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1207 E. Main St., Suite 300  
Richmond, Va. 23219-3627

Phone: 804.788.6652  
Fax: 804.788.0083

E-mail: [mail@vaco.org](mailto:mail@vaco.org)  
Web site: [www.vaco.org](http://www.vaco.org)

November 13, 2014

The Honorable Sharon S. Bulova  
Chairman  
Fairfax County Board of Supervisors  
Governor's Commission on Integrity and Public Confidence in State Government  
12000 Government Center Parkway, Suite 530  
Fairfax, Virginia 22035

Dear Chairman Bulova,

Thank you for your leadership and willingness to serve our Commonwealth as a local government representative on the Governor's Commission on Integrity and Public Confidence in State Government. As you know, VACo's membership met earlier this week at VACo's Annual Conference and made ethics reform a legislative priority for the 2015 session of the General Assembly. VACo's membership supports common sense efforts to strengthen Virginia's public ethics and conflict of interests laws. VACo also supports efforts to make sure current and future changes to these laws are applicable and practical at the local level.

The Commission's anticipated due diligence in reviewing the Conflict of Interests Act, as amended in 2014, is very important to county governments and I write to communicate several concerns and issues that were addressed at the VACo Annual Conference. These issues are outlined below.

Issue: Conflict of Interests (COI) Act panel | local government representation

The 2014 amendments to the COI Act created an advisory council in the legislative branch to receive financial disclosure forms and provide training and advisory opinions about the COI Acts to state legislators, executive branch officers and employees, and local government officials. VACo supports an entity to offer advice and monitor compliance with the COI Act; however, it is essential that any such panel overseeing compliance for elected and appointed local government officers and employees have substantial local government representation and expertise. Moreover, we strongly encourage the Commission to recommend that safeguards be initiated to ensure due process if this entity has investigative and/or enforcement powers.

Issue: Local government officials should file disclosures locally

The 2014 amendments to the COI Act require local officials to file financial disclosure forms twice a year with the COI and Ethics Advisory Council in Richmond, instead of with the local governing body clerk or appointee. Currently, many local clerks assist hundreds of local government officials with their filings. VACo is concerned that if filings are not directed or collected locally by a central contact, then filings could be error prone and not timely. Therefore, we recommend permitting local officials to continue to file their COI disclosure forms in their own localities. There is an obvious benefit to having a central statewide repository for the forms, which could be accomplished by having the local clerks receive them and send them on to Richmond.

Issue: Talks and Meetings reporting requirements

The 2014 amendments to the COI Act require public officials to report expenses and reimbursements over \$200 for out of state and locality-member meetings and education. These meetings are important and may be critical to a local official's policy or fiduciary responsibilities. Requiring these expenses to be reported on a COI disclosure form unintentionally suggests that

they are comparable to vacation trips or recreational events paid for by lobbyists or prospective public contractors. Localities routinely release to reporters and other citizens' copies of their officials' travel expenses for attending meetings and conferences, which are public documents under the Freedom of Information Act (FOIA). There is no compelling need for these expenses to be reported on the COI disclosure forms.

For example, a locality's payments for its own elected officials or employees to attend conferences and seminars directly related to their duties may be of interest to the public, but they do not raise conflict of interest issues.

Similarly, it is common for chambers of commerce, trade associations and other groups to invite local officials to meetings or educational events to keep them aware of those organizations' activities in the community or to keep the officials up to date with important information they need to carry out their duties. Members of governing bodies and administrative officials attend because their presence is expected, as their community can benefit from the information being shared, or the public official is invited to speak and provide other public officials and interested parties information involving matters facing their communities. Ethics laws should seek to eliminate corruption without hindering interactions between elected officials and members of the public they represent. For all elected officials, but perhaps particularly for local elected officials, close contact with the community is essential, and often cultural, charitable or community events are part of maintaining such relationships.

Issue: Gift from a party to a contract or someone seeking to become a party to a contract

The 2014 amendments to the COI Act require elected officials to report meals or gift from current or prospective contractors with their locality. We agree that this is an important issue to address; however, in many cases the contractors' dealings have only been with the administrative staff of the locality, and the elected official has no knowledge of the contract or knowledge that the person may be seeking a contract with the local government. These requirements should only apply in situations when the contract in question is, or will soon be, before the elected governing body for approval or the official has actual knowledge of the contract or procurement.

Thank you for considering these issues. As one of my first official acts as President of VACo, I established an ad-hoc committee to study and recommend clarifying language to current and proposed changes to public ethics and conflict of interests laws. I will keep you informed and look forward to sharing our committee's work. VACo looks forward to working with you and assisting the Commission in the coming months.

Sincerely,



Penelope A. Gross  
President  
Virginia Association of Counties