for the time the trip takes, such as three days for domestic travel and four days for international travel, travel days included.

Suggestion: Loans are currently considered gifts under Virginia law. However there is an exemption on gifts from family members and personal friends which is also applicable to loans. The best practices guide recommends that any loan above \$10,000 from personal friends or business associates must be pre-cleared by the newly created ethics commission (or the unicameral legislative ethics committee) through a waiver. Just as the new restrictions on gifts will be applicable to spouses, the new restrictions on loans would also be applicable to spouses. The goal would be to direct legislators, other public officials and spouses to commercial lenders when they need loans. Of course, loans from commercial lenders would not require preclearance.

2. Conflicts of interest. Under the Virginia State and Local Government Conflict of Interest Act, unless spelled out in the statute establishing the board or commission, board or commission appointees are not required to recuse themselves from awarding grants or influencing decisions

that may inure to the direct financial benefit of family members, personal friends or close business associates.

Suggestion: A constructive change would prohibit members of public boards and agencies from voting, issuing opinions or otherwise influencing a decision that directly benefits the interests of themselves, a family member, business associate, or a personal friend.

Suggestion: We have a citizen legislature with many members serving on corporate and bank boards and owning substantial stock in such institutions. We should consider carefully how the conflict of interest restrictions should apply to voting on legislation that might affect such institutions. Strict recusal requirements might create circumstances in which legislation relating to certain corporate entities might not be able to receive a quorum due to stock ownership interests by members . Perhaps a requirement might be appropriate that legislators recuse themselves if they serve on the board of directors of an entity that would be affected by the legislation or if they own stock in such an entity amounting to at least a stated percentage (2 or 3% perhaps) of the market capitalization of the company.

3. Disclosure. Under current law, legislators, all elected executives and public employees must fill out disclosure forms detailing their economic interests in any gifts they have received. Lobbyists must fill out disclosure forms related to their activities and compensation. These forms are registered with the Secretary of the Commonwealth. The content and format of these forms are spelled out in statute. Accordingly, altering or updating the forms currently requires a separate act by the General Assembly.

Suggestion: It would seem sensible to remove prescribed formatting of disclosure forms from the statutes and give the power to draft, amend and distribute forms to the newly created Virginia Ethics Commission with respect to all disclosures, including disclosures by legislators. The commission may offer detailed guidance on how these forms should be filled out.

4. Oversight and enforcement suggestion: Lt. Gov. Bolling in 2013 recommended establishment of a statewide ethics review commission to investigate malfeasance, failures to make proper disclosures and ethics complaints against elected officials. The commission would be empowered to issue advisory opinions to elected officials and others on matters related to public service. The commission would be composed of five members appointed by the Supreme Court of Virginia. The commission's authority would extend to the executive branch, members of boards and commissions, and potentially other public employees.

A single bicameral bipartisan ethics committee would oversee conduct by members of the Virginia General Assembly with powers and responsibilities similar to the ethics commission that would oversee the executive branch. The bipartisan leaders of both houses would make appointments to the committee. It would be internal to the General Assembly. Such an approach is similar to the way the U.S. House and Senate ethics committees function.

5. Post public-service employment restrictions. Under current Virginia law, public employees, and elected officials, including legislators, are prohibited from representing a client before the agency of which he was a member, officer or employee for a period of one year following

departure from public service. A one-year restriction applies to members of the U.S. House while a two-year restriction applies to members of the U.S. Senate.

Suggestion: While consideration should certainly be given to prohibitions of a different time frame, the current one-year restriction is not out of line with the practice of many states.