



---

April 2, 2015

The Honorable Thomas K. Norment, Jr.  
Senate of Virginia  
P.O. Box 6205  
Williamsburg, VA 23188

The Honorable C. Todd Gilbert  
House of Delegates of Virginia  
P.O. Box 309  
Woodstock, VA 22664

Dear Senator Norment and Delegate Gilbert:

We write to express our organizations' shared views about the Governor's proposed changes to the State and Local Government Conflict of Interests Act/Ethics Bill SB 1424 and HB 2070. The Virginia Municipal League and Virginia Association of Counties thank you for the attention you gave to our concerns about the unintended consequences on local officials to original versions of the Conflict of Interests Act /Ethics bills, HB 2070 and SB 1424, during the 2015 General Assembly session. The final, enrolled version of those bills eliminated the main local government concerns regarding this important and complex legislation.

Our organizations have also appreciated the open lines of communication with the Governor's staff regarding the ethics omnibus bills. The Governor's proposed amendments make some important and necessary technical changes, such as proposed amendment (48) which clarifies your intent for local filing of disclosures. We request that you accept that amendment.

We will communicate to General Assembly members regarding our thoughts on other proposed amendments separately, but we write to jointly express the major concerns we have with the Governor's proposed amendments (4) and (18).

We urge you to not accept the Governor's proposed amendments (4) and (18). Specifically, lines 758 to 767 and lines 1310 to 1319 of the enrolled bills added language to *exclude* from the definition of a "gift" several categories of travel, including travel to official meetings of the Commonwealth or its political subdivisions, boards, commissions or authorities, as well as travel to meetings of any other entity in which the traveler is a participant by virtue of his or her official position. That added language resolved an existing ambiguity in the COI Acts about whether such government-funded travel was subject to gift reporting requirements.

The Governor's proposed amendments (4) and (18) would bring such travel back within the definition of a "gift" that is subject to the COI Act's restrictions and, when it exceeds \$50 in value, is reportable on semi-annual financial disclosures by state and local officials who are required to file disclosure statements. The fact that ethics council approval is not required for trips paid by an official's agency (Lines 2877-2879) does not fix this problem: for purposes of the conflicts act, with the amendments, the travel is still a gift.

Many elected members of local governing bodies and senior professional staff of localities travel regularly to meetings of their own or other governmental bodies as a routine part of their job responsibilities, using vehicles owned by their locality or receiving mileage reimbursement for using their

own vehicles. On occasion they also travel to meetings or conferences of state or national associations of their professional peers. When provided or reimbursed by an official's own governmental organization, such trips are manifestly *not gifts*; they are a legitimate and sometimes even essential part of these officials' duties.

Characterizing such travel as a "gift" falsely implies that it is somehow improper—a "junket" taken for dubious reasons. It sweeps into the gift definition every trip costing over \$50, for example, to attend a planning district commission in a neighboring locality, meet with state officials in Richmond, visit an industrial development prospect or participate in mandatory training for state licensure. Localities located near state boundaries participate in numerous out of state meetings. For example, attendance at any meetings associated with the Metropolitan Washington Council of Governments is an out of state meeting for Northern Virginia jurisdictions. These trips are not ethical problems; they are the daily minutiae of local government.

Reimbursement vouchers for all such travel are already subject to public disclosure under the Freedom of Information Act. Requiring them also to be listed on a gift disclosure statement, which is the effect of the Governor's proposed amendments (4) and (18), creates a considerable public administrative burden without any commensurate public benefit. This is especially true for those elected or appointed officials who receive only nominal compensation or are unpaid volunteers. Only in the largest Virginia localities do such officials have any individual staff assistance to keep track of such travel.

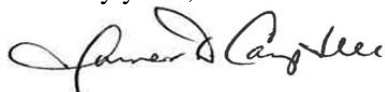
The Governor's amendments (4) and (18) also re-create a current inconsistency on the disclosure form set out in Section 2.2- 3117, which requires disclosure on Schedule E of all gifts worth over \$50, but in the instructions for Schedule D requires disclosure of travel paid by the official's own governmental entity only if it is to an *out-of state* meeting (lines 1542 to 1543). The Governor has not proposed an amendment to resolve that inconsistency, which the amended definitions in the enrolled bills effectively eliminated.

For many years, local and officials who serve as officers or directors of state or national associations of governments or government professionals have been allowed to accept reimbursement from those associations for their travel expenses to attend board of directors' or committee meetings. The Governor's amendments (4) and (18) would result in those local officials' having to get Advisory Council pre-approval for that, even though such reimbursed travel does not create any actual conflict of interests or present any threat of undue influence on the officials' public decision-making.

SB 1424 and HB 2070 represent a significant but balanced effort to strengthen Virginia's primary public ethics laws, particularly as they address gifts to public officials. The Governor's proposed amendments (4) and (18) confuse legitimate public expense reimbursements with gifts. Those two amendments should be rejected. If further clarification is needed, the new Advisory Council can recommend legislation or adjustments to the disclosure forms to meet that need.

Thank you again for your continued efforts to make this important legislation fair and workable for state and local public officials who want to fulfill their job responsibilities without adding undue administrative burdens.

Sincerely yours,



**James D. Campbell**  
VACo Executive Director



**Kimberly A. Winn**  
VML Executive Director