

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 2.2-3705.7, 2.2-3711, and 23-50.15:32 of the Code of Virginia,
2 relating to the Virginia Freedom of Information Act; record exemption for Virginia Wildlife
3 magazine.

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

5 **1. That §§ 2.2-3705.7, 2.2-3711, and 23-50.15:32 of the Code of Virginia are amended and**
6 **reenacted as follows:**

7 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and**
8 **certain other limited exemptions.**

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

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

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

20 As used in this subdivision:

21 "Members of the General Assembly" means each member of the Senate of Virginia and the
22 House of Delegates and their legislative aides when working on behalf of such member.

23 "Office of the Governor" means the Governor; his chief of staff, counsel, director of policy,
24 Cabinet Secretaries, and the Assistant to the Governor for Intergovernmental Affairs; and those
25 individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

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

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

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

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

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

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

43 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing
44 Development Authority concerning individuals who have applied for or received loans or other housing
45 assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise
46 assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or
47 persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local
48 redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or
49 persons on the waiting list for housing assistance programs funded by local governments or by any such
50 authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or
51 any other local government agency concerning persons who have applied for occupancy or who have

52 occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access
53 to one's own information shall not be denied.

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

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

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

72 12. Records of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of a local
73 retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of
74 Virginia, acting pursuant to § 23-76.1, or of the Virginia College Savings Plan, acting pursuant to § 23-
75 38.77, relating to the acquisition, holding or disposition of a security or other ownership interest in an
76 entity, where such security or ownership interest is not traded on a governmentally regulated securities
77 exchange, to the extent that: (i) such records contain confidential analyses prepared for the Rector and
78 Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings

79 Plan, or provided to the retirement system or the Virginia College Savings Plan under a promise of
80 confidentiality, of the future value of such ownership interest or the future financial performance of the
81 entity; and (ii) disclosure of such confidential analyses would have an adverse effect on the value of the
82 investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the
83 University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be
84 construed to prevent the disclosure of records relating to the identity of any investment held, the amount
85 invested, or the present value of such investment.

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

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

92 15. ~~14.~~ Records of the Virginia Commonwealth University Health System Authority pertaining
93 to any of the following: an individual's qualifications for or continued membership on its medical or
94 teaching staffs; proprietary information gathered by or in the possession of the Authority from third
95 parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
96 awarding contracts for construction or the purchase of goods or services; data, records or information of
97 a proprietary nature produced or collected by or for the Authority or members of its medical or teaching
98 staffs; financial statements not publicly available that may be filed with the Authority from third parties;
99 the identity, accounts or account status of any customer of the Authority; consulting or other reports paid
100 for by the Authority to assist the Authority in connection with its strategic planning and goals; the
101 determination of marketing and operational strategies where disclosure of such strategies would be
102 harmful to the competitive position of the Authority; and data, records or information of a proprietary
103 nature produced or collected by or for employees of the Authority, other than the Authority's financial or
104 administrative records, in the conduct of or as a result of study or research on medical, scientific,
105 technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a

106 governmental body or a private concern, when such data, records or information have not been publicly
107 released, published, copyrighted or patented.

108 ~~16.~~15. Records of the Department of Environmental Quality, the State Water Control Board,
109 State Air Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal
110 environmental enforcement actions that are considered confidential under federal law and (ii)
111 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such
112 records shall be disclosed after a proposed sanction resulting from the investigation has been proposed
113 to the director of the agency. This subdivision shall not be construed to prohibit the disclosure of records
114 related to inspection reports, notices of violation, and documents detailing the nature of any
115 environmental contamination that may have occurred or similar documents.

116 ~~17.~~16. As it pertains to any person, records related to the operation of toll facilities that identify
117 an individual, vehicle, or travel itinerary including, but not limited to, vehicle identification data, vehicle
118 enforcement system information; video or photographic images; Social Security or other identification
119 numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone
120 numbers; or records of the date or time of toll facility use.

121 ~~18.~~17. Records of the Virginia Lottery pertaining to (i) the social security number, tax
122 identification number, state sales tax number, home address and telephone number, personal and lottery
123 banking account and transit numbers of a retailer, and financial information regarding the nonlottery
124 operations of specific retail locations; and (ii) individual lottery winners, except that a winner's name,
125 hometown, and amount won shall be disclosed.

126 ~~19.~~18. Records of the Board for Branch Pilots relating to the chemical or drug testing of a
127 person regulated by the Board, where such person has tested negative or has not been the subject of a
128 disciplinary action by the Board for a positive test result.

129 ~~20.~~19. Records, investigative notes, correspondence, and information pertaining to the planning,
130 scheduling and performance of examinations of holder records pursuant to the Uniform Disposition of
131 Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer, his agents,
132 employees or persons employed to perform an audit or examination of holder records.

133 | ~~21.~~20. Records of the Virginia Department of Emergency Management or a local governing
134 | body relating to citizen emergency response teams established pursuant to an ordinance of a local
135 | governing body, to the extent that such records reveal the name, address, including e-mail address,
136 | telephone or pager numbers, or operating schedule of an individual participant in the program.

137 | ~~22.~~21. Records of state or local park and recreation departments and local and regional park
138 | authorities to the extent such records contain information identifying a person under the age of 18 years.
139 | However, nothing in this subdivision shall operate to prohibit the disclosure of information defined as
140 | directory information under regulations implementing the Family Educational Rights and Privacy Act,
141 | 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out
142 | requirements provided by such regulations. Access shall not be denied to the parent, including a
143 | noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated
144 | or a court of competent jurisdiction has restricted or denied such access. For records of such persons
145 | who are emancipated, the right of access may be asserted by the subject thereof. Any parent or
146 | emancipated person who is the subject of the record may waive, in writing, the protections afforded by
147 | this subdivision. If the protections are so waived, the public body shall open such records for inspection
148 | and copying.

149 | ~~23.~~22. Records submitted for inclusion in the Statewide Alert Network administered by the
150 | Department of Emergency Management, to the extent that they reveal names, physical addresses, email
151 | addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless
152 | or portable communications device information, or operating schedules of individuals or agencies,
153 | where the release of such information would compromise the security of the Statewide Alert Network or
154 | individuals participating in the Statewide Alert Network.

155 | ~~24.~~23. Records of the Judicial Inquiry and Review Commission made confidential by § 17.1-
156 | 913.

157 | ~~25.~~24. Records of the Virginia Retirement System acting pursuant to § 51.1-124.30, of a local
158 | retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement
159 | system), or of the Virginia College Savings Plan, acting pursuant to § 23-38.77 relating to:

160 a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings
161 Plan on the pursuit of particular investment strategies, or the selection or termination of investment
162 managers, prior to the execution of such investment strategies or the selection or termination of such
163 managers, to the extent that disclosure of such records would have an adverse impact on the financial
164 interest of the retirement system or the Virginia College Savings Plan; and

165 b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a
166 private entity to the retirement system or the Virginia College Savings Plan, to the extent disclosure of
167 such records would have an adverse impact on the financial interest of the retirement system or the
168 Virginia College Savings Plan.

169 For the records specified in subdivision b to be excluded from the provisions of this chapter, the
170 entity shall make a written request to the retirement system or the Virginia College Savings Plan:

171 (1) Invoking such exclusion prior to or upon submission of the data or other materials for which
172 protection from disclosure is sought;

173 (2) Identifying with specificity the data or other materials for which protection is sought; and

174 (3) Stating the reasons why protection is necessary.

175 The retirement system or the Virginia College Savings Plan shall determine whether the
176 requested exclusion from disclosure meets the requirements set forth in subdivision b.

177 Nothing in this subdivision shall be construed to authorize the withholding of the identity or
178 amount of any investment held or the present value and performance of all asset classes and subclasses.

179 ~~26-25.~~ Records of the Department of Corrections made confidential by § 53.1-233.

180 ~~27-26.~~ Records maintained by the Department of the Treasury or participants in the Local
181 Government Investment Pool (§ 2.2-4600 et seq.), to the extent such records relate to information
182 required to be provided by such participants to the Department to establish accounts in accordance with
183 § 2.2-4602.

184 ~~28-27.~~ Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center
185 Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care
186 Centers, except that access shall not be denied to the person who is the subject of the record.

187 | ~~29.~~28. Records maintained in connection with fundraising activities by the Veterans Services
188 Foundation pursuant to § 2.2-2716 to the extent that such records reveal the address, electronic mail
189 address, facsimile or telephone number, social security number or other identification number appearing
190 on a driver's license, or credit card or bank account data of identifiable donors, except that access shall
191 not be denied to the person who is the subject of the record. Nothing in this subdivision, however, shall
192 be construed to authorize the withholding of records relating to the amount, date, purpose, and terms of
193 the pledge or donation or the identity of the donor. The exclusion provided by this subdivision shall not
194 apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the
195 foundation for the performance of services or other work or (ii) the terms and conditions of such grants
196 or contracts.

197 | ~~30.~~29. Names, physical addresses, telephone numbers, and email addresses contained in
198 correspondence between an individual and a member of the governing body, school board, or other
199 public body of the locality in which the individual is a resident, unless the correspondence relates to the
200 transaction of public business. However, no record that is otherwise open to inspection under this
201 chapter shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within
202 any such correspondence.

203 | ~~31.~~30. Records of the Commonwealth's Attorneys' Services Council, to the extent such records
204 are prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state
205 prosecutors or law-enforcement personnel, where such records are not otherwise available to the public
206 and the release of such records would reveal confidential strategies, methods or procedures to be
207 employed in law-enforcement activities, or materials created for the investigation and prosecution of a
208 criminal case.

209 | ~~32.~~31. Records provided to the Department of Aviation by other entities of the Commonwealth
210 in connection with the operation of aircraft, where the records would not be subject to disclosure by the
211 entity providing the records. The entity providing the records to the Department of Aviation shall
212 identify the specific portion of the records to be protected and the applicable provision of this chapter
213 that exempts the record or portions thereof from mandatory disclosure.

214 | ~~33-32.~~ Records created or maintained by or on the behalf of the judicial performance evaluation
215 program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

216 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

218 1. Discussion, consideration, or interviews of prospective candidates for employment;
219 assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of
220 specific public officers, appointees, or employees of any public body; and evaluation of performance of
221 departments or schools of public institutions of higher education where such evaluation will necessarily
222 involve discussion of the performance of specific individuals. Any teacher shall be permitted to be
223 present during a closed meeting in which there is a discussion or consideration of a disciplinary matter
224 that involves the teacher and some student and the student involved in the matter is present, provided the
225 teacher makes a written request to be present to the presiding officer of the appropriate board.

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

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

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

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

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

243 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to
244 actual or probable litigation, where such consultation or briefing in open meeting would adversely affect
245 the negotiating or litigating posture of the public body; and consultation with legal counsel employed or
246 retained by a public body regarding specific legal matters requiring the provision of legal advice by such
247 counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been
248 specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe
249 will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit
250 the closure of a meeting merely because an attorney representing the public body is in attendance or is
251 consulted on a matter.

252 8. In the case of boards of visitors of public institutions of higher education, discussion or
253 consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts
254 for services or work to be performed by such institution. However, the terms and conditions of any such
255 gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign
256 person and accepted by a public institution of higher education in Virginia shall be subject to public
257 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
258 (i) "foreign government" means any government other than the United States government or the
259 government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity
260 created under the laws of the United States or of any state thereof if a majority of the ownership of the
261 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
262 membership of any such entity is composed of foreign persons or foreign legal entities, or any legal
263 entity created under the laws of a foreign government; and (iii) "foreign person" means any individual
264 who is not a citizen or national of the United States or a trust territory or protectorate thereof.

265 9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia
266 Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of
267 Virginia, discussion or consideration of matters relating to specific gifts, bequests, and grants.

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

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

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

275 13. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement
276 or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the
277 governing body in open meeting finds that an open meeting will have an adverse effect upon the
278 negotiating position of the governing body or the establishment of the terms, conditions and provisions
279 of the siting agreement, or both. All discussions with the applicant or its representatives may be
280 conducted in a closed meeting.

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

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

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

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

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

298 19. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by
299 staff members, legal counsel, or law-enforcement or emergency service officials concerning actions
300 taken to respond to such activity or a related threat to public safety; or discussion of reports or plans
301 related to the security of any governmental facility, building or structure, or the safety of persons using
302 such facility, building or structure.

303 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-
304 124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of
305 the University of Virginia, acting pursuant to § 23-76.1, or by the Board of the Virginia College Savings
306 Plan, acting pursuant to § 23-38.80, regarding the acquisition, holding or disposition of a security or
307 other ownership interest in an entity, where such security or ownership interest is not traded on a
308 governmentally regulated securities exchange, to the extent that such discussion (i) concerns
309 confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the
310 retirement system or by the Virginia College Savings Plan or provided to the retirement system or the
311 Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership
312 interest or the future financial performance of the entity, and (ii) would have an adverse effect on the
313 value of the investment to be acquired, held or disposed of by the retirement system, the Rector and
314 Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision
315 shall be construed to prevent the disclosure of information relating to the identity of any investment
316 held, the amount invested or the present value of such investment.

317 21. Those portions of meetings in which individual child death cases are discussed by the State
318 Child Fatality Review team established pursuant to § 32.1-283.1, and those portions of meetings in
319 which individual child death cases are discussed by a regional or local child fatality review team
320 established pursuant to § 32.1-283.2, and those portions of meetings in which individual death cases are
321 discussed by family violence fatality review teams established pursuant to § 32.1-283.3.

322 22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern
323 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
324 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
325 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
326 proprietary, business-related information pertaining to the operations of the University of Virginia
327 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
328 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
329 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
330 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
331 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
332 Medical School, as the case may be.

333 23. In the case of the Virginia Commonwealth University Health System Authority, discussion
334 or consideration of any of the following: the acquisition or disposition of real or personal property where
335 disclosure would adversely affect the bargaining position or negotiating strategy of the Authority;
336 operational plans that could affect the value of such property, real or personal, owned or desirable for
337 ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and
338 contracts for services or work to be performed by the Authority; marketing or operational strategies
339 where disclosure of such strategies would adversely affect the competitive position of the Authority;
340 members of its medical and teaching staffs and qualifications for appointments thereto; and
341 qualifications or evaluations of other employees.

342 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee
343 within the Department of Health Professions to the extent such discussions identify any practitioner who
344 may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

345 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
346 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
347 by or on behalf of individuals who have requested information about, applied for, or entered into prepaid
348 tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title
349 23 is discussed.

350 26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee
351 created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-
352 336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of
353 wireless E-911 service.

354 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
355 Professional and Occupational Regulation, Department of Health Professions, or the Board of
356 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach
357 a decision or meetings of health regulatory boards or conference committees of such boards to consider
358 settlement proposals in pending disciplinary actions or modifications to previously issued board orders
359 as requested by either of the parties.

360 28. Discussion or consideration of records excluded from this chapter pursuant to subdivision 11
361 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
362 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
363 responsible public entity concerning such records.

364 29. Discussion of the award of a public contract involving the expenditure of public funds,
365 including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
366 discussion in an open session would adversely affect the bargaining position or negotiating strategy of
367 the public body.

368 30. Discussion or consideration of grant or loan application records excluded from this chapter
369 pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the
370 Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment
371 Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

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

375 32. [Expired.]

376 33. Discussion or consideration of confidential proprietary records and trade secrets excluded
377 from this chapter pursuant to subdivision 18 of § 2.2-3705.6.

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

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

383 36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory
384 Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records
385 excluded from this chapter pursuant to subdivision A 2 a of § 2.2-3706.

386 37. Discussion or consideration by the Brown v. Board of Education Scholarship Program
387 Awards Committee of records or confidential matters excluded from this chapter pursuant to subdivision
388 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum
389 scholarship award, review and consider scholarship applications and requests for scholarship award
390 renewal, and cancel, rescind, or recover scholarship awards.

391 38. Discussion or consideration by the Virginia Port Authority of records excluded from this
392 chapter pursuant to subdivision 1 of § 2.2-3705.6.

393 39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System
394 acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-

395 124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia
396 College Savings Plan acting pursuant to § 23-38.80, or by the Virginia College Savings Plan's
397 Investment Advisory Committee appointed pursuant to § 23-38.79:1 of records excluded from this
398 chapter pursuant to subdivision ~~25~~ 24 of § 2.2-3705.7.

399 40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3
400 of § 2.2-3705.6.

401 41. Discussion or consideration by the Board of Education of records relating to the denial,
402 suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of §
403 2.2-3705.3.

404 42. Those portions of meetings of the Virginia Military Advisory Council or any commission
405 created by executive order for the purpose of studying and making recommendations regarding
406 preventing closure or realignment of federal military and national security installations and facilities
407 located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs
408 organization appointed by a local governing body, during which there is discussion of records excluded
409 from this chapter pursuant to subdivision 12 of § 2.2-3705.2.

410 43. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
411 records excluded from this chapter pursuant to subdivision ~~29~~ 28 of § 2.2-3705.7.

412 44. Discussion or consideration by the Virginia Tobacco Indemnification and Community
413 Revitalization Commission of records excluded from this chapter pursuant to subdivision 23 of § 2.2-
414 3705.6.

415 45. Discussion or consideration by the board of directors of the Commercial Space Flight
416 Authority of records excluded from this chapter pursuant to subdivision 24 of § 2.2-3705.6.

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

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

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

427 E. This section shall not be construed to (i) require the disclosure of any contract between the
428 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§
429 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to
430 the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered
431 to issue industrial revenue bonds by general or special law, to identify a business or industry to which
432 subdivision A 5 applies. However, such business or industry shall be identified as a matter of public
433 record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such
434 bonds.

435 **§ 23-50.16:32. Confidential and public information.**

436 A. The Authority shall be subject to the provisions of the Freedom of Information Act (§ 2.2-
437 3700 et seq.), which shall include the exclusions set forth in subdivision ~~15~~ 14 of § 2.2-3705.7 and
438 subdivision 23 of subsection A of § 2.2-3711.

439 B. For purposes of the Freedom of Information Act (§ 2.2-3700 et seq.), meetings of the Board
440 shall not be considered meetings of the Board of Visitors of the University. Meetings of the Board may
441 be conducted through telephonic or video means as provided in § 2.2-3708 or similar provisions of any
442 successor law.

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