

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

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2 A BILL to amend and reenact §§ 2.2-3705.6, 56-573.1, and 56-575.16, of the Code of Virginia and to  
3 amend the Code of Virginia by adding a section number 56.573.1:1 and by adding in Chapter  
4 22.1 of Title 56 a section numbered 56-575.17, relating to disclosure of procurement records  
5 under the Public-Private Transportation Act of 1995 and the Public-Private Education Facilities  
6 and Infrastructure Act of 2002.

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

8 **1. That §§ 2.2-3705.6, 56-573.1, and 56-575.16 of the Code of Virginia are amended and**  
9 **reenacted and that the Code of Virginia is amended by adding a section number 56.573.1:1 and by**  
10 **adding in Chapter 22.1 of Title 56 a section numbered 56-575.17 as follows:**

11 § 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

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

14 1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-  
15 132.4 or 62.1-134.1.

16 2. Financial statements not publicly available filed with applications for industrial development  
17 financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

18 3. Confidential proprietary records, voluntarily provided by private business pursuant to a  
19 promise of confidentiality from the Department of Business Assistance, the Virginia Economic  
20 Development Partnership, the Virginia Tourism Authority, or local or regional industrial or economic  
21 development authorities or organizations, used by the Department, the Partnership, the Authority, or  
22 such entities for business, trade and tourism development; and memoranda, working papers or other  
23 records related to businesses that are considering locating or expanding in Virginia, prepared by such

24 entities, where competition or bargaining is involved and where, if such records are made public, the  
25 financial interest of the governmental unit would be adversely affected.

26 4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-  
27 239 et seq.), as such Act existed prior to July 1, 1992.

28 5. Fisheries data that would permit identification of any person or vessel, except when required  
29 by court order as specified in § 28.2-204.

30 6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost  
31 projections provided to the Department of Rail and Public Transportation, provided such information is  
32 exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other  
33 laws administered by the Surface Transportation Board or the Federal Railroad Administration with  
34 respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad  
35 Administration.

36 7. Confidential proprietary records related to inventory and sales, voluntarily provided by private  
37 energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy  
38 contingency planning purposes or for developing consolidated statistical information on energy supplies.

39 8. Confidential proprietary information furnished to the Board of Medical Assistance Services or  
40 the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of  
41 Chapter 10 of Title 32.1.

42 9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue  
43 and cost projections provided by a private transportation business to the Virginia Department of  
44 Transportation and the Department of Rail and Public Transportation for the purpose of conducting  
45 transportation studies needed to obtain grants or other financial assistance under the Transportation  
46 Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such information is  
47 exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other  
48 laws administered by the Surface Transportation Board or the Federal Railroad Administration with  
49 respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad

50 Administration. However, the exemption provided by this subdivision shall not apply to any wholly  
51 owned subsidiary of a public body.

52 10. Confidential information designated as provided in subsection D of § 2.2-4342 as trade  
53 secrets or proprietary information by any person who has submitted to a public body an application for  
54 prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

55 ~~11. Confidential proprietary records that are voluntarily provided by a private entity pursuant to a~~  
56 ~~proposal filed with a public entity or an affected local jurisdiction under the Public-Private~~  
57 ~~Transportation Act of 1995 (§ 56-556 et seq.) or the Public-Private Education Facilities and~~  
58 ~~Infrastructure Act of 2002 (§ 56-575.1 et seq.), pursuant to a promise of confidentiality from the~~  
59 ~~responsible public entity or affected local jurisdiction, used by the responsible public entity or affected~~  
60 ~~local jurisdiction for purposes related to the development of a qualifying transportation facility or~~  
61 ~~qualifying project; and memoranda, working papers or other records related to proposals filed under the~~  
62 ~~Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure~~  
63 ~~Act of 2002, where, if such records were made public, the financial interest of the public or private~~  
64 ~~entity involved with such proposal or the process of competition or bargaining would be adversely~~  
65 ~~affected. In order for confidential proprietary information to be excluded from the provisions of this~~  
66 ~~chapter, the private entity shall (i) invoke such exclusion upon submission of the data or other materials~~  
67 ~~for which protection from disclosure is sought, (ii) identify the data or other materials for which~~  
68 ~~protection is sought, and (iii) state the reasons why protection is necessary. For the purposes of this~~  
69 ~~subdivision, the terms "affected local jurisdiction," "public entity" and "private entity" shall be defined~~  
70 ~~as they are defined in the Public-Private Transportation Act of 1995 or in the Public-Private Education~~  
71 ~~Facilities and Infrastructure Act of 2002. However, nothing in this subdivision shall be construed to~~  
72 ~~prohibit the release of procurement records as required by § 56-573.1 or 56-575.16. Procurement records~~  
73 ~~shall not be interpreted to include proprietary, commercial or financial information, balance sheets,~~  
74 ~~financial statements, or trade secrets that may be provided by the private entity as evidence of its~~  
75 ~~qualifications. Records provided by a private entity to a responsible public entity, affected jurisdiction or~~  
76 ~~affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§~~

77 56-556 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et  
78 seq.), to the extent that such records contain (i) trade secrets of the private entity as defined in the  
79 Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial records of the private entity, including  
80 balance sheets and financial statements, that are not generally available to the public through regulatory  
81 disclosure or otherwise; or (iii) other records submitted by the private entity, where, if the records were  
82 made public, the financial interest or competitive position of the public or private entity involved with  
83 such proposal would be adversely affected. In order for such records to be excluded from the provisions  
84 of this chapter, the private entity shall make a written request to the responsible public entity:

- 85 1. Invoking such exclusion upon submission of the data or other materials for which protection  
86 from disclosure is sought;
- 87 2. Identifying with specificity the data or other materials for which protection is sought; and
- 88 3. Stating the reasons why protection is necessary.

89 The responsible public entity shall determine whether the requested exclusion from disclosure is  
90 necessary to protect the trade secrets or financial records of the private entity. To protect other records  
91 submitted by the private entity from disclosure, the responsible public entity shall determine whether  
92 public disclosure prior to the execution of an interim agreement or a comprehensive agreement would  
93 adversely affect the financial interest of the public or private entity or the bargaining position of the  
94 public or private entity. The responsible public entity shall make a written determination of the nature  
95 and scope of the protection to be afforded by the responsible public entity under this subdivision.

96 Nothing in this subdivision shall be construed to authorize the withholding of (a) procurement  
97 records as required by § 56-573.1:1 or 56-575.17; (b) information concerning the terms and conditions  
98 of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any  
99 kind entered into by the responsible public entity and the private entity; (c) information concerning the  
100 terms and conditions of any financing arrangement that involves the use of any public funds; or (d)  
101 information concerning the performance of any private entity operating a qualifying transportation  
102 facility or a qualifying project.

103 For the purposes of this subdivision, the terms "affected jurisdiction," "affected local  
104 jurisdiction," "responsible public entity," and "private entity" shall mean the same as those terms are  
105 defined in the Public-Private Transportation Act of 1995 or in the Public-Private Education Facilities  
106 and Infrastructure Act of 2002.

107 12. Confidential proprietary information or trade secrets, not publicly available, provided by a  
108 private person or entity to the Virginia Resources Authority or to a fund administered in connection with  
109 financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such  
110 information were made public, the financial interest of the private person or entity would be adversely  
111 affected, and, after June 30, 1997, where such information was provided pursuant to a promise of  
112 confidentiality.

113 13. Confidential proprietary records that are provided by a franchisee under § 15.2-2108 to its  
114 franchising authority pursuant to a promise of confidentiality from the franchising authority that relates  
115 to the franchisee's potential provision of new services, adoption of new technologies or implementation  
116 of improvements, where such new services, technologies or improvements have not been implemented  
117 by the franchisee on a nonexperimental scale in the franchise area, and where, if such records were made  
118 public, the competitive advantage or financial interests of the franchisee would be adversely affected. In  
119 order for confidential proprietary information to be excluded from the provisions of this chapter, the  
120 franchisee shall (i) invoke such exclusion upon submission of the data or other materials for which  
121 protection from disclosure is sought, (ii) identify the data or other materials for which protection is  
122 sought, and (iii) state the reason why protection is necessary.

123 14. Documents and other information of a proprietary nature furnished by a supplier of charitable  
124 gaming supplies to the Department of Charitable Gaming pursuant to subsection E of § 18.2-340.34.

125 15. Records and reports related to Virginia apple producer sales provided to the Virginia State  
126 Apple Board pursuant to §§ 3.1-622 and 3.1-624.

127 16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1,  
128 submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery  
129 Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

130 17. Records submitted as a grant application, or accompanying a grant application, to the  
131 Commonwealth Health Research Board pursuant to Chapter 22 (§ 23-277 et seq.) of Title 23 to the  
132 extent such records contain proprietary business or research-related information produced or collected  
133 by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific,  
134 technical or scholarly issues, when such information has not been publicly released, published,  
135 copyrighted or patented, if the disclosure of such information would be harmful to the competitive  
136 position of the applicant.

137 18. Confidential proprietary records and trade secrets developed and held by a local public body  
138 (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television  
139 services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 2 of Title 15.2, to the extent that  
140 disclosure of such records would be harmful to the competitive position of the locality. In order for  
141 confidential proprietary information or trade secrets to be excluded from the provisions of this chapter,  
142 the locality in writing shall (i) invoke the protections of this subdivision, (ii) identify with specificity the  
143 records or portions thereof for which protection is sought, and (iii) state the reasons why protection is  
144 necessary.

145 19. Confidential proprietary records and trade secrets developed by or for a local authority  
146 created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to  
147 provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of  
148 Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive  
149 position of the authority, except that records required to be maintained in accordance with § 15.2-2160  
150 shall be released.

151 § 56-573.1. Procurement.

152 The Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to this chapter;  
153 however, a responsible public entity may enter into an interim or a comprehensive agreement only in  
154 accordance with guidelines adopted by it as follows:

155 1. A responsible public entity may enter into an interim or a comprehensive agreement in  
156 accordance with guidelines adopted by it that are consistent with procurement through "competitive  
157 sealed bidding" as defined in § 2.2-4301 and subsection B of § 2.2-4310.

158 2. A responsible public entity may enter into an interim or a comprehensive agreement in  
159 accordance with guidelines adopted by it that are consistent with the procurement of "other than  
160 professional services" through competitive negotiation as defined in § 2.2-4301 and subsection B of §  
161 2.2-4310. Such responsible public entity shall not be required to select the proposal with the lowest price  
162 offer, but may consider price as one factor in evaluating the proposals received. Other factors that may  
163 be considered include (i) the proposed cost of the qualifying transportation facility; (ii) the general  
164 reputation, qualifications, industry experience, and financial capacity of the private entity; (iii) the  
165 proposed design, operation, and feasibility of the qualifying transportation facility; (iv) the eligibility of  
166 the facility for priority selection, review, and documentation timelines under the responsible public  
167 entity's guidelines; (v) local citizen and public entity comments; (vi) benefits to the public; (vii) the  
168 private entity's compliance with a minority business enterprise participation plan or good faith effort to  
169 comply with the goals of such plan; (viii) the private entity's plans to employ local contractors and  
170 residents; (ix) the safety record of the private entity; (x) the ability of the facility to address the needs  
171 identified in the appropriate state, regional or local transportation plan by improving safety, reducing  
172 congestion, increasing capacity, and/or enhancing economic efficiency; and (xi) other criteria that the  
173 responsible public entity deems appropriate.

174 A responsible public entity shall proceed in accordance with the guidelines adopted by it  
175 pursuant to subdivision 1 unless it determines that proceeding in accordance with the guidelines adopted  
176 by it pursuant to this subdivision is likely to be advantageous to the responsible public entity and the  
177 public, based on (i) the probable scope, complexity, or urgency of a project; (ii) risk sharing including  
178 guaranteed cost or completion guarantees, added value, or debt or equity investments proposed by the  
179 private entity; or (iii) an increase in funding, dedicated revenue source or other economic benefit that  
180 would not otherwise be available. When the responsible public entity determines to proceed according to  
181 the guidelines adopted by it pursuant to this subdivision, it shall state the reasons for its determination in

182 writing. If a state agency is the responsible public entity, the approval of the Secretary of Transportation  
183 shall be required as more specifically set forth in the guidelines before the comprehensive agreement is  
184 signed.

185 3. Interim or comprehensive agreements for maintenance or asset management services for a  
186 transportation facility that is a highway, bridge, tunnel or overpass, and any amendment or change order  
187 thereto that increases the highway lane-miles receiving services under such an agreement shall be  
188 procured in accordance with guidelines that are consistent with procurement through "competitive  
189 sealed bidding" as defined in § 2.2-4301 and subsection B of § 2.2-4310. Furthermore, such contracts  
190 shall be of a size and scope to encourage maximum competition and participation by agency  
191 prequalified contractors and otherwise qualified contractors.

192 4. The provisions of subdivision 3 shall not apply to maintenance or asset management services  
193 agreed to as part of the initial provisions of any interim or comprehensive agreement entered into for the  
194 original construction, reconstruction, or improvement of any highway pursuant to Chapter 22 (§ 56-556  
195 et seq.) of Title 56.

196 5. ~~Once a comprehensive agreement has been entered into, and the process of bargaining of all~~  
197 ~~phases or aspects of the comprehensive agreement is complete, a responsible public entity shall make~~  
198 ~~available, upon request, procurement records in accordance with § 2.2-4342.~~

199 6. ~~Nothing in this section shall require that professional services be procured by any method~~  
200 ~~other than competitive negotiation in accordance with the Virginia Public Procurement Act (§ 2.2-4300~~  
201 ~~et seq.).~~

202 § 56-573.1:1 Posting of conceptual proposals; public comment; public access to procurement  
203 records.

204 A. Conceptual proposals submitted in accordance with subsection A or B of § 56-560 to a  
205 responsible public entity shall be posted by the responsible public entity within 10 working days after  
206 acceptance of such proposals on the responsible public entity's website. In the case of a responsible  
207 public entity that has no website, the posting required by this subsection shall be by publication in a  
208 newspaper of general circulation in the area in which the contract is to be performed stating the location

209 where copies of the proposals are available for public inspection. In addition, at least one copy of the  
210 proposals shall be made available for public inspection. Nothing in this section shall be construed to  
211 prohibit the posting of the conceptual proposals by additional means deemed appropriate by the  
212 responsible public body so as to provide maximum notice to the public of the opportunity to inspect the  
213 proposals. Trade secrets, financial records, or other records of the private entity excluded from  
214 disclosure under the provisions of subdivision 11 of § 2.2-3705.6 shall not be required to be posted,  
215 except as otherwise agreed to by the responsible public entity and the private entity.

216 B. In addition to the posting requirements of subsection A, for 30 days prior to entering into an  
217 interim or comprehensive agreement, a responsible public entity shall provide an opportunity for public  
218 comment on the proposals. The public comment period required by this subsection may include a public  
219 hearing in the sole discretion of the responsible public entity. After the end of the public comment  
220 period, no additional posting shall be required.

221 C. Once the process of bargaining of all phases or aspects of an interim or a comprehensive  
222 agreement is complete, but before an interim agreement or a comprehensive agreement is entered into, a  
223 responsible public entity shall post the proposed agreement in a manner provided in subsection A.

224 D. Once an interim agreement, where applicable, or a comprehensive agreement has been  
225 entered into, and the process of bargaining of all phases or aspects of any such agreement is complete, a  
226 responsible public entity shall make available procurement records upon request.

227 E. Procurement records shall not be interpreted to include (i) trade secrets of the private entity as  
228 defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (ii) financial records, including balance  
229 sheets or financial statements of the private entity that are not generally available to the public through  
230 regulatory disclosure or otherwise, or (iii) other records excluded from disclosure under subdivision 11  
231 of § 2.2-3705.6.

232 F. Cost estimates relating to a proposed procurement transaction prepared by or for a responsible  
233 public entity shall not be open to public inspection.

234 G. Any inspection of records under this section shall be subject to reasonable restrictions to  
235 ensure the security and integrity of the records.

236 H. The provisions of this section shall apply regardless of whether the process of bargaining will  
237 result in an interim or a comprehensive agreement.

238 § 56-575.16. Procurement.

239 The Virginia Public Procurement Act (§ 2.2-4300 et seq.) and any interpretations, regulations, or  
240 guidelines of the Division of Engineering and Buildings of the Department of General Services or the  
241 Virginia Information Technologies Agency, including the Capital Outlay Manual and those  
242 interpretations, regulations or guidelines developed pursuant to §§ 2.2-1131, 2.2-1132, 2.2-1133, 2.2-  
243 1149, and 2.2-1502, except those developed by the Division or the Virginia Information Technologies  
244 Agency in accordance with this chapter when the Commonwealth is the responsible public entity, shall  
245 not apply to this chapter. However, a responsible public entity may enter into a comprehensive  
246 agreement only in accordance with guidelines adopted by it as follows:

247 1. A responsible public entity may enter into a comprehensive agreement in accordance with  
248 guidelines adopted by it that are consistent with procurement through competitive sealed bidding as  
249 defined in § 2.2-4301 and subsection B of § 2.2-4310.

250 2. A responsible public entity may enter into a comprehensive agreement in accordance with  
251 guidelines adopted by it that are consistent with the procurement of "other than professional services"  
252 through competitive negotiation as defined in § 2.2-4301 and subsection B of § 2.2-4310. Such  
253 responsible public entity shall not be required to select the proposal with the lowest price offer, but may  
254 consider price as one factor in evaluating the proposals received. Other factors that may be considered  
255 include (i) the proposed cost of the qualifying facility; (ii) the general reputation, industry experience,  
256 and financial capacity of the private entity; (iii) the proposed design of the qualifying project; (iv) the  
257 eligibility of the facility for accelerated selection, review, and documentation timelines under the  
258 responsible public entity's guidelines; (v) local citizen and government comments; (vi) benefits to the  
259 public; (vii) the private entity's compliance with a minority business enterprise participation plan or  
260 good faith effort to comply with the goals of such plan; (viii) the private entity's plans to employ local  
261 contractors and residents; and (ix) other criteria that the responsible public entity deems appropriate.

262 A responsible public entity shall proceed in accordance with the guidelines adopted by it  
263 pursuant to subdivision 1 unless it determines that proceeding in accordance with the guidelines adopted  
264 by it pursuant to this subdivision is likely to be advantageous to the responsible public entity and the  
265 public, based on (i) the probable scope, complexity or priority of the project; (ii) risk sharing including  
266 guaranteed cost or completion guarantees, added value or debt or equity investments proposed by the  
267 private entity; or (iii) an increase in funding, dedicated revenue source or other economic benefit that  
268 would not otherwise be available. When the responsible public entity determines to proceed according to  
269 the guidelines adopted by it pursuant to this subdivision, it shall state the reasons for its determination in  
270 writing. If a state agency is the responsible public entity, the approval of the responsible Governor's  
271 Secretary, or the Governor, shall be required before the responsible public entity may enter into a  
272 comprehensive agreement pursuant to this subdivision.

273 3. Nothing in this chapter shall authorize or require that a responsible public entity obtain  
274 professional services through any process except in accordance with guidelines adopted by it that are  
275 consistent with the procurement of "professional services" through competitive negotiation as defined in  
276 § 2.2-4301 and subsection B of § 2.2-4310.

277 4. A responsible public entity shall not proceed to consider any request by a private entity for  
278 approval of a qualifying project pursuant to subsection A of § 56-575.4 until the responsible public  
279 entity has adopted and made publicly available guidelines that are sufficient to enable the responsible  
280 public entity to comply with this chapter. Such guidelines shall:

281 a. If the responsible public entity is not an agency or authority of the Commonwealth, require the  
282 responsible public entity to engage the services of qualified professionals, which may include an  
283 architect, professional engineer or certified public accountant, not employed by the responsible public  
284 entity to provide to the responsible public entity independent analysis regarding the specifics,  
285 advantages, disadvantages, and the long- and short-term costs of any request by a private entity for  
286 approval of a qualifying project, unless the governing body of the responsible public entity determines  
287 that such analysis of a request by a private entity for approval of a qualifying project shall be performed  
288 by employees of the responsible public entity.

289 b. Provide for the posting and publishing of public notice of a private entity's request for  
 290 approval of a qualifying project pursuant to subsection A of § 56-575.4 and a reasonable time period,  
 291 determined by the responsible public entity to be appropriate to encourage competition and public-  
 292 private partnerships pursuant to the goals of this chapter, such reasonable period not to be less than 45  
 293 days, during which the responsible public entity will receive competing proposals pursuant to that  
 294 subsection.

295 Such guidelines shall also require advertising the public notice in the Virginia Business  
 296 Opportunities publication and posting a notice on the Commonwealth's electronic procurement website.

297 ~~5. Once a comprehensive agreement has been entered into, and the process of bargaining of all~~  
 298 ~~phases or aspects of the comprehensive agreement is complete, a responsible public entity shall make~~  
 299 ~~available, upon request, procurement records in accordance with § 2.2-4342.~~

300 ~~6.~~A responsible public entity that is a school board or a county, city or town may enter into an  
 301 interim or comprehensive agreement under this chapter only with the approval of the local governing  
 302 body.

303 § 56-575.17. Posting of conceptual proposals; public comment; public access to procurement  
 304 records.

305 A. Conceptual proposals submitted in accordance with subsection A or B of § 56-574.4 to a  
 306 responsible public entity shall be posted by the responsible public entity within 10 working days after  
 307 acceptance of such proposals on the responsible public entity's website. In the case of a responsible  
 308 public entity that has no website, the posting required by this subsection shall be by publication in a  
 309 newspaper of general circulation in the area in which the contract is to be performed stating the location  
 310 where copies of the proposals are available for public inspection. In addition, at least one copy of the  
 311 proposals shall be made available for public inspection. Nothing in this section shall be construed to  
 312 prohibit the posting of the conceptual proposals by additional means deemed appropriate by the  
 313 responsible public body so as to provide maximum notice to the public of the opportunity to inspect the  
 314 proposals. Trade secrets, financial records, or other records of the private entity excluded from

315 disclosure under the provisions of subdivision 11 of § 2.2-3705.6 shall not be required to be posted,  
316 except as otherwise agreed to by the responsible public entity and the private entity.

317 B. In addition to the posting requirements of subsection A, for 30 days prior to entering into an  
318 interim or comprehensive agreement, a responsible public entity shall provide an opportunity for public  
319 comment on the proposals. The public comment period required by this subsection may include a public  
320 hearing in the sole discretion of the responsible public entity. After the end of the public comment  
321 period, no additional posting shall be required.

322 C. Once the process of bargaining of all phases or aspects of an interim or a comprehensive  
323 agreement is complete, but before an interim agreement or a comprehensive agreement is entered into, a  
324 responsible public entity shall post the proposed agreement in a manner provided in subsection A.

325 D. Once an interim agreement, where applicable or a comprehensive agreement has been  
326 entered into, and the process of bargaining of all phases or aspects of any such agreement is complete, a  
327 responsible public entity shall make available procurement records upon request.

328 E. Procurement records shall not be interpreted to include (i) trade secrets of the private entity as  
329 defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (ii) financial records, including balance  
330 sheets or financial statements of the private entity that are not generally available to the public through  
331 regulatory disclosure or otherwise, or (iii) other records excluded from disclosure under subdivision 11  
332 of § 2.2-3705.6.

333 F. Cost estimates relating to a proposed procurement transaction prepared by or for a responsible  
334 public entity shall not be open to public inspection.

335 G. Any inspection of records under this section shall be subject to reasonable restrictions to  
336 ensure the security and integrity of the records.

337 H. The provisions of this section shall apply regardless of whether the process of bargaining will  
338 result in an interim or a comprehensive agreement.

339 **2. That the Chairmen of the Senate and House Committees on General Laws shall convene a**  
340 **working group of representatives of public and private entities to revise the current model**  
341 **guidelines to incorporate amendments to the Public-Private Transportation Act of 1995 and the**

342 **Public Private Education Facilities and Infrastructure Act of 2002 in accordance with this act.**

343 **The group shall make its recommendations available to the responsible public entities by**

344 **September 30, 2006.**

345 **3. That the provisions of this act shall apply to existing and prospective qualifying transportation**

346 **facilities and qualifying projects.**

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