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HOUSE BILL NO. 2104

Offered January 14, 2015

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A BILL to amend and reenact §§ 2.2-3705.7 and 2.2-3711 of the Code of Virginia, relating to the Virginia Freedom of Information Act; records held by both Virginia Commonwealth University (VCU) and the VCU Medical Center; discussion of same.

Patrons—Peace and McQuinn

Referred to Committee on General Laws**Be it enacted by the General Assembly of Virginia:**

1. That §§ 2.2-3705.7 and 2.2-3711 of the Code of Virginia are amended and reenacted as follows:
§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exemptions.

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

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

As used in this subdivision:

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

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

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

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

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

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

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

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

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's

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own information shall not be denied.

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

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

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

12. Records of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of a 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 of the Virginia College Savings Plan, acting pursuant to § 23-38.77, relating to 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: (i) such records contain confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or 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) disclosure of such confidential analyses 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 records relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

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

15. Records of the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; data, records or information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and data, records or information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such data, records or information have not been publicly released, published, copyrighted or patented. *This exemption shall also apply when such records are in the possession of the Virginia Commonwealth University.*

16. Records of the Department of Environmental Quality, the State Water Control Board, State Air Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such records shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prohibit the disclosure of records

related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

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

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

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

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

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

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

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

24. Records of the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

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

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

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

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

(1) Invoking such exclusion prior to or 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.

The retirement system or the Virginia College Savings Plan shall determine whether the requested

182 exclusion from disclosure meets the requirements set forth in subdivision b.

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

185 26. Records of the Department of Corrections made confidential by § 53.1-233.

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

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

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

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

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

214 32. Records provided to the Department of Aviation by other entities of the Commonwealth in
215 connection with the operation of aircraft, where the records would not be subject to disclosure by the
216 entity providing the records. The entity providing the records to the Department of Aviation shall
217 identify the specific portion of the records to be protected and the applicable provision of this chapter
218 that exempts the record or portions thereof from mandatory disclosure.

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

221 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

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

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

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

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

242 5. Discussion concerning a prospective business or industry or the expansion of an existing business
243 or industry where no previous announcement has been made of the business' or industry's interest in

244 locating or expanding its facilities in the community.

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

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

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

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

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

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

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

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

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

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

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

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

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

303 19. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff
304 members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to

305 respond to such activity or a related threat to public safety; or discussion of reports or plans related to
306 the security of any governmental facility, building or structure, or the safety of persons using such
307 facility, building or structure.

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

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

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

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

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

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

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

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

366 28. Discussion or consideration of records excluded from this chapter pursuant to subdivision 11 of

§ 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, 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 17 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 18 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 19 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 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 Indemnification and Community 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.

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

428 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
429 obtain notice of the legal defect in their election.

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

433 E. This section shall not be construed to (i) require the disclosure of any contract between the
434 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
435 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
436 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
437 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
438 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
439 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
440 of such bonds.