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SENATE BILL NO. 1574

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on February 25, 2017)

(Patron Prior to Substitute—Senator Ruff)

A BILL to amend and reenact §§ 2.2-3711 and 60.2-114 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 2.2-2235.1, 2.2-2236.1, 2.2-2237.1, 2.2-2237.2, 2.2-2237.3, 2.2-2239.1, and 2.2-2239.2 and by adding in Article 1 of Chapter 31 of Title 58.1 a section numbered 58.1-3122.3; and to repeal § 2.2-2235 of the Code of Virginia, relating to the Virginia Economic Development Partnership Authority; membership; powers and duties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3711 and 60.2-114 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-2235.1, 2.2-2236.1, 2.2-2237.1, 2.2-2237.2, 2.2-2237.3, 2.2-2239.1, and 2.2-2239.2 and by adding in Article 1 of Chapter 31 of Title 58.1 a section numbered 58.1-3122.3 as follows:

§ 2.2-2235.1. Board of directors; members and officers; Chief Executive Officer.

A. The Authority shall be governed by a board of directors (the Board) consisting of the Secretary of Commerce and Trade, the Secretary of Finance, the Chairman of the Virginia Growth and Opportunity Board, the Executive Director of the Virginia Port Authority, and the Staff Directors of the House Committee on Appropriations and the Senate Committee on Finance, serving as ex officio, voting members, and eleven members to be appointed as follows:

1. Seven nonlegislative citizen members appointed by the Governor; and

2. Four nonlegislative citizen members appointed by the Joint Rules Committee.

B. 1. Each of the nonlegislative citizen members appointed by the Governor and the Joint Rules Committee shall possess expertise in at least one of the following areas: marketing; international commerce; finance or grant administration; state, regional, or local economic development; measuring the effectiveness of incentive programs; law; information technology; transportation; workforce development; or manufacturing.

2. It is the intent of the Governor and the General Assembly that the Board include representation from the broad geographic reaches of the Commonwealth. In order to achieve this goal, each of the nine regions defined by the Virginia Growth and Opportunity Board pursuant to subdivision A 1 of § 2.2-2486 shall be represented by at least one member of the Board. In determining such geographical representation, ex officio members of the Board may be considered to represent the region in which they serve in their official capacity.

C. After the initial staggering of terms, members shall serve terms of four years, except that ex officio members of the Board shall serve terms coincident with their terms of office. No member shall be eligible to serve more than two terms; however, after the expiration of the term of a member appointed to serve three years or less, two additional terms may be served if appointed thereto. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

D. Members of the Board shall receive such compensation for the performance of their duties as provided in § 2.2-2813. 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. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

E. The Board shall be deemed a supervisory board within the meaning of § 2.2-2100.

F. The Board shall elect a chairman from the nonlegislative citizen members of the Board, and the Secretary of Commerce and Trade shall serve as vice-chairman. The Board shall also elect a secretary and a treasurer, who need not be members of the Board, and may also elect other subordinate officers, who need not be members of the Board. The Board may also form advisory committees, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board.

G. A majority of the members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

H. The Board shall appoint the chief executive officer of the Authority, who shall not be a member of the Board, whose title shall be President and Chief Executive Officer and may be referred to as the President or as the Chief Executive Officer and who shall serve at the pleasure of the Board and carry

60 out such powers and duties conferred upon him by the Board.

61 **§ 2.2-2236.1. Internal auditor; duties.**

62 A. The Board shall appoint an internal auditor, who shall not be a member of the Board and who
63 shall report directly to the Board. The internal auditor shall have the following duties:

64 1. Perform periodic audits, as deemed advisable by the internal auditor, on all operations, accounts,
65 and transactions of the Authority, including the Division of Incentives, and report its findings to the
66 Board; and

67 2. Perform annual audits on all operations, accounts, and transactions of the Authority, including the
68 Division of Incentives, and report its findings to the Board.

69 B. After review by the Board, a copy of the audit reports required by subsection A shall be submitted
70 to the special subcommittee for economic development of the Joint Legislative Audit and Review
71 Commission.

72 **§ 2.2-2237.1. Board of directors to develop strategic plan for economic development; marketing
73 plan; operational plan; submission.**

74 A. The Board and the Chief Executive Officer shall develop and update biennially a strategic plan
75 for specific economic development activities for the Commonwealth as a whole. The strategic plan shall
76 be responsive to the comprehensive economic development policy developed pursuant to § 2.2-205. The
77 strategic plan of the Authority shall, at a minimum, include:

78 1. The identification of specific goals and objectives for the Authority and the development of
79 quantifiable metrics and performance measures for attaining each such goal and objective;

80 2. A systematic assessment of how the Authority can best add value in carrying out each of its
81 statutory powers and duties; and

82 3. Such other information deemed appropriate by the Board to ensure that the Authority fully
83 executes its powers and duties.

84 B. The Authority shall report annually on its strategic plan and its progress toward meeting the
85 goals and objectives as stated in the strategic plan to the special subcommittee on economic
86 development of the Joint Legislative Audit and Review Commission and the Chairmen of the House
87 Committee on Appropriations and the Senate Committee on Finance. Any modifications to the strategic
88 plan shall be promptly submitted to the special subcommittee on economic development of the Joint
89 Legislative Audit and Review Commission and the Chairmen of the House Committee on Appropriations
90 and the Senate Committee on Finance.

91 C. The Board shall include in its strategic planning process the participation of key economic
92 development partners, including state, regional, and local economic development agencies and
93 organizations and international trade organizations.

94 D. In addition, the Board and the Chief Executive Officer shall develop and update biennially:

95 1. A marketing plan for the Commonwealth as a whole. The marketing plan of the Authority shall, at
96 a minimum, include:

97 a. Identification of the Authority's specific and measurable marketing goals and the timetable to
98 achieve such goals;

99 b. Identification of specific marketing activities;

100 c. The resources and staff allocated to such marketing activities; and

101 d. The development of quantifiable metrics and performance measures for attaining each such goal.

102 The Authority shall report annually on its marketing plan and its progress toward meeting the goals
103 and objectives as stated in the marketing plan to the special subcommittee on economic development of
104 the Joint Legislative Audit and Review Commission and the Chairmen of the House Committee on
105 Appropriations and the Senate Committee on Finance. Any modifications to the marketing plan shall be
106 promptly submitted to the special subcommittee on economic development of the Joint Legislative Audit
107 and Review Commission and the Chairmen of the House Committee on Appropriations and the Senate
108 Committee on Finance; and

109 2. An operational plan for carrying out the powers and duties of the Authority. Such plan shall
110 include a process to evaluate the Authority's effectiveness in exercising the powers and duties conferred
111 by this article, including the Authority's ability to work with other state, regional, and local economic
112 development organizations and international trade organizations. The Authority shall report annually on
113 its operational plan and its progress toward meeting the goals and objectives as stated in the
114 operational plan to the special subcommittee on economic development of the Joint Legislative Audit
115 and Review Commission and the chairmen of the House Committee on Appropriations and the Senate
116 Committee on Finance. Any modifications to the operational plan shall be promptly submitted to the
117 special subcommittee on economic development of the Joint Legislative Audit and Review Commission.

118 **§ 2.2-2237.2. Office of the Attorney General to provide instruction to Board.**

119 The Attorney General or his designee assigned as counsel to the Board shall provide instruction to
120 the Board on its responsibilities and obligations as a supervisory board within 30 days after the initial
121 appointment of members of the Board. Thereafter, such counsel shall provide such instruction biennially.

§ 2.2-2237.3. Division of Incentives.

A. Within the Authority shall be created a Division of Incentives that shall be responsible for reviewing, vetting, tracking, managing, and coordinating the economic development incentives offered by the Commonwealth and each locality for each approved project.

B. No project that includes an offer of economic development incentives by the Commonwealth, including grants or loans from the Commonwealth's Development Opportunity Fund, shall be approved by the Governor until (i) the Division of Incentives has undertaken appropriate due diligence regarding the proposed project and the Secretary of Commerce and Trade has certified that the proposed incentives to be offered are appropriate based on the investment and job creation anticipated to be generated by the project and (ii) when required by § 30-310, the MEI Project Approval Commission has reviewed the proposed incentives.

C. Any contract or memorandum of understanding for the award of economic development incentives by the Commonwealth shall set forth the investment and job creation requirements for the payment of the incentive and shall include a stipulation that the business beneficiary of the incentives shall be liable for the repayment of all or a portion of the incentives if the business beneficiary fails to make the required investments or create the required number of jobs. If it is determined that a business beneficiary is liable for the repayment of all or a portion of an economic development incentive awarded by the Board, the Board may direct the Office of the Attorney General to enforce the provisions of the contract or memorandum of understanding regarding the repayment.

D. Notwithstanding any other provision of law, approval of the Board shall be required to grant an extension for an approved project to meet the investment and job creation requirements set forth in the contract or memorandum of understanding. Notwithstanding any other provision of law, approval of both the Board and the MEI Project Approval Commission shall be required to grant any additional extensions.

E. The Division of Incentives shall provide semiannual updates to the Board of the status and progress of investment and job creation requirements for all projects for which economic development incentives have been awarded, until such time as the investment and job creation requirements are met or the incentives are repaid to the Commonwealth. Updates shall be provided more frequently upon the request of the Board, or if deemed necessary by the Division of Incentives.

F. The Board shall establish a subcommittee, consisting of the ex officio members of the Board, to receive and review employment information received from the Virginia Employment Commission in order to assist the Division of Incentives with the verification of employment and wage claims of those businesses that have received incentive awards. Such information shall be confidential and shall not be (i) redisclosed to other members of the Board in accordance with the provisions of subdivision C 2 of § 60.2-114 or (ii) subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 2.2-2239.1. Committee on Business Development and Marketing.

A. The Board shall establish a Committee on Business Development and Marketing (the Committee) consisting of nine nonlegislative citizen members representing local or regional economic development entities from each of the regions designated by the Virginia Growth and Opportunity Board in accordance with § 2.2-2486 as follows:

1. Four nonlegislative citizen members, at least one of whom shall be from Northern Virginia, one of whom shall be from Hampton Roads, and one of whom shall be from Richmond, to be appointed by the Governor and approved by the General Assembly; and

2. Five nonlegislative citizen members appointed by the Joint Rules Committee.

B. 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. All members may be reappointed. Members appointed to the Committee shall serve without compensation but 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. Staffing of the Committee shall be provided by the Authority. The Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum.

C. The Committee shall advise the Board on all matters relating to business development and marketing and shall make such recommendations as it may deem desirable.

§ 2.2-2239.2. Committee on International Trade.

A. The Board shall establish a Committee on International Trade (the Committee) consisting of the Secretary of Agriculture and Forestry, serving as an ex officio member with voting privileges and whose term is coincident with his term of office, and eight nonlegislative citizen members as follows:

1. One member who is a member of the Board of Commissioners of the Virginia Port Authority and two nonlegislative citizen members possessing experience or expertise in international trade or trade

183 *promotion appointed by the Governor and approved by the General Assembly; and*

184 *2. Five nonlegislative citizen members possessing experience or expertise in international trade or*
185 *trade promotion appointed by the Joint Rules Committee.*

186 *The Virginia Manufacturing Association shall submit to the Governor and the Joint Rules Committee*
187 *a list of 12 recommendations for appointments to the Committee. One of the Governor's appointments*
188 *pursuant to subdivision 1 shall be made from such list, and two of the Joint Rules Committee's*
189 *appointments pursuant to subdivision 2 shall be made from such list.*

190 *B. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term*
191 *of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the*
192 *unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All*
193 *members may be reappointed. Members appointed to the Committee shall serve without compensation*
194 *but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their*
195 *duties as provided in §§ 2.2-2813 and 2.2-2825. Staffing of the Committee shall be provided by the*
196 *Authority. The Committee shall elect a chairman and vice-chairman from among its membership. A*
197 *majority of the members shall constitute a quorum.*

198 *C. The Committee shall advise the Board on all matters relating to international trade and trade*
199 *promotion and shall make such recommendations as it may deem desirable.*

200 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

202 *1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,*
203 *appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public*
204 *officers, appointees, or employees of any public body; and evaluation of performance of departments or*
205 *schools of public institutions of higher education where such evaluation will necessarily involve*
206 *discussion of the performance of specific individuals. Any teacher shall be permitted to be present*
207 *during a closed meeting in which there is a discussion or consideration of a disciplinary matter that*
208 *involves the teacher and some student and the student involved in the matter is present, provided the*
209 *teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing*
210 *in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body*
211 *or an elected school board to discuss compensation matters that affect the membership of such body or*
212 *board collectively.*

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

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

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

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

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

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

239 *8. In the case of boards of visitors of public institutions of higher education, discussion or*
240 *consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts*
241 *for services or work to be performed by such institution. However, the terms and conditions of any such*
242 *gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign*
243 *person and accepted by a public institution of higher education in Virginia shall be subject to public*
244 *disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,*

(i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

12. Discussion, consideration, or review by the appropriate House or Senate committees of possible 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 information 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 § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, 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 or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

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

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

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

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

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

28. Discussion or consideration of information 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 information 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 information excluded from this chapter pursuant to subdivision 8 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 information and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

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 information 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 information 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 information 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 § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.

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

41. Discussion or consideration by the Board of Education of information 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 information excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.2.

43. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information 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 information 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 information 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 exclusion 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 information excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.3 or subdivision 34 of § 2.2-3705.7.

48. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1.

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

50. *Those portions of meetings of the subcommittee of the Board of the Virginia Economic*

429 *Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and*
430 *discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of*
431 *§ 60.2-114.*

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

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

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

442 E. This section shall not be construed to (i) require the disclosure of any contract between the
443 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
444 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
445 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
446 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
447 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
448 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
449 of such bonds.

450 **§ 58.1-3122.3. Commissioners to provide certain information to the Virginia Economic**
451 **Development Partnership Authority; confidentiality of such information.**

452 A. Each commissioner of the revenue shall provide to the Virginia Economic Development
453 Partnership Authority (the Authority), upon entering into a written agreement, such tax information as
454 may be necessary to facilitate the administration and enforcement by the Authority of performance
455 agreements with businesses that have received incentive awards, the provisions of § 58.1-3
456 notwithstanding.

457 B. Any tax information provided to the Authority under this section shall be confidential and shall
458 not be divulged by the Authority. Any tax information so provided shall be used by the Authority solely
459 for the purpose of verifying capital investment claims of those businesses that have received incentive
460 awards.

461 **§ 60.2-114. Records and reports.**

462 A. Each employing unit shall keep true and accurate work records, containing such information as
463 the Commission may prescribe. Such records shall be open to inspection and be subject to being copied
464 by the Commission or its authorized representatives at any reasonable time and as often as may be
465 necessary. The Commission may require from any employing unit any sworn or unsworn reports, with
466 respect to persons employed by it, which the Commission deems necessary for the effective
467 administration of this title. Information thus obtained shall not be published or be open to public
468 inspection, other than to public employees in the performance of their public duties, in any manner
469 revealing the employing unit's identity, except as the Commissioner or his delegates deem appropriate,
470 nor shall such information be used in any judicial or administrative proceeding other than one arising
471 out of the provisions of this title; however, the Commission shall make its records about a claimant
472 available to the Workers' Compensation Commission if it requests such records. However, any claimant
473 at a hearing before an appeal tribunal or the Commission shall be supplied with information from such
474 records to the extent necessary for the proper presentation of his claim. Notwithstanding other provisions
475 of this section, the Commissioner, or his delegate, may, in his discretion, reveal information when such
476 communication is not inconsistent with the proper administration of this title.

477 B. Notwithstanding the provisions of subsection A, the Commission shall, on a reimbursable basis,
478 furnish wage and unemployment compensation information contained in its records to the Secretary of
479 Health and Human Services and the Division of Child Support Enforcement of the Department of Social
480 Services for their use as necessary for the purposes of the National Directory of New Hires established
481 under § 453 (i) of the Social Security Act.

482 C. Notwithstanding the provisions of subsection A, the Commission shall, upon written request,
483 furnish any:

484 1. Any agency or political subdivision of the Commonwealth, or its designated agent, such
485 information as it may require for the purpose of collecting fines, penalties, and costs owed to the
486 Commonwealth or its political subdivisions. Such information shall not be published or used in any
487 administrative or judicial proceeding, except in matters arising out of the collection of fines, penalties,
488 and costs owed to the Commonwealth or its political subdivisions; and

489 2. The Virginia Economic Development Partnership Authority such information as it may require to
490 facilitate the administration and enforcement by the Authority of performance agreements with

businesses that have received incentive awards. Any information provided to the Authority under this subdivision shall be confidential pursuant to 20 C.F.R. Part 603 and shall only be disclosed to members of the Authority who are public officials or employees of the Authority for the performance of their official duties. No public official or employee shall redisclose any confidential information obtained pursuant to this subdivision to nonlegislative citizen members of the Authority or to the public. Any information so provided shall be used by the Authority solely for the purpose of verifying employment and wage claims of those businesses that have received incentive awards.

D. Each employing unit shall report to the Virginia New Hire Reporting Center the employment of any newly hired employee in compliance with § 63.2-1946.

E. Any member or employee of the Commission and any member, employee, or agent of any agency or political subdivision of the Commonwealth who violates any provision of this section shall be guilty of a Class 2 misdemeanor.

2. That § 2.2-2235 of the Code of Virginia is repealed.

3. That the terms of the persons currently serving as members of the board of directors of the Virginia Economic Development Partnership Authority shall expire on July 1, 2017.

4. That the initial appointments of the board of directors of the Virginia Economic Development Partnership Authority made in accordance with the provisions of this act shall be staggered as follows: (i) of the seven nonlegislative citizen members appointed by the Governor, four shall be appointed for a term of one year and three shall be appointed for a term of three years and (ii) of the four nonlegislative citizen members appointed by the Joint Rules Committee, two shall be appointed for a term of one year and two shall be appointed for a term of three years. Thereafter, the terms of members of the board of directors shall be four years. All members appointed pursuant to this enactment shall be eligible for reappointment to two full terms after the expiration of the initial term.

5. That any current member of the board of directors of the Virginia Economic Development Partnership Authority is eligible for reappointment in accordance with the provisions of this act, provided that such member meets the qualifications set forth in § 2.2-2235.1 as created by this act.

6. That the initial appointments of the Committee on Business Development and Marketing made in accordance with the provisions of this act shall be staggered as follows: (i) of the four nonlegislative citizen members appointed by the Governor, one shall be appointed for a term of one year, two shall be appointed for a term of two years, and one shall be appointed for terms of three years and (ii) of the five nonlegislative citizen members appointed by the Joint Rules Committee, three shall be appointed for a term of three years and two shall be appointed for a term of four years. Thereafter, the terms of members of the Committee on Business Development and Marketing shall be four years.

7. That the initial appointments of the Committee on International Trade made in accordance with the provisions of this act shall be staggered as follows: (i) of the two nonlegislative citizen members appointed by the Governor, one shall be appointed for a term of two years and one shall be appointed for a term of three years; (ii) the member of the Board of Commissioners of the Virginia Port Authority appointed by the Governor shall serve a term of four years; and (iii) of the five nonlegislative citizen members appointed by the Joint Rules Committee, one shall be appointed for a term of one year, two shall be appointed for a term of three years, and two shall be appointed for a term of four years. Thereafter, the terms of members of the Committee on International Trade shall be four years.