

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 2.2-3705.1 of the Code of Virginia, relating to the Virginia Freedom of
2 Information Act; records exemption for personal contact information provided to a public body in
3 general correspondence.

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

5 **1. That § 2.2-3705.1 of the Code of Virginia is amended and reenacted as follows:**

6 **§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to public**
7 **bodies.**

8 The following information contained in a public record is excluded from the mandatory disclosure
9 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such
10 disclosure is prohibited by law. Redaction of information excluded under this section from a public record
11 shall be conducted in accordance with § 2.2-3704.01.

12 1. Personnel information concerning identifiable individuals, except that access shall not be denied
13 to the person who is the subject thereof. Any person who is the subject of such information and who is 18
14 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections
15 are so waived, such information shall be disclosed. Nothing in this subdivision shall be construed to
16 authorize the withholding of any resumes or applications submitted by persons who are appointed by the
17 Governor pursuant to § 2.2-106 or 2.2-107.

18 No provision of this chapter or any provision of Chapter 38 (§ 2.2-3800 et seq.) shall be construed
19 as denying public access to (i) contracts between a public body and its officers or employees, other than
20 contracts settling public employee employment disputes held confidential as personnel records under §
21 2.2-3705.1; (ii) records of the name, position, job classification, official salary, or rate of pay of, and
22 records of the allowances or reimbursements for expenses paid to, any officer, official, or employee of a
23 public body; or (iii) the compensation or benefits paid by any corporation organized by the Virginia
24 Retirement System or its officers or employees. The provisions of this subdivision, however, shall not

25 require public access to records of the official salaries or rates of pay of public employees whose annual
26 rate of pay is \$10,000 or less.

27 2. Written advice of legal counsel to state, regional or local public bodies or the officers or
28 employees of such public bodies, and any other information protected by the attorney-client privilege.

29 3. Legal memoranda and other work product compiled specifically for use in litigation or for use
30 in an active administrative investigation concerning a matter that is properly the subject of a closed
31 meeting under § 2.2-3711.

32 4. Any test or examination used, administered or prepared by any public body for purposes of
33 evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's
34 qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license
35 or certificate issued by a public body.

36 As used in this subdivision, "test or examination" shall include (a) any scoring key for any such
37 test or examination and (b) any other document that would jeopardize the security of the test or
38 examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as
39 provided by law, or limit access to individual records as provided by law. However, the subject of such
40 employment tests shall be entitled to review and inspect all records relative to his performance on such
41 employment tests.

42 When, in the reasonable opinion of such public body, any such test or examination no longer has
43 any potential for future use, and the security of future tests or examinations will not be jeopardized, the
44 test or examination shall be made available to the public. However, minimum competency tests
45 administered to public school children shall be made available to the public contemporaneously with
46 statewide release of the scores of those taking such tests, but in no event shall such tests be made available
47 to the public later than six months after the administration of such tests.

48 5. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant
49 to § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be deemed
50 exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

51 6. Vendor proprietary information software that may be in the public records of a public body. For
52 the purpose of this subdivision, "vendor proprietary information software" means computer programs
53 acquired from a vendor for purposes of processing data for agencies or political subdivisions of the
54 Commonwealth.

55 7. Computer software developed by or for a state agency, public institution of higher education in
56 the Commonwealth, or political subdivision of the Commonwealth.

57 8. Appraisals and cost estimates of real property subject to a proposed purchase, sale, or lease,
58 prior to the completion of such purchase, sale, or lease.

59 9. Information concerning reserves established in specific claims administered by the Department
60 of the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of
61 Chapter 18, or by any county, city, or town; and investigative notes, correspondence and information
62 furnished in confidence with respect to an investigation of a claim or a potential claim against a public
63 body's insurance policy or self-insurance plan. However, nothing in this subdivision shall prevent the
64 disclosure of information taken from inactive reports upon expiration of the period of limitations for the
65 filing of a civil suit.

66 10. Personal contact information furnished to a public body (i) for the purpose of receiving
67 electronic mail from the public body, provided that the electronic mail recipient has requested that the
68 public body not disclose such information, or (ii) during general correspondence with such public body
69 or any of its members or employees. However, access shall not be denied to the person who is the subject
70 of the record. As used in this subdivision, "personal contact information" means the information provided
71 to the public body for the purpose of receiving electronic mail from the public body or during general
72 correspondence with the public body and includes home or business (a) address, (b) email address, or (c)
73 telephone number or comparable number assigned to any other electronic communication device.

74 11. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the
75 Virginia Administrative Dispute Resolution Act (§ 2.2-4115 et seq.).

76 12. Information relating to the negotiation and award of a specific contract where competition or
77 bargaining is involved and where the release of such information would adversely affect the bargaining

78 position or negotiating strategy of the public body. Such information shall not be withheld after the public
79 body has made a decision to award or not to award the contract. In the case of procurement transactions
80 conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the provisions of this
81 subdivision shall not apply, and any release of information relating to such transactions shall be governed
82 by the Virginia Public Procurement Act.

83 13. Account numbers or routing information for any credit card, debit card, or other account with
84 a financial institution of any person or public body. However, access shall not be denied to the person who
85 is the subject of the information. For the purposes of this subdivision, "financial institution" means any
86 organization authorized to do business under state or federal laws relating to financial institutions,
87 including, without limitation, banks and trust companies, savings banks, savings and loan companies or
88 associations, and credit unions.

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