

2023 SESSION

SENATE SUBSTITUTE

23107516D

SENATE BILL NO. 845

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on February 24, 2023)

(Patron Prior to Substitute—Senator Petersen)

A BILL to amend and reenact § 8.01-223.2 of the Code of Virginia, relating to immunity of persons; tort actions; assertion of immunity; attorney fees and costs.

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-223.2 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-223.2. Immunity of persons for statements made at public hearing or communicated to third party.

A. A person shall be immune from ~~civil tort liability for a violation of § 18.2-499, a claim of tortious interference with an existing contract or a business or contractual expectancy, or a claim of defamation~~ *if the tort claim is* based solely on statements (i) regarding matters of public concern that would be protected under the First Amendment to *the Constitution of* the United States ~~Constitution~~ made by that person that are communicated to a third party ~~or~~, (ii) made at a public hearing before, *or otherwise communicated to*, the governing body of any locality or other political subdivision, or the boards, commissions, agencies and authorities thereof, and other governing bodies of any local governmental entity concerning matters properly before such body, *or (iii) made by an employee against an employer where retaliatory action arising from such statements is prohibited by § 40.1-27.3.*

B. The immunity provided by this section shall not apply to any statements ~~made with actual or constructive knowledge that they are the declarant knew or should have known were false or were made~~ with reckless disregard for whether they ~~are~~ were false.

~~B.~~ C. Any person who has a suit against him dismissed or a witness subpoena or subpoena duces tecum quashed, *or otherwise prevails in a legal action*, pursuant to the immunity provided by this section may be awarded reasonable attorney fees and costs.

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