

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 2.2-3712 of the Code of Virginia, relating to the Virginia Freedom of
2 Information Act; closed meetings procedures; technical corrections.

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

4 **1. That § 2.2-3712 of the Code of Virginia is amended and reenacted as follows:**

5 **§ 2.2-3712. Closed meetings procedures; certification of proceedings.**

6 A. No closed meeting shall be held unless the public body proposing to convene such meeting
7 has taken an affirmative recorded vote in an open meeting approving a motion that (i) identifies the
8 subject matter, (ii) states the purpose of the meeting as authorized in subsection A of § 2.2-3711 or other
9 provision of law, and (iii) ~~makes specific reference to~~ cites the applicable exemption from open meeting
10 requirements provided in ~~§ 2.2-3707 or~~ subsection A of § 2.2-3711 or other provision of law. The
11 matters contained in such motion shall be set forth in detail in the minutes of the open meeting. A
12 general reference to the provisions of this chapter, the authorized exemptions from open meeting
13 requirements, or the subject matter of the closed meeting shall not be sufficient to satisfy the
14 requirements for holding a closed meeting.

15 B. The notice provisions of this chapter shall not apply to closed meetings of any public body
16 held solely for the purpose of interviewing candidates for the position of chief administrative officer.
17 Prior to any such closed meeting for the purpose of interviewing candidates, the public body shall
18 announce in an open meeting that such closed meeting shall be held at a disclosed or undisclosed
19 location within 15 days thereafter.

20 C. The public body holding a closed meeting shall restrict its discussion during the closed
21 meeting only to those matters specifically exempted from the provisions of this chapter and identified in
22 the motion required by subsection A.

23 D. At the conclusion of any closed meeting, the public body holding such meeting shall
24 immediately reconvene in an open meeting and shall take a roll call or other recorded vote to be
25 included in the minutes of that body, certifying that to the best of each member's knowledge (i) only

26 public business matters lawfully exempted from open meeting requirements under this chapter and (ii)
27 only such public business matters as were identified in the motion by which the closed meeting was
28 convened were heard, discussed or considered in the meeting by the public body. Any member of the
29 public body who believes that there was a departure from the requirements of clauses (i) and (ii), shall
30 so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place.
31 The statement shall be recorded in the minutes of the public body.

32 E. Failure of the certification required by subsection D to receive the affirmative vote of a
33 majority of the members of the public body present during a meeting shall not affect the validity or
34 confidentiality of such meeting with respect to matters considered therein in compliance with the
35 provisions of this chapter. The recorded vote and any statement made in connection therewith, shall
36 upon proper authentication, constitute evidence in any proceeding brought to enforce the provisions of
37 this chapter.

38 F. A public body may permit nonmembers to attend a closed meeting if such persons are deemed
39 necessary or if their presence will reasonably aid the public body in its consideration of a topic that is a
40 subject of the meeting.

41 G. A member of a public body shall be permitted to attend a closed meeting held by any
42 committee or subcommittee of that public body, or a closed meeting of any entity, however designated,
43 created to perform the delegated functions of or to advise that public body. Such member shall in all
44 cases be permitted to observe the closed meeting of the committee, subcommittee or entity. In addition
45 to the requirements of § 2.2-3707, the minutes of the committee or other entity shall include the identity
46 of the member of the parent public body who attended the closed meeting.

47 H. Except as specifically authorized by law, in no event may any public body take action on
48 matters discussed in any closed meeting, except at an open meeting for which notice was given as
49 required by § 2.2-3707.

50 I. Minutes may be taken during closed meetings of a public body, but shall not be required. Such
51 minutes shall not be subject to mandatory public disclosure.

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