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**HOUSE BILL NO. 339****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws  
on February 4, 2014)

(Patron Prior to Substitute—Delegate Anderson)

A *BILL to amend and reenact §§ 2.2-3705.6, 2.2-3711, 10.1-1458, 30-281, 32.1-276.5:1, 56-560, 56-573.1:1, 56-575.4, and 56-575.17 of the Code of Virginia, relating to the Virginia Freedom of Information Act; exemption from mandatory disclosure; certain records of the Department of Rail and Public Transportation and the Department of Transportation.*

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

**1. That §§ 2.2-3705.6, 2.2-3711, 10.1-1458, 30-281, 32.1-276.5:1, 56-560, 56-573.1:1, 56-575.4, and 56-575.17 of the Code of Virginia are amended and reenacted as follows:**

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

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

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

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

3. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade and tourism development or retention; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where, if such records are made public, the financial interest of the public body would be adversely affected.

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

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

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

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

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

9. ~~Proprietary~~ Confidential proprietary information and trade secrets, including commercial or financial information, balance sheets, trade secrets, and revenue and cost projections, and detailed freight origin and destination information provided by a private transportation business to the Virginia Department of Transportation and or the Department of Rail and Public Transportation for the any purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects authorized or regulated by state law, including obtaining and administering grants or other financial assistance for transportation projects, provided such information is exempt from disclosure under federal laws governing transportation or the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

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

11. 10. a. Memoranda, staff evaluations, or other records prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed

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60 under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or the Public Private Education  
61 Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.), where (i) if such records were made public  
62 prior to or after the execution of an interim or a comprehensive agreement, § 56-573.1:1 or 56-575.17  
63 notwithstanding, the financial interest or bargaining position of the public entity would be adversely  
64 affected, and (ii) the basis for the determination required in clause (i) is documented in writing by the  
65 responsible public entity; and

66 b. Records provided by a private entity to a responsible public entity, affected jurisdiction, or  
67 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 or  
68 the Public-Private Education Facilities and Infrastructure Act of 2002, to the extent that such records  
69 contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et  
70 seq.); (ii) financial records of the private entity, including balance sheets and financial statements, that  
71 are not generally available to the public through regulatory disclosure or otherwise; or (iii) other  
72 information submitted by the private entity, where, if the records were made public prior to the  
73 execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining  
74 position of the public or private entity would be adversely affected. In order for the records specified in  
75 clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make  
76 a written request to the responsible public entity:

77 1. Invoking such exclusion upon submission of the data or other materials for which protection from  
78 disclosure is sought;

79 2. Identifying with specificity the data or other materials for which protection is sought; and

80 3. Stating the reasons why protection is necessary.

81 The responsible public entity shall determine whether the requested exclusion from disclosure is  
82 necessary to protect the trade secrets or financial records of the private entity. To protect other records  
83 submitted by the private entity from disclosure, the responsible public entity shall determine whether  
84 public disclosure prior to the execution of an interim agreement or a comprehensive agreement would  
85 adversely affect the financial interest or bargaining position of the public or private entity. The  
86 responsible public entity shall make a written determination of the nature and scope of the protection to  
87 be afforded by the responsible public entity under this subdivision. Once a written determination is made  
88 by the responsible public entity, the records afforded protection under this subdivision shall continue to  
89 be protected from disclosure when in the possession of any affected jurisdiction or affected local  
90 jurisdiction.

91 Except as specifically provided in subdivision 44 a, nothing in this subdivision shall be construed to  
92 authorize the withholding of (a) procurement records as required by § 56-573.1:1 or 56-575.17; (b)  
93 information concerning the terms and conditions of any interim or comprehensive agreement, service  
94 contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity  
95 and the private entity; (c) information concerning the terms and conditions of any financing arrangement  
96 that involves the use of any public funds; or (d) information concerning the performance of any private  
97 entity developing or operating a qualifying transportation facility or a qualifying project.

98 For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction,"  
99 "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation  
100 facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined  
101 in the Public-Private Transportation Act of 1995 or in the Public-Private Education Facilities and  
102 Infrastructure Act of 2002.

103 ~~12.~~ 11. Confidential proprietary information or trade secrets, not publicly available, provided by a  
104 private person or entity to the Virginia Resources Authority or to a fund administered in connection with  
105 financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such  
106 information were made public, the financial interest of the private person or entity would be adversely  
107 affected, and, after June 30, 1997, where such information was provided pursuant to a promise of  
108 confidentiality.

109 ~~13.~~ 12. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or  
110 confidential proprietary records that are not generally available to the public through regulatory  
111 disclosure or otherwise, provided by a (a) bidder or applicant for a franchise or (b) franchisee under  
112 Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a  
113 promise of confidentiality from the franchising authority, to the extent the records relate to the bidder's,  
114 applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies  
115 or implementation of improvements, where such new services, technologies or improvements have not  
116 been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such  
117 records were made public, the competitive advantage or financial interests of the franchisee would be  
118 adversely affected.

119 In order for trade secrets or confidential proprietary information to be excluded from the provisions  
120 of this chapter, the bidder, applicant, or franchisee shall (i) invoke such exclusion upon submission of  
121 the data or other materials for which protection from disclosure is sought, (ii) identify the data or other

materials for which protection is sought, and (iii) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

~~14.~~ 13. Documents and other information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

~~15.~~ 14. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

~~16.~~ 15. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

~~17.~~ 16. Records submitted as a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 22 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

~~18.~~ 17. Confidential proprietary records and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2, to the extent that disclosure of such records would be harmful to the competitive position of the locality. In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the records or portions thereof for which protection is sought, and (c) state the reasons why protection is necessary.

~~19.~~ 18. Confidential proprietary records and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that records required to be maintained in accordance with § 15.2-2160 shall be released.

~~20.~~ 19. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial records of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for (i) certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.) or (ii) a claim made by a disadvantaged business or an economically disadvantaged individual against the Capital Access Fund for Disadvantaged Businesses created pursuant to § 2.2-2311. In order for such trade secrets or financial records to be excluded from the provisions of this chapter, the business shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reasons why protection is necessary.

~~21.~~ 20. Documents and other information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

~~22.~~ 21. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial records, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

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

3. Stating the reasons why protection is necessary.

183 The State Inspector General shall determine whether the requested exclusion from disclosure is  
184 necessary to protect the trade secrets or financial records of the private entity. The State Inspector  
185 General shall make a written determination of the nature and scope of the protection to be afforded by it  
186 under this subdivision.

187 ~~23-~~ 22. Records submitted as a grant application, or accompanying a grant application, to the  
188 Virginia Tobacco Indemnification and Community Revitalization Commission to the extent such records  
189 contain (i) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (ii) financial  
190 records of a grant applicant that is not a public body, including balance sheets and financial statements,  
191 that are not generally available to the public through regulatory disclosure or otherwise, or (iii)  
192 research-related information produced or collected by the applicant in the conduct of or as a result of  
193 study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when  
194 such information has not been publicly released, published, copyrighted, or patented, if the disclosure of  
195 such information would be harmful to the competitive position of the applicant; and memoranda, staff  
196 evaluations, or other records prepared by the Commission or its staff exclusively for the evaluation of  
197 grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent  
198 with the powers of and in furtherance of the performance of the duties of the Commission pursuant to  
199 § 3.2-3103.

200 In order for the records specified in this subdivision to be excluded from the provisions of this  
201 chapter, the applicant shall make a written request to the Commission:

202 1. Invoking such exclusion upon submission of the data or other materials for which protection from  
203 disclosure is sought;

204 2. Identifying with specificity the data, records or other materials for which protection is sought; and

205 3. Stating the reasons why protection is necessary.

206 The Commission shall determine whether the requested exclusion from disclosure is necessary to  
207 protect the trade secrets, financial records or research-related information of the applicant. The  
208 Commission shall make a written determination of the nature and scope of the protection to be afforded  
209 by it under this subdivision.

210 ~~24-~~ 23. a. Records of the Commercial Space Flight Authority relating to rate structures or charges for  
211 the use of projects of, the sale of products of, or services rendered by the Authority if public disclosure  
212 would adversely affect the financial interest or bargaining position of the Authority or a private entity  
213 providing records to the Authority; or

214 b. Records provided by a private entity to the Commercial Space Flight Authority, to the extent that  
215 such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act  
216 (§ 59.1-336 et seq.); (ii) financial records of the private entity, including balance sheets and financial  
217 statements, that are not generally available to the public through regulatory disclosure or otherwise; or  
218 (iii) other information submitted by the private entity, where, if the records were made public, the  
219 financial interest or bargaining position of the Authority or private entity would be adversely affected.

220 In order for the records specified in clauses (i), (ii), and (iii) of *this* subdivision ~~24~~ b to be excluded  
221 from the provisions of this chapter, the private entity shall make a written request to the Authority:

222 1. Invoking such exclusion upon submission of the data or other materials for which protection from  
223 disclosure is sought;

224 2. Identifying with specificity the data or other materials for which protection is sought; and

225 3. Stating the reasons why protection is necessary.

226 The Authority shall determine whether the requested exclusion from disclosure is necessary to protect  
227 the trade secrets or financial records of the private entity. To protect other records submitted by the  
228 private entity from disclosure, the Authority shall determine whether public disclosure would adversely  
229 affect the financial interest or bargaining position of the Authority or private entity. The Authority shall  
230 make a written determination of the nature and scope of the protection to be afforded by it under this  
231 subdivision.

232 ~~25-~~ 24. Documents and other information of a proprietary nature furnished by an agricultural  
233 landowner or operator to the Department of Conservation and Recreation, the Department of  
234 Environmental Quality, the Department of Agriculture and Consumer Services or any political  
235 subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and  
236 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

237 ~~26-~~ 25. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to  
238 the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such  
239 trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this  
240 exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii)  
241 identify the data or materials for which protection is sought, and (iii) state the reasons why protection is  
242 necessary.

243 ~~27-~~ 26. Documents and other information of a proprietary nature furnished by a licensed public-use  
244 airport to the Department of Aviation for funding from programs administered by the Department of

Aviation or the Virginia Aviation Board, where if the records were made public, the financial interest of the public-use airport would be adversely affected.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

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

3. Stating the reasons why protection is necessary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

322 16. Deliberations of the State Lottery Board in a licensing appeal action conducted pursuant to  
323 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and  
324 discussion, consideration or review of State Lottery Department matters related to proprietary lottery  
325 game information and studies or investigations exempted from disclosure under subdivision 6 of  
326 § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

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

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

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

340 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or  
341 of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the  
342 University of Virginia, acting pursuant to § 23-76.1, or by the Board of the Virginia College Savings  
343 Plan, acting pursuant to § 23-38.80, regarding the acquisition, holding or disposition of a security or  
344 other ownership interest in an entity, where such security or ownership interest is not traded on a  
345 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential  
346 analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement  
347 system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia  
348 College Savings Plan under a promise of confidentiality, of the future value of such ownership interest  
349 or the future financial performance of the entity, and (ii) would have an adverse effect on the value of  
350 the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of  
351 the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be  
352 construed to prevent the disclosure of information relating to the identity of any investment held, the  
353 amount invested or the present value of such investment.

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

359 22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern  
360 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any  
361 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern  
362 Virginia Medical School, as the case may be, have been delegated, in which there is discussed  
363 proprietary, business-related information pertaining to the operations of the University of Virginia  
364 Medical Center or Eastern Virginia Medical School, as the case may be, including business development  
365 or marketing strategies and activities with existing or future joint venturers, partners, or other parties  
366 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case  
367 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such

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

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

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

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

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

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

28. Discussion or consideration of records excluded from this chapter pursuant to subdivision 10 of § 2.2-3705.6 by a responsible public entity or an affected local jurisdiction, as those terms are defined in § 56-557, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

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

30. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 16 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

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

32. [Expired.]

33. Discussion or consideration of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6.

34. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6.

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

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

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

38. Discussion or consideration by the Virginia Port Authority of records excluded from this chapter

429 pursuant to subdivision 1 of § 2.2-3705.6.

430 39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting  
431 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,  
432 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College  
433 Savings Plan acting pursuant to § 23-38.80, or by the Virginia College Savings Plan's Investment  
434 Advisory Committee appointed pursuant to § 23-38.79:1 of records excluded from this chapter pursuant  
435 to subdivision 25 of § 2.2-3705.7.

436 40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of  
437 § 2.2-3705.6.

438 41. Discussion or consideration by the Board of Education of records relating to the denial,  
439 suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of  
440 § 2.2-3705.3.

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

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

449 44. Discussion or consideration by the Virginia Tobacco Indemnification and Community  
450 Revitalization Commission of records excluded from this chapter pursuant to subdivision 23 22 of  
451 § 2.2-3705.6.

452 45. Discussion or consideration by the board of directors of the Commercial Space Flight Authority  
453 of records excluded from this chapter pursuant to subdivision 24 23 of § 2.2-3705.6.

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

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

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

464 E. This section shall not be construed to (i) require the disclosure of any contract between the  
465 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1  
466 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant  
467 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body  
468 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry  
469 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of  
470 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance  
471 of such bonds.

472 **§ 10.1-1458. Persons to provide plans, specifications, and information.**

473 Every person the Department has reason to believe is generating, storing, transporting, disposing of,  
474 or treating waste shall, on request of the Department, furnish such plans, specifications, and information  
475 as the Department may require in the discharge of its duties under this chapter. Trade secret information  
476 included within any plans, specifications, or information submitted pursuant to this section shall be  
477 excluded from the provisions of the Virginia Freedom of Information Act as provided in subdivision 26  
478 25 of § 2.2-3705.6. At all times, the Department may disclose such trade secret information to the  
479 appropriate officials of the Environmental Protection Agency pursuant to the requirements of the federal  
480 Solid Waste Disposal Act, 42 U.S.C. § 3251, et seq., or as otherwise required by law.

481 **§ 30-281. Confidentiality of certain records submitted to the Commission.**

482 Records and information afforded the protection under subdivision 44 10 of § 2.2-3705.6 that are  
483 provided by a responsible public entity to the Commission shall continue to be protected from disclosure  
484 when in the possession of the Commission.

485 **§ 32.1-276.5:1. (Contingent repeal) Disclosures of contractual arrangements to be made publicly**  
486 **available.**

487 A. In order to advance transparency in health care and provide patients and families with better  
488 information on which to judge value among their treatment options, the Commissioner shall negotiate  
489 and contract with a nonprofit organization authorized under § 32.1-276.4 for an annual survey of carriers  
490 offering private group health insurance policies, which are subject to HEDIS reporting, to determine the

reimbursement that is paid for a minimum of 25 most frequently reported health care services which may include inpatient and outpatient diagnostic services, surgical services or the treatment of certain conditions or diseases. Each carrier shall report the average reimbursement paid for a specific service from all providers and provider types, to include hospitals, outpatient or ambulatory surgery centers and physician offices. The survey shall also include, when available, the average reimbursement rates for the same services provided for reimbursement by fee-for-service Medicare and Medicaid. The survey shall be managed by the Commissioner to insure that when such information is reported it will provide the aggregate information so that readers will be able to determine the average amount of reimbursement paid for specific healthcare services. No provider, facility or carrier specific reimbursement information shall be included in the public survey reports. Such specific information shall be deemed proprietary and shall not be disclosed to the public; only the Commissioner will have access to the underlying survey data. The public survey reports shall be made available to the public through an Internet Website operated by the contracting organization.

The Commissioner, in conjunction with stakeholders working through the non-profit organization, shall work to (i) incorporate existing service quality data and guidance to the price information to further assist informed consumer choice to the extent it is practical and consistent with generally accepted national guidelines, and (ii) seek over time to display price and quality information for episodes of care in a manner which is consistent with generally accepted national guidelines.

B. The information acquired in the survey and provided to the Commissioner shall be confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 24 20 of § 2.2-3705.6.

**§ 56-560. Approval by the responsible public entity.**

A. The private entity may request approval by the responsible public entity. Any such request shall be accompanied by the following material and information unless waived by the responsible public entity in its guidelines or other instructions given, in writing, to the private entity with respect to the transportation facility or facilities that the private entity proposes to develop and/or operate as a qualifying transportation facility:

1. A topographic map (1:2,000 or other appropriate scale) indicating the location of the transportation facility or facilities;

2. A description of the transportation facility or facilities, including the conceptual design of such facility or facilities and all proposed interconnections with other transportation facilities;

3. The proposed date for development and/or operation of the transportation facility or facilities along with an estimate of the life-cycle cost of the transportation facility as proposed;

4. A statement setting forth the method by which the private entity proposes to secure any property interests required for the transportation facility or facilities;

5. Information relating to the current transportation plans, if any, of each affected jurisdiction;

6. A list of all permits and approvals required for developing and/or operating improvements to the transportation facility or facilities from local, state, or federal agencies and a projected schedule for obtaining such permits and approvals;

7. A list of public utility facilities, if any, that will be crossed by the transportation facility or facilities and a statement of the plans of the private entity to accommodate such crossings;

8. A statement setting forth the private entity's general plans for developing and/or operating the transportation facility or facilities, including identification of any revenue, public or private, or proposed debt or equity investment or concession proposed by the private entity;

9. The names and addresses of the persons who may be contacted for further information concerning the request;

10. Information on how the private entity's proposal will address the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, and/or enhancing economic efficiency; and

11. Such additional material and information as the responsible public entity may reasonably request pursuant to its guidelines or other written instructions.

B. The responsible public entity may request proposals from private entities for the development and/or operation of transportation facilities. The responsible public entity shall not charge a fee to cover the costs of processing, reviewing, and evaluating proposals received in response to such requests.

C. The responsible public entity may grant approval of the development and/or operation of the transportation facility or facilities as a qualifying transportation facility if the responsible public entity determines that it serves the public purpose of this chapter. The responsible public entity may determine that the development and/or operation of the transportation facility or facilities as a qualifying transportation facility serves such public purpose if:

1. There is a public need for the transportation facility or facilities the private entity proposes to develop and/or operate as a qualifying transportation facility;

2. The transportation facility or facilities and the proposed interconnections with existing transportation facilities, and the private entity's plans for development and/or operation of the qualifying transportation facility or facilities, are, in the opinion of the responsible public entity, reasonable and will address the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, and/or enhancing economic efficiency;

3. The estimated cost of developing and/or operating the transportation facility or facilities is reasonable in relation to similar facilities; and

4. The private entity's plans will result in the timely development and/or operation of the transportation facility or facilities or their more efficient operation.

In evaluating any request, the responsible public entity may rely upon internal staff reports prepared by personnel familiar with the operation of similar facilities or the advice of outside advisors or consultants having relevant experience.

D. The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the request submitted by a private entity pursuant to subsection A, including without limitation, reasonable attorney's fees and fees for financial and other necessary advisors or consultants. The responsible public entity shall also develop guidelines that establish the process for the acceptance and review of a proposal from a private entity pursuant to subsections A and B. Such guidelines shall establish a specific schedule for review of the proposal by the responsible public entity, a process for alteration of that schedule by the responsible public entity if it deems that changes are necessary because of the scope or complexity of proposals it receives, the process for receipt and review of competing proposals, and the type and amount of information that is necessary for adequate review of proposals in each stage of review. For qualifying transportation facilities that have approved or pending state and federal environmental clearances, secured significant right of way, have previously allocated significant state or federal funding, or exhibit other circumstances that could reasonably reduce the amount of time to develop and/or operate the qualifying transportation facility in accordance with the purpose of this chapter, the guidelines shall provide for a prioritized documentation, review, and selection process.

E. The approval of the responsible public entity shall be subject to the private entity's entering into an interim agreement or a comprehensive agreement with the responsible public entity. For any project with an estimated construction cost of over \$50 million, the responsible public entity also shall require the private entity to pay the costs for an independent audit of any and all traffic and cost estimates associated with the private entity's proposal, as well as a review of all public costs and potential liabilities to which taxpayers could be exposed (including improvements to other transportation facilities that may be needed as a result of the proposal, failure by the private entity to reimburse the responsible public entity for services provided, and potential risk and liability in the event the private entity defaults on the comprehensive agreement or on bonds issued for the project). This independent audit shall be conducted by an independent consultant selected by the responsible public entity, and all such information from such review shall be fully disclosed.

F. In connection with its approval of the development and/or operation of the transportation facility or facilities as a qualifying transportation facility, the responsible public entity shall establish a date for the acquisition of or the beginning of construction of or improvements to the qualifying transportation facility. The responsible public entity may extend such date from time to time.

G. The responsible public entity shall take appropriate action, as more specifically set forth in its guidelines, to protect confidential and proprietary information provided by the private entity pursuant to an agreement under subdivision 10 of § 2.2-3705.6.

H. The responsible public entity may also apply for, execute, and/or endorse applications submitted by private entities to obtain federal credit assistance for qualifying projects developed and/or operated pursuant to this chapter.

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

A. Conceptual proposals submitted in accordance with subsection A or B of § 56-560 to a responsible public entity shall be posted by the responsible public entity within 10 working days after acceptance of such proposals as follows:

1. For responsible public entities that are state agencies, authorities, departments, institutions, and other units of state government, posting shall be on the Department of General Services' central electronic procurement website. For proposals submitted pursuant to subsection A of § 56-560, the notice posted shall (i) provide for a period of 120 days for the submission of competing proposals; (ii) include specific information regarding the proposed nature, timing, and scope of the qualifying transportation facility; and (iii) outline the opportunities that will be provided for public comment during the review process; and

2. For responsible public entities that are local public bodies, posting shall be on the responsible public entity's website or on the Department of General Services' central electronic procurement website.

In addition, such public bodies may publish in a newspaper of general circulation in the area in which the contract is to be performed a summary of the proposals and the location where copies of the proposals are available for public inspection. Such local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

In addition to the posting requirements, at least one copy of the proposals shall be made available for public inspection. Nothing in this section shall be construed to prohibit the posting of the conceptual proposals by additional means deemed appropriate by the responsible public entity so as to provide maximum notice to the public of the opportunity to inspect the proposals. Trade secrets, financial records, or other records of the private entity excluded from disclosure under the provisions of subdivision 10 of § 2.2-3705.6 shall not be required to be posted, except as otherwise agreed to by the responsible public entity and the private entity.

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

C. Once the negotiation phase for the development of an interim or a comprehensive agreement is complete and a decision to award has been made by a responsible public entity, the responsible public entity shall (i) post the major business points of the interim or comprehensive agreement, including the projected use of any public funds, on the Department of General Services' central electronic procurement website; (ii) outline how the public can submit comments on those major business points; and (iii) present the major business points of the interim or comprehensive agreement, including the use of any public funds, to its oversight board at a regularly scheduled meeting of the board that is open to the public.

D. Once an interim agreement or a comprehensive agreement has been entered into, a responsible public entity shall make procurement records available for public inspection, in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). For the purposes of this subsection, procurement records shall not be interpreted to include (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or (ii) financial records, including balance sheets or financial statements of the private entity that are not generally available to the public through regulatory disclosure or otherwise.

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

F. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

G. The provisions of this section shall apply to accepted proposals regardless of whether the process of bargaining will result in an interim or a comprehensive agreement.

**§ 56-575.4. Approval of qualifying projects by the responsible public entity.**

A. A private entity may request approval of a qualifying project by the responsible public entity. Any such request shall be accompanied by the following material and information unless waived by the responsible public entity:

1. A topographic map (1:2,000 or other appropriate scale) indicating the location of the qualifying project;

2. A description of the qualifying project, including the conceptual design of such facility or facilities or a conceptual plan for the provision of services or technology infrastructure, and a schedule for the initiation of and completion of the qualifying project to include the proposed major responsibilities and timeline for activities to be performed by both the public and private entity;

3. A statement setting forth the method by which the private entity proposes to secure necessary property interests required for the qualifying project;

4. Information relating to the current plans for development of facilities or technology infrastructure to be used by a public entity that are similar to the qualifying project being proposed by the private entity, if any, of each affected local jurisdiction;

5. A list of all permits and approvals required for the qualifying project from local, state, or federal agencies and a projected schedule for obtaining such permits and approvals;

6. A list of public utility facilities, if any, that will be crossed by the qualifying project and a statement of the plans of the private entity to accommodate such crossings;

7. A statement setting forth the private entity's general plans for financing the qualifying project including the sources of the private entity's funds and identification of any dedicated revenue source or proposed debt or equity investment on the behalf of the private entity;

8. The names and addresses of the persons who may be contacted for further information concerning

the request;

9. User fees, lease payments, and other service payments over the term of the interim or comprehensive agreement pursuant to § 56-575.9 or 56-575.9:1 and the methodology and circumstances for changes to such user fees, lease payments, and other service payments over time; and

10. Such additional material and information as the responsible public entity may reasonably request.

B. The responsible public entity may request proposals or invite bids from private entities for the development or operation of qualifying projects.

C. The responsible public entity may grant approval of the development or operation of the education facility, technology infrastructure or other public infrastructure or government facility needed by a public entity as a qualifying project, or the design or equipping of a qualifying project so developed or operated, if the responsible public entity determines that the project serves the public purpose of this chapter. The responsible public entity may determine that the development or operation of the qualifying project as a qualifying project serves such public purpose if:

1. There is a public need for or benefit derived from the qualifying project of the type the private entity proposes as a qualifying project;

2. The estimated cost of the qualifying project is reasonable in relation to similar facilities; and

3. The private entity's plans will result in the timely development or operation of the qualifying project.

In evaluating any request, the responsible public entity may rely upon internal staff reports prepared by personnel familiar with the operation of similar facilities or the advice of outside advisors or consultants having relevant experience.

D. The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing and evaluating the request, including without limitation, reasonable attorney's fees and fees for financial, technical, and other necessary advisors or consultants.

E. The approval of the responsible public entity shall be subject to the private entity's entering into an interim or comprehensive agreement pursuant to § 56-575.9 with the responsible public entity.

F. In connection with its approval of the qualifying project, the responsible public entity shall establish a date for the commencement of activities related to the qualifying project. The responsible public entity may extend such date from time to time.

G. The responsible public entity shall take appropriate action to protect confidential and proprietary information provided by the private entity pursuant to an agreement under subdivision 44-10 of § 2.2-3705.6.

H. Nothing in this chapter or in an interim or comprehensive agreement entered into pursuant to this chapter shall be deemed to enlarge, diminish or affect the authority, if any, otherwise possessed by the responsible public entity to take action that would impact the debt capacity of the Commonwealth.

I. Prior to entering into the negotiation of an interim or comprehensive agreement, each responsible public entity that is an agency or institution of the Commonwealth shall submit copies of detailed proposals to the Public-Private Partnership Advisory Commission as provided by Chapter 42 (§ 30-278 et seq.) of Title 30.

J. Any proposed comprehensive agreement for a qualifying project where the responsible public entity is an agency or institution of the Commonwealth that (i) creates state tax-supported debt, (ii) requires a level of appropriation significantly beyond the appropriation received by the responsible public entity in the most recent appropriation act, or (iii) significantly alters the Commonwealth's discretion to change the level of services or the funding for such services over time, shall be reviewed by the appropriating body prior to execution.

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

A. Conceptual proposals submitted in accordance with subsection A or B of § 56-575.4 to a responsible public entity shall be posted by the responsible public entity within 10 working days after acceptance of such proposals as follows:

1. For responsible public entities that are state agencies, authorities, departments, institutions, and other units of state government, posting shall be on the Department of General Services' centralized electronic procurement website; and

2. For responsible public entities that are local bodies, posting shall be on the responsible public entity's website or on the Department of General Services' central electronic procurement website. In addition, such public bodies may publish in a newspaper of general circulation in the area in which the contract is to be performed a summary of the proposals and the location where copies of the proposals are available for public inspection. Such local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

In addition to the posting requirements, at least one copy of the proposals shall be made available for public inspection. Nothing in this section shall be construed to prohibit the posting of the conceptual

proposals by additional means deemed appropriate by the responsible public entity so as to provide maximum notice to the public of the opportunity to inspect the proposals. Trade secrets, financial records, or other records of the private entity excluded from disclosure under the provisions of subdivision 10 of § 2.2-3705.6 shall not be required to be posted, except as otherwise agreed to by the responsible public entity and the private entity.

B. The responsible public entity shall hold a public hearing on the proposals during the proposal review process, but not later than 30 days prior to entering into an interim or comprehensive agreement.

C. Once the negotiation phase for the development of an interim or a comprehensive agreement is complete, but before an interim agreement or a comprehensive agreement is entered into, a responsible public entity shall make available the proposed agreement in a manner provided in subsection A.

D. Once an interim agreement or a comprehensive agreement has been entered into, a responsible public entity shall make procurement records available for public inspection, upon request. For the purposes of this subsection, procurement records shall not be interpreted to include (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or (ii) financial records, including balance sheets or financial statements of the private entity that are not generally available to the public through regulatory disclosure or otherwise.

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

F. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

G. The provisions of this section shall apply to accepted proposals regardless of whether the process of bargaining will result in an interim or a comprehensive agreement.