

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 2.2-3705.7 and 2.2-3711 of the Code of Virginia, relating to the
2 Freedom of Information Act; Virginia Retirement System.

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

4 **1. That §§ 2.2-3705.7 and 2.2-3711 of the Code of Virginia are amended and reenacted as follows:**

5 § 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain
6 other limited exemptions.

7 The following records are excluded from the provisions of this chapter but may be disclosed by
8 the custodian in his discretion, except where such disclosure is prohibited by law:

9 1. State income, business, and estate tax returns, personal property tax returns, scholastic and
10 confidential records held pursuant to § 58.1-3.

11 2. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the
12 Attorney General; the members of the General Assembly or the Division of Legislative Services; the
13 mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or
14 other chief executive officer of any public institution of higher education in Virginia. However, no
15 record, which is otherwise open to inspection under this chapter, shall be deemed exempt by virtue of
16 the fact that it has been attached to or incorporated within any working paper or correspondence.

17 As used in this subdivision:

18 "Office of the Governor" means the Governor; his chief of staff, counsel, director of policy,
19 Cabinet Secretaries, and the Director of the Virginia Liaison Office; and those individuals to whom the
20 Governor has delegated his authority pursuant to § 2.2-104.

21 "Working papers" means those records prepared by or for an above-named public official for his
22 personal or deliberative use.

23 3. Library records that can be used to identify both (i) any library patron who has borrowed
24 material from a library and (ii) the material such patron borrowed.

25 4. Contract cost estimates prepared for the confidential use of the Department of Transportation
26 in awarding contracts for construction or the purchase of goods or services, and records and automated
27 systems prepared for the Department's Bid Analysis and Monitoring Program.

28 5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth,
29 whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by
30 the political subdivision.

31 6. Records and writings furnished by a member of the General Assembly to a meeting of a
32 standing committee, special committee or subcommittee of his house established solely for the purpose
33 of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of
34 formulating advisory opinions to members on standards of conduct, or both.

35 7. Customer account information of a public utility affiliated with a political subdivision of the
36 Commonwealth, including the customer's name and service address, but excluding the amount of utility
37 service provided and the amount of money paid for such utility service.

38 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing
39 Development Authority concerning individuals who have applied for or received loans or other housing
40 assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise
41 assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or
42 persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local
43 redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or
44 persons on the waiting list for housing assistance programs funded by local governments or by any such
45 authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or
46 any other local government agency concerning persons who have applied for occupancy or who have
47 occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access
48 to one's own information shall not be denied.

49 9. Records regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441,
50 if disclosure of them would have a detrimental effect upon the negotiating position of a governing body
51 or on the establishment of the terms, conditions and provisions of the siting agreement.

52 10. Records containing information on the site specific location of rare, threatened, endangered
53 or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and
54 archaeological sites if, in the opinion of the public body that has the responsibility for such information,
55 disclosure of the information would jeopardize the continued existence or the integrity of the resource.
56 This exemption shall not apply to requests from the owner of the land upon which the resource is
57 located.

58 11. Records, memoranda, working papers, graphics, video or audio tapes, production models,
59 data and information of a proprietary nature produced by or for or collected by or for the State Lottery
60 Department relating to matters of a specific lottery game design, development, production, operation,
61 ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to
62 holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning,
63 advertising, or marketing, where such official records have not been publicly released, published,
64 copyrighted or patented. Whether released, published or copyrighted, all game-related information shall
65 be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game
66 to which it pertains.

67 12. Records of the ~~Virginia Retirement System, acting pursuant to § 51.1-124.30, or of a local~~
68 ~~retirement system, acting pursuant to § 51.1-803, or of the~~ Rector and Visitors of the University of
69 Virginia, acting pursuant to § 23-76.1, relating to the acquisition, holding or disposition of a security or
70 other ownership interest in an entity, where such security or ownership interest is not traded on a
71 governmentally regulated securities exchange, to the extent that: (i) such records contain confidential
72 analyses prepared for the Rector and Visitors of the University of Virginia, ~~prepared by the retirement~~
73 ~~system or provided to the retirement system~~ under a promise of confidentiality, of the future value of
74 such ownership interest or the future financial performance of the entity; and (ii) disclosure of such
75 confidential analyses would have an adverse effect on the value of the investment to be acquired, held or
76 disposed of by ~~the retirement system or~~ the Rector and Visitors of the University of Virginia. Nothing in
77 this subdivision shall be construed to prevent the disclosure of records relating to the identity of any
78 investment held, the amount invested, or the present value of such investment.

79 13. Names and addresses of subscribers to Virginia Wildlife magazine, published by the
80 Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing
81 that the Department not release such information.

82 14. Financial, medical, rehabilitative and other personal information concerning applicants for or
83 recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority
84 under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

85 15. Records of the Virginia Commonwealth University Health System Authority pertaining to
86 any of the following: an individual's qualifications for or continued membership on its medical or
87 teaching staffs; proprietary information gathered by or in the possession of the Authority from third
88 parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
89 awarding contracts for construction or the purchase of goods or services; data, records or information of
90 a proprietary nature produced or collected by or for the Authority or members of its medical or teaching
91 staffs; financial statements not publicly available that may be filed with the Authority from third parties;
92 the identity, accounts or account status of any customer of the Authority; consulting or other reports paid
93 for by the Authority to assist the Authority in connection with its strategic planning and goals; the
94 determination of marketing and operational strategies where disclosure of such strategies would be
95 harmful to the competitive position of the Authority; and data, records or information of a proprietary
96 nature produced or collected by or for employees of the Authority, other than the Authority's financial or
97 administrative records, in the conduct of or as a result of study or research on medical, scientific,
98 technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a
99 governmental body or a private concern, when such data, records or information have not been publicly
100 released, published, copyrighted or patented.

101 16. Records of the Department of Environmental Quality, the State Water Control Board, State
102 Air Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal
103 environmental enforcement actions that are considered confidential under federal law and (ii)
104 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such
105 records shall be disclosed after a proposed sanction resulting from the investigation has been proposed

106 to the director of the agency. This subdivision shall not be construed to prohibit the disclosure of records
107 related to inspection reports, notices of violation, and documents detailing the nature of any
108 environmental contamination that may have occurred or similar documents.

109 17. As it pertains to any person, records related to the operation of toll facilities that identify an
110 individual, vehicle, or travel itinerary including, but not limited to, vehicle identification data, vehicle
111 enforcement system information; video or photographic images; Social Security or other identification
112 numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone
113 numbers; or records of the date or time of toll facility use.

114 18. Records of the State Lottery Department pertaining to (i) the social security number, tax
115 identification number, state sales tax number, home address and telephone number, personal and lottery
116 banking account and transit numbers of a retailer, and financial information regarding the nonlottery
117 operations of specific retail locations; and (ii) individual lottery winners, except that a winner's name,
118 hometown, and amount won shall be disclosed.

119 19. Records of the Board for Branch Pilots relating to the chemical or drug testing of a person
120 regulated by the Board, where such person has tested negative or has not been the subject of a
121 disciplinary action by the Board for a positive test result.

122 20. Records, investigative notes, correspondence, and information pertaining to the planning,
123 scheduling and performance of examinations of holder records pursuant to the Uniform Disposition of
124 Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer, his agents,
125 employees or persons employed to perform an audit or examination of holder records.

126 21. Records of the Virginia Department of Emergency Management or a local governing body
127 relating to citizen emergency response teams established pursuant to an ordinance of a local governing
128 body, to the extent that such records reveal the name, address, including e-mail address, telephone or
129 pager numbers, or operating schedule of an individual participant in the program.

130 22. Records of state or local park and recreation departments to the extent such records contain
131 information identifying a person under the age of 18 years, where the parent or legal guardian of such
132 person has requested in writing that such information not be disclosed. However, nothing in this

133 subdivision shall operate to prohibit the disclosure of information defined as directory information under
 134 regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the
 135 public body has undertaken the parental notification and opt-out requirements provided by such
 136 regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of
 137 such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction
 138 has restricted or denied such access. For records of such persons who are emancipated, the right of
 139 access may be asserted by the subject thereof.

140 23. Records submitted for inclusion in the Statewide Alert Network administered by the
 141 Department of Emergency Management, to the extent that they reveal names, physical addresses, email
 142 addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless
 143 or portable communications device information, or operating schedules of individuals or agencies,
 144 where the release of such information would compromise the security of the Statewide Alert Network or
 145 individuals participating in the Statewide Alert Network.

146 24. Records of the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

147 25. Records of the Virginia Retirement System acting pursuant to § 51.1-124.30 or of a local
 148 retirement system acting pursuant to § 51.1-803, (hereinafter collectively referred to as "the retirement
 149 system") relating to:

150 A. Internal deliberations of or decisions by the retirement system on the pursuit of particular
 151 investment strategies, or the selection or termination of investment managers, prior to the execution of
 152 such investment strategies or the selection or termination of such managers, to the extent disclosure of
 153 such records would have an adverse impact on the financial interest of the retirement system; and

154 B. The acquisition, holding or disposition of a security or other ownership interest in an entity,
 155 where such security or ownership interest is not traded on a governmentally regulated securities
 156 exchange, to the extent that (i) such records contain (a) trade secrets as defined in the Uniform Trade
 157 Secrets Act (§ 59.1-336 et seq.); (b) financial records, including balance sheets and financial statements;
 158 (c) the entity's portfolio company information; ~~or~~ (d) investment performance information; or (e)
 159 subscription agreements or other agreements executed by the retirement system and the entity, ~~that~~and

160 ~~the records are not generally available to the public through regulatory disclosure or otherwise; ;~~
 161 ~~submitted to the retirement system by investment managers, or subscription agreements or other~~
 162 ~~agreements executed by the retirement system and the investment manager and (ii) disclosure of such~~
 163 ~~records would have an adverse impact on the financial interest of the retirement system.~~

164 ~~In order for the records specified in subsection B to be excluded from the provisions of this~~
 165 ~~chapter, the investment manager entity shall make a written request to the retirement system:~~

- 166 ~~1. Invoking such exclusion prior to or upon submission of the data or other materials for which~~
 167 ~~protection from disclosure is sought;~~
- 168 ~~2. Identifying with specificity the data or other materials for which protection is sought; and~~
- 169 ~~3. Stating the reasons why protection is necessary.~~

170 ~~The retirement system shall determine whether the requested exclusion from disclosure is~~
 171 ~~necessary to comply with the provisions of subsection B protect the trade secrets, financial records,~~
 172 ~~portfolio company information or investment performance information of the investment manager. The~~
 173 ~~retirement system shall make a written determination of the nature and scope of the protection to be~~
 174 ~~afforded by the retirement system under this subdivision.~~

175 ~~Except as specifically provided above, nNothing in this subdivision shall be construed to~~
 176 ~~authorize the withholding of records relating to the completed selection or termination of an investment~~
 177 ~~manager, the completed purchase or sale of a specific investment, the identity or amount of any~~
 178 ~~investment held, the amount invested, or the present value and investment performance of all asset~~
 179 ~~classes and subclasses.~~

180 § 2.2-3711. Closed meetings authorized for certain limited purposes.

181 A. Public bodies may hold closed meetings only for the following purposes:

- 182 1. Discussion, consideration, or interviews of prospective candidates for employment;
- 183 assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of
- 184 specific public officers, appointees, or employees of any public body; and evaluation of performance of
- 185 departments or schools of public institutions of higher education where such evaluation will necessarily
- 186 involve discussion of the performance of specific individuals. Any teacher shall be permitted to be

187 present during a closed meeting in which there is a discussion or consideration of a disciplinary matter
188 that involves the teacher and some student and the student involved in the matter is present, provided the
189 teacher makes a written request to be present to the presiding officer of the appropriate board.

190 2. Discussion or consideration of admission or disciplinary matters or any other matters that
191 would involve the disclosure of information contained in a scholastic record concerning any student of
192 any Virginia public institution of higher education or any state school system. However, any such
193 student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be
194 permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if
195 such student, parents, or guardians so request in writing and such request is submitted to the presiding
196 officer of the appropriate board.

197 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the
198 disposition of publicly held real property, where discussion in an open meeting would adversely affect
199 the bargaining position or negotiating strategy of the public body.

200 4. The protection of the privacy of individuals in personal matters not related to public business.

201 5. Discussion concerning a prospective business or industry or the expansion of an existing
202 business or industry where no previous announcement has been made of the business' or industry's
203 interest in locating or expanding its facilities in the community.

204 6. Discussion or consideration of the investment of public funds where competition or bargaining
205 is involved, where, if made public initially, the financial interest of the governmental unit would be
206 adversely affected.

207 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to
208 actual or probable litigation, where such consultation or briefing in open meeting would adversely affect
209 the negotiating or litigating posture of the public body; and consultation with legal counsel employed or
210 retained by a public body regarding specific legal matters requiring the provision of legal advice by such
211 counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been
212 specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe
213 will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit

214 the closure of a meeting merely because an attorney representing the public body is in attendance or is
215 consulted on a matter.

216 8. In the case of boards of visitors of public institutions of higher education, discussion or
217 consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts
218 for services or work to be performed by such institution. However, the terms and conditions of any such
219 gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign
220 person and accepted by a public institution of higher education in Virginia shall be subject to public
221 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
222 (i) "foreign government" means any government other than the United States government or the
223 government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity
224 created under the laws of the United States or of any state thereof if a majority of the ownership of the
225 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
226 membership of any such entity is composed of foreign persons or foreign legal entities, or any legal
227 entity created under the laws of a foreign government; and (iii) "foreign person" means any individual
228 who is not a citizen or national of the United States or a trust territory or protectorate thereof.

229 9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia
230 Museum of Natural History, and The Science Museum of Virginia, discussion or consideration of
231 matters relating to specific gifts, bequests, and grants.

232 10. Discussion or consideration of honorary degrees or special awards.

233 11. Discussion or consideration of tests, examinations, or other records excluded from this
234 chapter pursuant to subdivision 4 of § 2.2-3705.1.

235 12. Discussion, consideration, or review by the appropriate House or Senate committees of
236 possible disciplinary action against a member arising out of the possible inadequacy of the disclosure
237 statement filed by the member, provided the member may request in writing that the committee meeting
238 not be conducted in a closed meeting.

239 13. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement
240 or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the

241 governing body in open meeting finds that an open meeting will have an adverse effect upon the
242 negotiating position of the governing body or the establishment of the terms, conditions and provisions
243 of the siting agreement, or both. All discussions with the applicant or its representatives may be
244 conducted in a closed meeting.

245 14. Discussion by the Governor and any economic advisory board reviewing forecasts of
246 economic activity and estimating general and nongeneral fund revenues.

247 15. Discussion or consideration of medical and mental records excluded from this chapter
248 pursuant to subdivision 1 of § 2.2-3705.5.

249 16. Deliberations of the State Lottery Board in a licensing appeal action conducted pursuant to
250 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
251 discussion, consideration or review of State Lottery Department matters related to proprietary lottery
252 game information and studies or investigations exempted from disclosure under subdivision 6 of § 2.2-
253 3705.3 and subdivision 11 of § 2.2-3705.7.

254 17. Those portions of meetings by local government crime commissions where the identity of, or
255 information tending to identify, individuals providing information about crimes or criminal activities
256 under a promise of anonymity is discussed or disclosed.

257 18. Discussion, consideration, review, and deliberations by local community corrections
258 resources boards regarding the placement in community diversion programs of individuals previously
259 sentenced to state correctional facilities.

260 19. Those portions of meetings in which the Board of Corrections discusses or discloses the
261 identity of, or information tending to identify, any prisoner who (i) provides information about crimes or
262 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the
263 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
264 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

265 20. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by
266 staff members, legal counsel, or law-enforcement or emergency service officials concerning actions
267 taken to respond to such activity or a related threat to public safety.

268 21. Discussion by the ~~Board of the Virginia Retirement System, acting pursuant to § 51.1-~~
269 ~~124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the~~ Rector and Visitors of
270 the University of Virginia, acting pursuant to § 23-76.1, regarding the acquisition, holding or disposition
271 of a security or other ownership interest in an entity, where such security or ownership interest is not
272 traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns
273 confidential analyses prepared for the Rector and Visitors of the University of Virginia, ~~prepared by the~~
274 ~~retirement system or provided to the retirement system under a promise of confidentiality,~~ of the future
275 value of such ownership interest or the future financial performance of the entity, and (ii) would have an
276 adverse effect on the value of the investment to be acquired, held or disposed of by ~~the retirement~~
277 ~~system or~~ the Rector and Visitors of the University of Virginia. Nothing in this subdivision shall be
278 construed to prevent the disclosure of information relating to the identity of any investment held, the
279 amount invested or the present value of such investment.

280 22. Those portions of meetings in which individual child death cases are discussed by the State
281 Child Fatality Review team established pursuant to § 32.1-283.1, and those portions of meetings in
282 which individual child death cases are discussed by a regional or local child fatality review team
283 established pursuant to § 32.1-283.2, and those portions of meetings in which individual death cases are
284 discussed by family violence fatality review teams established pursuant to § 32.1-283.3.

285 23. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern
286 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
287 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
288 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
289 proprietary, business-related information pertaining to the operations of the University of Virginia
290 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
291 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
292 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
293 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such

294 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
295 Medical School, as the case may be.

296 24. In the case of the Virginia Commonwealth University Health System Authority, discussion
297 or consideration of any of the following: the acquisition or disposition of real or personal property where
298 disclosure would adversely affect the bargaining position or negotiating strategy of the Authority;
299 operational plans that could affect the value of such property, real or personal, owned or desirable for
300 ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and
301 contracts for services or work to be performed by the Authority; marketing or operational strategies
302 where disclosure of such strategies would adversely affect the competitive position of the Authority;
303 members of its medical and teaching staffs and qualifications for appointments thereto; and
304 qualifications or evaluations of other employees.

305 25. Those portions of the meetings of the Intervention Program Committee within the
306 Department of Health Professions to the extent such discussions identify any practitioner who may be,
307 or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

308 26. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
309 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
310 by or on behalf of individuals who have requested information about, applied for, or entered into prepaid
311 tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title
312 23 is discussed.

313 27. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee
314 created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-
315 336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of
316 wireless E-911 service.

317 28. Those portions of disciplinary proceedings by any regulatory board within the Department of
318 Professional and Occupational Regulation, Department of Health Professions, or the Board of
319 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach
320 a decision or meetings of health regulatory boards or conference committees of such boards to consider

321 settlement proposals in pending disciplinary actions or modifications to previously issued board orders
322 as requested by either of the parties.

323 29. Discussion or consideration by a responsible public entity or an affected local jurisdiction, as
324 those terms are defined in § 56-557, of confidential proprietary records excluded from this chapter
325 pursuant to subdivision 11 of § 2.2-3705.6.

326 30. Discussion of the award of a public contract involving the expenditure of public funds,
327 including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
328 discussion in an open session would adversely affect the bargaining position or negotiating strategy of
329 the public body.

330 31. Discussion or consideration by the Commonwealth Health Research Board of grant
331 application records excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6.

332 32. Discussion or consideration by the Commitment Review Committee of records excluded
333 from this chapter pursuant to subdivision 9 of § 2.2-3705.2 relating to individuals subject to
334 commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

335 33. [Expired.]

336 34. Discussion or consideration of confidential proprietary records and trade secrets excluded
337 from this chapter pursuant to subdivision 18 of § 2.2-3705.6.

338 35. Discussion or consideration by a local authority created in accordance with the Virginia
339 Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary records and trade
340 secrets excluded from this chapter pursuant to subdivision 19 of § 2.2-3705.6.

341 36. Discussion or consideration by the State Board of Elections or local electoral boards of
342 voting security matters made confidential pursuant to § 24.2-625.1.

343 37. Discussion or consideration by the Forensic Science Board or the Scientific Advisory
344 Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records
345 excluded from this chapter pursuant to subdivision F 1 of § 2.2-3706.

346 38. Discussion or consideration by the Brown v. Board of Education Scholarship Program
347 Awards Committee of records or confidential matters excluded from this chapter pursuant to subdivision

348 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum
349 scholarship award, review and consider scholarship applications and requests for scholarship award
350 renewal, and cancel, rescind, or recover scholarship awards.

351 39. Discussion or consideration by the Virginia Port Authority of records excluded from this
352 chapter pursuant to subdivision 1 of § 2.2-3705.6.

353 40. Discussion or consideration by the Board of Trustees of the Virginia Retirement System
354 acting pursuant to § 51.1-124.30, or the Investment Advisory Committee appointed pursuant to 51.1-
355 124.26, or by any local retirement system, acting pursuant to § 51.1-803 of records excluded from this
356 chapter pursuant to subdivision 25 of § 2.2-3705.7.

357 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a
358 closed meeting shall become effective unless the public body, following the meeting, reconvenes in
359 open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract,
360 regulation, or motion that shall have its substance reasonably identified in the open meeting.

361 C. Public officers improperly selected due to the failure of the public body to comply with the
362 other provisions of this section shall be de facto officers and, as such, their official actions are valid until
363 they obtain notice of the legal defect in their election.

364 D. Nothing in this section shall be construed to prevent the holding of conferences between two
365 or more public bodies, or their representatives, but these conferences shall be subject to the same
366 procedures for holding closed meetings as are applicable to any other public body.

367 E. This section shall not be construed to (i) require the disclosure of any contract between the
368 Intervention Program Committee within the Department of Health Professions and an impaired
369 practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the
370 board of directors of any authority created pursuant to the Industrial Development and Revenue Bond
371 Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or
372 special law, to identify a business or industry to which subdivision A 5 applies. However, such business
373 or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the
374 board's authorization of the sale or issuance of such bonds.

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Maria Everett

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