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HOUSE BILL NO. 834

Offered January 13, 2016

Prefiled January 12, 2016

A BILL to amend and reenact §§ 2.2-2101, as it is currently effective and as it shall become effective, and 2.2-3711 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 26, consisting of sections numbered 2.2-2484 through 2.2-2489, relating to Virginia Growth and Opportunity Act; creation of Virginia Growth and Opportunity Board and Fund; establishment of regional councils; report.

Patrons—Cox, Torian, Yancey, Aird, Albo, Austin, Bagby, Bell, John J., Bulova, Carr, Collins, Filler-Corn, Fowler, Garrett, Greason, Heretick, Hester, Hope, Howell, Hugo, James, Jones, Keam, Kilgore, Knight, Landes, LaRock, Marshall, D.W., Mason, Massie, McClellan, McQuinn, Miller, Minchew, Murphy, O'Bannon, O'Quinn, Orrock, Peace, Pillion, Plum, Pogge, Poindexter, Rasoul, Rush, Sickles, Simon, Spruill, Stolle, Sullivan, Toscano, Tyler, Villanueva, Ward and Watts; Senator: Sturtevant

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2101, as it is currently effective and as it shall become effective, and 2.2-3711 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 24 of Title 2.2 an article numbered 26, consisting of sections numbered 2.2-2484 through 2.2-2489, as follows:

§ 2.2-2101. (Effective until July 1, 2017) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.25; to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § 23-231.31; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Standards of Learning Innovation Committee, who shall be appointed as provided for in § 22.1-253.13:10; to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the Council on Virginia's Future, who shall be appointed as provided for in § 2.2-2685; to members of the State Executive Council for Children's Services, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Board of Workforce Development, who shall be appointed as provided for in § 2.2-2471; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-222.3; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; or to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in § 2.2-2735; or to members of the Virginia Growth and Opportunity Board, who shall be appointed as provided in § 2.2-2486.

§ 2.2-2101. (Effective July 1, 2017) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

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Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.25; to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § 23-231.31; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Standards of Learning Innovation Committee, who shall be appointed as provided for in § 22.1-253.13:10; to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the State Executive Council for Children's Services, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Board of Workforce Development, who shall be appointed as provided for in § 2.2-2471; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-222.3; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; ~~to~~ to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in § 2.2-2735; *or to members of the Virginia Growth and Opportunity Board, who shall be appointed as provided in § 2.2-2486.*

Article 26.

Virginia Growth and Opportunity Act.

§ 2.2-2484. Definitions.

As used in this article, unless the context requires a different meaning:

"Board" means the Virginia Growth and Opportunity Board.

"Department" means the Department of Housing and Community Development.

"Fund" means the Virginia Growth and Opportunity Fund.

"Qualifying region" means a region with a regional council.

"Region" means one or more planning districts or otherwise defined areas designated as a region by the Board for the purpose of administering grants provided pursuant to this article.

"Regional activity" means an economic or workforce development-focused collaborative project or program that is (i) endorsed by a regional council; (ii) consistent with the economic growth and diversification plan developed by the regional council; and (iii) carried out, performed on behalf of, or contracted for by two or more localities, political subdivisions, or public bodies corporate and politic within a region.

"Regional council" means a public body certified by the Board as eligible to receive grants pursuant to this article and that is supported by or affiliated with an existing or newly established organization that engages in collaborative planning or execution of economic or workforce development activities within a region.

§ 2.2-2485. Virginia Growth and Opportunity Board; membership; terms; compensation.

A. The Virginia Growth and Opportunity Board is established as a policy board in the executive branch of state government. The purpose of the Board is to promote collaborative regional economic and workforce development opportunities and activities.

B. The Board shall have a total membership of 23 members that shall consist of eight legislative members, 12 nonlegislative citizen members, and three ex officio members. Members shall be appointed as follows: five members of the House of Delegates, consisting of the Chairman of the House Committee on Appropriations and four members appointed by the Speaker of the House of Delegates; three members of the Senate, consisting of the Chairman of the Senate Committee on Finance and two members appointed by the Senate Committee on Rules; four nonlegislative citizen members to be appointed by the Speaker of the House of Delegates, who shall be from different regions of the

Commonwealth and have significant private-sector business experience; four nonlegislative citizen members to be appointed by the Senate Committee on Rules, who shall be from different regions of the Commonwealth and have significant private-sector business experience; and four nonlegislative citizen members to be appointed by the Governor, who shall be from different regions of the Commonwealth and have significant private-sector business experience. At least two of the nonlegislative citizen members appointed by the Governor shall be from areas other than those represented by Planning District 8, 9, 15, 16, or 23. The Secretaries of Commerce and Trade, Education, and Finance shall serve *ex officio* with voting privileges. Nonlegislative citizen members shall be citizens of the Commonwealth.

C. Legislative members and *ex officio* members of the Board shall serve terms coincident with their terms of office. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. No House member shall serve more than four consecutive two-year terms, no Senate member shall serve more than two consecutive four-year terms, and no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

D. The Board shall elect a chairman and vice-chairman from among its membership. The chairman shall be a nonlegislative citizen member. A majority of the members shall constitute a quorum.

E. Legislative members of the Board shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive compensation as provided in § 2.2-2813 for the performance of their duties. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

F. Staff support and technical assistance to the Board and the Governor in carrying out the provisions of this article shall be provided by the agencies of the Secretariats of Commerce and Trade, Education, and Finance.

§ 2.2-2486. Powers and duties of the Board.

A. The Board shall have the power and duty to:

1. Designate regions for the purpose of administering this article;

2. Certify qualifying regions and regional councils, including developing and implementing guidelines or procedures for such certification;

3. Develop and implement guidelines and procedures for the application for and use of any moneys in the Fund;

4. Receive and assess applications for awards from the Fund submitted by regional councils and determine the distribution, duration, and termination of awards from the Fund for uses identified in such applications;

5. Advise the Governor on the allocation and prioritization of other funds available within the executive branch that may be used to promote economic and workforce development on a regional basis;

6. Advise the Governor on the provision of technical assistance regarding the organization and operation of regional councils, the preparation of applications for Fund awards, and the development, validation, and assessment of regional economic growth and diversification plans and regional activities that receive grants from the Fund;

7. Provide for the collection and dissemination of information concerning local, state, national, and other best practices related to collaborative regional economic and workforce development initiatives that focus on private-sector growth and opportunity;

8. Designate advisory committees with expertise in the industries or clusters around which grant requests are proposed to assist in carrying out the Board's duties;

9. Enter into contracts to provide services to regional councils to assist with prioritization, analysis, planning, and implementation of regional activities;

10. Submit to the Governor and the General Assembly an annual report for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Board no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website; and

11. Perform such other activities and functions as the Governor and General Assembly may direct.

B. The development of guidelines and procedures to implement the provisions of this article shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 *et seq.*).

§ 2.2-2487. The Virginia Growth and Opportunity Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Growth and Opportunity Fund. The Fund shall be established on the books of the Comptroller. All moneys appropriated by the General Assembly for the Fund, and from any other sources, public or private, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, included interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the Board.

B. Moneys in the Fund shall be used to facilitate regional collaboration on economic growth and diversification. Specifically, the Fund shall be used to incentivize and encourage cooperation among business, education, and government on regional strategic economic development and workforce development efforts. Available moneys in the Fund shall be allocated as follows:

1. A portion of the Fund may be used to support the initial organizational efforts of each regional council, such as capacity building activities, project prioritization, and studies and analyses related to the development of an economic growth and diversification plan for the region, including identification of existing and prospective gaps in education and skills within the region;

2. A portion shall be reserved for specific projects in each region on the basis of a region's share of state population, based on population estimates made by the Weldon Cooper Center for Public Service at the University of Virginia. However, the Board may cancel such reservation in whole or in part if, in the Board's judgment, the region has failed to establish a certified regional council or to otherwise meet the qualifications for grant funding in accordance with this article; and

3. A portion shall be competitively awarded on the basis of expected economic impact and outcomes without regard to a region's population.

Except for initial grants awarded pursuant to subdivision 1, no more than eight percent of any grants from the Fund to a single regional council shall be used for administrative or planning purposes.

C. Public comment shall be received by the Board when making decisions regarding awards from the Fund.

§ 2.2-2488. Formation of regional councils.

A. A regional council may be established in each region identified by the Board. Regional councils shall solicit, review, and recommend regional activity projects to the Board in accordance with this article.

B. When there is no certified regional council in existence in a region, the Board may provide for the formation of a regional council by designating a formation committee chairman and two members from the region. The formation committee chairman shall be a nonlegislative citizen member of the Board, and the chairman may designate up to two additional members of the formation committee. The formation committee shall be responsible for such consultation and recruitment within the region as is likely to result in certification of a regional council for the region. The formation committee chairman and members may serve as officers and members of the regional council.

C. A regional council shall include representatives from the education sector, economic and workforce development sector, local government, planning district commissions, nonprofit organizations, and other entities that significantly affect regional economic or workforce development. Membership may include one or more nonlegislative citizen members of the Board from the region. A majority of the members of a regional council shall be from the private sector with demonstrated significant private-sector business experience. A regional council shall be chaired by a citizen member from the region with significant private-sector business experience.

D. The Board shall certify that the regional council member selection process, membership, governance, structure, composition, and leadership meet the requirements of this article and the program guidelines and procedures. The Board shall certify that the regional council has adopted bylaws and taken other such steps in its organizational activities and business plan as are necessary or required by Board guidelines and procedures to provide for accountability for and oversight of regional activities funded from the Fund.

E. Public comment shall be received by the Board when certifying a regional council.

§ 2.2-2489. Award of grants to regional councils.

A. The Board shall establish guidelines, procedures, and objective criteria for the award and distribution of grants from the Fund to regional councils.

B. In order to qualify to receive grants from the Fund, a regional council shall develop an economic growth and diversification plan to (i) promote private-sector growth and opportunity in the region; (ii) identify issues of economic competitiveness for the region, including gaps in education and skills required to meet existing and prospective employer needs within the region; and (iii) outline steps that the collaborating business, education, and government entities in the region will pursue to expand economic opportunity, diversify the economy, and align workforce development activities with the

education and skills needed by employers in the region. A regional council shall review such plan not less than biennially while the regional council is receiving grants from the Fund.

C. The Board shall only consider those regional activities endorsed by a regional council in its application for grants from the Fund. For any regional activity included in a regional council's application, the regional council shall (i) identify the amount of grants requested and the number of years for which grants are sought; (ii) identify the participating business, education, and government entities and their respective roles and contributions; (iii) identify the private, local, and other sources of nonstate funding that the grant from the Fund will assist in generating, including specific amounts pledged by such sources as of the application date; and (iv) identify the economic impact or other outcomes that are reasonably expected to result from the proposed regional activity, including timetables and means of measurement.

D. Regional activities eligible for grants from the Fund shall be focused on high-impact, collaborative projects in a region that promote new job creation, entrepreneurship, and new capital investment; leverage nonstate resources to enhance collaboration; foster research, development, and commercialization activities; encourage cooperation among public bodies to reduce costs and duplication of government services; and promote other economic or workforce development activities consistent with this article that are authorized by the Board.

E. In determining a regional council's eligibility to receive grants from the Fund, and the amount of such grants, the Board shall review and score the proposed regional activities. Scores shall be assigned on the basis of predetermined criteria established by the Board in its guidelines and procedures based on the following factors:

1. The expected economic impact or outcome of the activity, with particular emphasis on goals identified in the regional council's plan for economic growth and diversification;

2. The fiscal resources from non-Fund sources that will be committed to the activity, including local or federal funds, private contributions, and cost savings expected to be achieved through regional collaboration;

3. The number and percentage of localities, including political subdivisions and bodies corporate and politic, within the region that are participating in the activity, the portion of the region's population represented by the participating localities, and the participation of localities that are outside of the applicant region;

4. The compatibility with other projects, programs, or existing infrastructure in a region to maximize the leverage of grants from the Fund to encourage new collaborative activities;

5. The expected economic impact and outcomes of the project and the complexity of the project relative to the size of the economy of the region or to the population of the participating localities;

6. The projected cost savings and other efficiencies generated by the proposed activity, and the local resources generated by collaboration that have been or will be repurposed to support the activity;

7. The character of the regional collaboration, including the nature and extent of the regional effort involved in developing and implementing the proposed activity, the complexity of the activity, the prospective impact on relations between and among the affected localities, and the prospective impact on collaboration between and among business, education, and government entities in the region;

8. Interstate, inter-regional, and other beneficial forms of collaboration, if any, that will accompany, result from, or be encouraged by the activity;

9. Efficiency in the administration and oversight of regional activities; and

10. Other factors deemed to be appropriate by the Board and the Governor.

F. Each regional council awarded a grant from the Fund shall issue an annual report that shall include, at a minimum, an assessment of the impact and outcomes from regional activities supported by grants from the Fund and the region's overall progress in addressing the goals and strategies identified in the region's plan for economic growth and diversification. Such assessment shall address performance criteria prescribed in the program guidelines and procedures.

G. Subject to the provisions of § 2.2-2488 and this section, once a regional council becomes eligible for grants from the Fund, the regional council may continue to apply for and receive grants from the Fund to support economic activities consistent with the regional council's economic growth and diversification plan in such amounts and for such duration as the Board may determine in accordance with its guidelines and procedures. The Board may terminate any payments to regional councils that fail to perform in accordance with this article, the Board's guidelines or procedures, or any conditions expressly agreed upon as part of a grant award, or for malfeasance. The Board may require the refund of moneys from the Fund upon such termination. Grants that are terminated shall revert to the Fund for distribution on an unallocated competitive basis.

H. In making Fund recommendations and awards, the Board may consider regional activities that commenced prior to the enactment of this article, provided that the grant-funded program or project will expand the scope of, or increase the number of localities participating in, such preexisting activity.

300 *I. No regional council may have outstanding grant commitments of more than 25 percent of the total*
301 *amount appropriated to the Fund.*

302 *J. The year for grant payments shall be the Commonwealth's fiscal year following the calendar year*
303 *in which the region qualifies, with payments made annually by the Comptroller upon certification by the*
304 *Board. Grant amounts shall be made at the sole discretion of the Board.*

305 § 2.2-3711. Closed meetings authorized for certain limited purposes.

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

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

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

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

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

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

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

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

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

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

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

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

360 12. Discussion, consideration, or review by the appropriate House or Senate committees of possible
361 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement

filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

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

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

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

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

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

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

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of records excluded from this chapter pursuant to subdivision 3 or 4 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

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

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, and those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6.

22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development

423 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
424 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
425 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
426 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
427 Medical School, as the case may be.

428 23. In the case of the Virginia Commonwealth University Health System Authority, discussion or
429 consideration of any of the following: the acquisition or disposition of real or personal property where
430 disclosure would adversely affect the bargaining position or negotiating strategy of the Authority;
431 operational plans that could affect the value of such property, real or personal, owned or desirable for
432 ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and
433 contracts for services or work to be performed by the Authority; marketing or operational strategies
434 where disclosure of such strategies would adversely affect the competitive position of the Authority;
435 members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications
436 or evaluations of other employees. This exemption shall also apply when the foregoing discussions occur
437 at a meeting of the Virginia Commonwealth University Board of Visitors.

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

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

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

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

456 28. Discussion or consideration of records excluded from this chapter pursuant to subdivision 11 of
457 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
458 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
459 responsible public entity concerning such records.

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

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

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

471 32. [Expired.]

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

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

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

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

482 37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards
483 Committee of records or confidential matters excluded from this chapter pursuant to subdivision 3 of
484 § 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 pursuant to subdivision 1 of § 2.2-3705.6.

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

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

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

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

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

44. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of records excluded from this chapter pursuant to subdivision 23 of § 2.2-3705.6.

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

46. Discussion or consideration of personal and proprietary information that are excluded from the provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exemption shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

47. (Effective July 1, 2018) Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.3 or subdivision 34 of § 2.2-3705.7.

48. *Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 of Title 2.2 to be submitted for consideration to the Virginia Growth and Opportunity Board.*

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

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

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

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

2. That the initial appointments of nonlegislative citizen members to the Virginia Growth and Opportunity Board shall be staggered as follows: (i) one member for two years, two members for three years, and one member for one year appointed by the Speaker of the House of Delegates; (ii) two members for two years, one member for three years, and one member for four years

546 appointed by the Senate Committee on Rules; and (iii) one member for two years, one member for
547 three years, and two members for four years appointed by the Governor.
548 3. That the Chairmen of the Senate Committee on Finance and the House Committee on
549 Appropriations shall convene a working group to assist the Virginia Growth and Opportunity
550 Board in the development of guidelines and procedures to implement the provisions of this act.
551 The working group shall include representatives of state and regional economic development
552 organizations, regional workforce entities, planning district commissions, manufacturing and small
553 business associations, local government, and other such entities and individuals as the Chairmen
554 deems appropriate. The working group shall conclude its work on the guidelines by October 15,
555 2016, but shall remain constituted and shall convene upon the call of the Chairmen to provide
556 guidance on future changes to the guidelines and procedures or other activities related to the
557 implementation of this act.