



VIRGINIA
CONFLICT OF INTEREST AND
ETHICS ADVISORY COUNCIL

2018
Annual Report

Pete W. Stout, III, Chair
Patricia L. West, Vice-Chair
G. Stewart Petoe, Executive Director



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November 8, 2018

TO: The Honorable Ralph Northam, Governor of Virginia
Members of the General Assembly of Virginia

Pursuant to the provisions of § 30-356 of the *Code of Virginia*, establishing the powers and duties of the Virginia Conflict of Interest and Ethics Advisory Council, and as specifically mandated by subdivision 13 of that section, I have the honor of submitting herewith the Council's annual report.

Very truly yours,

The Honorable Pete W. Stout, III, Judge (Ret.), Chair

ANNUAL REPORT

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Authority of the Virginia Conflict of Interest and Ethics Advisory Council

Established in 2015, the Virginia Conflict of Interest and Ethics Advisory Council (the Council) was created as “an advisory council in the legislative branch to encourage and facilitate compliance with the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and the General Assembly Conflicts of Interests Act (§ 30-100 et seq.) (hereafter the Acts) and the lobbying laws in Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 (hereafter Article 3).”¹ Pursuant to § 30-356 of the *Code of Virginia*, the Council is tasked with furnishing formal advisory opinions or guidelines and other appropriate information, including informal advice, as well as conducting training on the laws under its purview and establishing a method for the filing of disclosure forms.

The Council is composed of the following nine members: two delegates and a former judge of a court of record appointed by the Speaker of the House of Delegates; two senators and a former judge of a court of record appointed by the Senate Committee on Rules, and three gubernatorial appointees, one of whom is a current or former executive branch employee, one of whom is selected from a list of three nominees submitted by the Virginia Association of Counties, and one of whom is selected from a list of three nominees submitted by the Virginia Municipal League. In the appointment of both the delegates and the senators, “equal representation shall be given to each of the political parties having the highest and next highest number of members elected to their respective body.”² All of the Council members “are subject to confirmation by the General Assembly by a majority vote in each house of (i) the members present of the majority party and (ii) the members present of the minority party.”³

¹ Subsection A of Va. Code § 30-355.

² Subsection B of Va. Code § 30-355.

³ *Id.*

Members of the Virginia Conflict of Interest and Ethics Advisory Council

Speaker of the House of Delegates Appointees

The Honorable Patricia Lee West, Vice-Chair
The Honorable C. Todd Gilbert
The Honorable Matthew James

Senate Committee on Rules Appointees

The Honorable Pete W. Stout, III, Chair
The Honorable Janet D. Howell
The Honorable Thomas K. Norment, Jr.

Governor's Appointees

Walter C. Erwin
Bernard L. Henderson, Jr.
Sharon E. Pandak

Council Staff

G. Stewart Petoe, Executive Director
Elizabeth Sundberg, Filing Coordinator
Valerie Mizzell, Assistant
Rebekah Stefanski, Attorney

2018 Summary of Activities

Meetings

The Virginia Conflict of Interest and Ethics Advisory Council (the Council) held three meetings in 2018 on the following dates: June 11, July 31, and November 8.

June 11

At the June 11 meeting, pursuant to the requirements of Va. Code § 30-355 (D), the Council voted to elect a new Chair and Vice-Chair for a two-year term. Judge Stout was elected to be the new Chair, and Judge West was elected to be the new Vice-Chair.

Also at this meeting, the Council approved a change to its official procedures for Formal Advisory Opinions. Council staff may now make technical amendments to previously issued Formal Advisory Opinions, including updating references to disclosure forms following form revisions and updating citations to the Code of Virginia following title recodifications. No substantive changes to Formal Advisory Opinions shall be made without Council approval.

Lastly, the Council approved two changes to Schedule B (Personal Debts) of the Statement of Economic Interests forms. The first change concerns the first table of Schedule B, labeled as “Table 2A,” that provides a list of categories of creditors:

- Banks, credit unions, and other savings institutions
- Other loan or finance companies
- Issuers of credit cards
- Insurance companies
- Stock, commodity, or other brokerage companies

The Council approved adding to this list a new category: Private educational institutions.

Prior to this change, if a person who filed a Statement of Economic Interests owed money to a private school, he was required to specifically list that school in Table 2B, along with any other business creditors that did not fit into one of the Table 2A categories. For filers who have minor children enrolled in a private school, identifying the school with particularity could raise safety concerns; for this reason, the Council approved the change. Going forward, those filers will only have to note that a private educational institution is a creditor.

The second change was in the instructions to Schedule B and was made to help clarify existing reporting requirements. A filer does not report “any debt owed to any government, *including student loans held by the United States federal government.*” [New language provided in italics]. This change is in response to one of the most frequently asked questions filers pose if they have current student loan debt.

The effective start date for all of these changes is January 1, 2019.

July 31

At the July 18 meeting, the Council was presented an Overview of Conflict of Interests Filings. The presentation outlined various Council milestones, the filing process, efficiencies of the electronic filing system, filing data, and future goals of the Council staff. A summary of the data from this presentation is provided on page 6 of this report.

November 8

At the November 8 meeting, pursuant to the directives of subdivision 13 of § 30-356, the Council considered one proposal for a legislative change that was presented by staff. After deliberation, the Council voted to recommend/not recommend the proposal. The proposal is provided on page 9 of this report.

Council Milestones Related to SOEI Filings

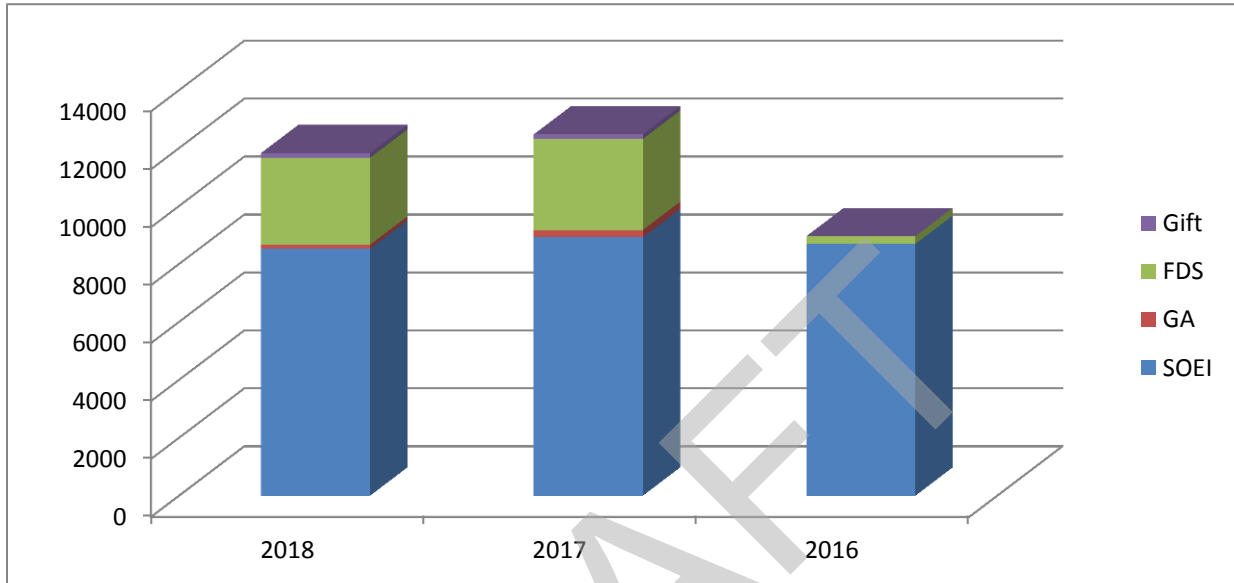
In 2015, the initial year of the Council, all state employees and officials began filing their Statements of Economic Interests (SOEI) with the Council. (This did not include members of the General Assembly, who continued filing their SOEIs with the clerk of their respective house for an additional year.)

In 2016, the law was amended to change the filing requirement for SOEIs from a biannual filing to an annual filing, with a filing period of January 1 to January 15, reporting on the previous calendar year. Throughout 2016, the Council recommended and encouraged filers to familiarize themselves with the online system, because starting in January of 2017, all disclosures filed with the Council would have to be submitted electronically.

Effective January 1, 2018, the filing period was extended, running from January 1 through February 1, reporting on the previous calendar year. The additional time was greatly appreciated by filers; Council staff repeatedly heard from filers that the extra two weeks for completing their disclosures was a great improvement. The extended filing period may have been partly responsible for the reduction in late filings that occurred. Also in 2018, the Council made fillable PDFs available for all forms utilized at the local level in an effort to make it easier for the local filers to complete their disclosures. (Previously, local filers were required to handwrite or type their forms, which were distributed in paper format).

The following chart illustrates the total number of filings received by the Council each year, starting with 2016 and continuing through June 30, 2018. The lower number of filings for 2018 compared to 2017 reflects the fact that several hundred filings are typically received by the Council during the last half of the year, as new employees are hired by state agencies and new members are appointed to state boards. At the time of the data collection in June, the Council was on pace to receive roughly the same number of total filings as it received in 2017.

Conflict of Interest and Ethics Advisory Council Filings



Precise figures for the different filings are provided in the table below.

| Year | Statement of Economic Interests | General Assembly SOEIs | Financial Disclosure Statements | Session Gift Reports |
|------|---------------------------------|------------------------|---------------------------------|----------------------|
| 2018 | 8,525 | 140 | 3,002 | 159 |
| 2017 | 8,923 | 251 | 3,143 | 158 |
| 2016 | 8,693 | N/A | 266 | 0 |

Notes:

- 2018 reflects filings from January 1 – June 30, 2018, as this report was a mid-year review.
- General Assembly filings were higher in 2017 because it was an election cycle and both members and candidates for the legislature filed during that year.

Formal Opinions and Informal Advice

In 2018, the Council did not receive any requests for Formal Advisory Opinions. Throughout the course of the year, Council staff answered in excess of 3,123 phone calls and responded to more than 5,792 email inquiries for informal advice or other help. (By comparison, in 2017, the Council received approximately 3,100 phone calls and responded to more than 5,400 email inquiries). Council staff responses included the following subject areas: acknowledgement of emails and receipt of lobbyist registrations and disclosures; help with filling out disclosure forms; guidance as to whether certain activities constituted lobbying such that registration as a lobbyist would be required; guidance as to whether particular gifts could be lawfully accepted and how they should be reported; and answers to conflict of interest questions, such as whether it would be lawful for a person to vote on a particular matter or whether a family member could have a contract with a particular agency. Pursuant to subdivision 6 of § 30-356, all informal advice provided by the Council is confidential.

Training Seminars and Educational Programs

Pursuant to subdivision 7 of § 30-356, the Council is directed to conduct training seminars and educational programs for lobbyists, state and local government officers and employees, legislators, and other interested persons on the subject of Virginia's lobbying laws and the Conflict(s) of Interests Acts. In 2018, Council staff conducted 20 training seminars, in Richmond and throughout the state. The groups and organizations for which training was provided in 2018 included:

- The Judicial Conference of Virginia for District Court Judges
- The Judicial Conference of Virginia for Circuit Court Judges
- The Virginia Economic Development Partnership Authority
- The Virginia Cattlemen's Association/Virginia Beef Industry Council
- Virginia Municipal League
- Members of the Senate of Virginia
- Members of the Virginia House of Delegates
- Virginia Senate Legislative Assistants
- Virginia House of Delegates Legislative Assistants
- The Governor's Cabinet
- Division of Legislative Services
- The Virginia Economic Development Partnership Authority

Disclosure and Registration Filings

The Council receives disclosure filings from all members of the General Assembly, all district and circuit court judges, the Governor, the Lieutenant Governor, the Attorney General, all constitutional officers, and all state officers and employees who are required to file. Executive branch board appointees are also required to file their Financial Disclosure Statements with the Council. The total number of individuals in Virginia who filed directly with the Council in 2018 was approximately 11,843, through October 15, 2018.

In addition, the Council also received 2,366 lobbyist registrations and approximately the same number of lobbyist disclosure reports. All disclosures and registrations filed with the Council are submitted electronically, using the Council's online filing system.

Travel Waivers

The Council received and approved approximately 90 requests for travel waivers in 2018, submitted pursuant to subsection G of § 2.2-3103.1, subsection F of § 30-103.1, and § 30-356.1.

Recommendations for Changes in the Laws

Pursuant to subdivision 13 of § 30-356, the Council shall include in its annual report "recommendations for changes in the laws." Staff presented one possible legislative change to the Council.

Proposal 1: Amend subsection D of § 30-355 to remove the requirement that the Council hold quarterly meetings. Instead, provide that the Council meet upon the call of the Chair or whenever a majority of the members so request.

After consideration, the Council voted to

Conclusion

Throughout 2018, the Council continued its regular operations. No requests for Formal Advisory Opinions were received this year. This may reflect the fact that in its first two years of existence, the Council provided Opinions on most of the main topics for which officials and employees have questions concerning Virginia's Conflict(s) of Interests Acts. The Council continues to be a resource for all state and local officials and employees as well as legislators; the total number of phone inquiries received by Council staff remained roughly the same as in 2017, while the number of emails received was slightly greater.

The Council looks forward to continuing to serve the needs of state and local officials and employees and registered lobbyists throughout the Commonwealth for all matters related to the Conflict(s) of Interests Acts and Virginia's lobbying laws.

The Council would like to thank all who have participated in the work of the Council throughout the year.