ORIENTATION GUIDE

Commonwealth Transportation Board

Virginia Department of Transportation
Governance and Legislative Affairs Division
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NOTE: As a summary of official duties and legislative requirements associated with service on the Commonwealth Transportation Board, this document is classified as a Governance Document. It is updated at least once a year following changes to the *Code of Virginia* or pertinent policy/organizational changes, and is effective as of the revised issuance date indicated below:

January 25, 2018
This Guide is intended to provide Commonwealth Transportation (CTB) members with information that will help them become acclimated to routine activities associated with CTB service. Chapter 1 of the Guide presents general information on CTB responsibilities related to subjects such as public hearings, conflict of interests and the Virginia Freedom of Information Act (FOIA). Chapter 2 discusses the relationship between the Virginia Department of Transportation (VDOT) and the Department of Rail and Public Transportation (DRPT), and provides a brief overview of subjects such as agency budgets, revenue sources, and various transportation programs.
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Chapter 1: Commonwealth Transportation Board Responsibilities

Public Hearings, Contacts, and Press Coverage

Public hearings are held to provide citizens, local governments, and others an opportunity to participate in the decision making processes of public bodies. The Code of Virginia sets out general requirements for the public hearing process in § 33.2-208 (B). Hearings are held on the location and design of planned highway system construction and improvement projects, and are conducted by the department's engineers in the county, city, or town where a proposed project is located. Full opportunity for participation by the public is provided before final approval of highway locations and designs. As provided by 24 VAC 30-380 (Public Hearings for the Location and Design of Highway Construction Projects), public hearings are not required for emergency projects, or those that are solely for highway maintenance or operational improvements, or both, except when they:

1. Involve emergency paving of unpaved secondary roads pursuant to § 33.2-333 of the Code of Virginia;
2. Require the acquisition of additional right of way;
3. Would have an unfavorable effect upon abutting real property; or
4. Would change the layout or function of connecting roadways or the facility being improved.

Public hearings are held annually on updates to the Six-Year Improvement Program (SYIP) – a state document that outlines planned spending for transportation projects proposed for construction, development, or study for the next six fiscal years. These meetings provide an opportunity for the public to comment on candidate projects for inclusion in the tentative SYIP. CTB members are asked to participate in these meetings, and may be called upon to attend additional meetings as necessary.

Ordinarily, the CTB’s regular meetings and public hearings are covered by the news media. The CTB encourages media coverage, regarding it as the most effective means of communicating with the public on a continuing basis. There are certain instances, as authorized under the Virginia Freedom of Information Act (FOIA), when the CTB gathers in a closed meeting to consider specific matters. FOIA is discussed briefly elsewhere in this chapter.

Aside from scheduled meetings and hearings, CTB members will be contacted from time to time by private citizens, local government officials, and others to discuss a variety of transportation issues. Generally, these contacts will deal with specific local highway projects and road conditions. The district and field offices and other department staff members are available to assist in responding to such inquiries. CTB members may also be contacted occasionally by the news media in their geographic areas asking about a specific issue. Members should feel free to comment if they are comfortable with the information they possess; otherwise, appropriate staff members will assist in the preparation of a response.

Conflict of Interests

New members of the CTB will want to become familiar with the application of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) This Act establishes the law applicable to all state and local government officers and employees regarding conflicts of interests affecting their economic assets. The Act assures the citizens of Virginia that the judgment of public officers and employees will not be compromised or affected by inappropriate financial conflicts. The Conflict of Interests Act covers three general categories of financial conflicts:
1. Actions that generally are prohibited;
2. Prohibited conduct regarding certain contracts; and
3. Prohibited conduct regarding certain transactions, generally involving voting or other participation.

Knowing violations of Articles 2 through 6 (§§ 2.2-3102 through 2.2-3119) of the Conflict of Interests Act are considered Class I misdemeanors and violations of the Act are considered malfeasances in office or employment. A conviction for violation of the Act will require forfeiture of any money or thing of value obtained as a result of the violation, and may result in a fine, civil penalty, or loss of position.

Statement of Economic Interests and Financial Disclosure Form

The State and Local Government Conflict of Interests Act requires Virginia officers and employees serving in state and local governments disclose their financial interests. These statements are available for public review for a period of no less than five years. State officers and employees are further required to attend orientation courses wherein they are instructed in regards to conflicts of interests. Members of the Commonwealth Transportation Board file a Financial Disclosure Form. The filing of this document occurs when the individual assumes the office or employment and then annually by February 1. Information pertaining to real estate, business interests, gifts, travel and liabilities among other matters is subject to disclosure.

External resources are available to assist members in avoiding any infractions. These include:

- The Office of the Attorney General (OAG), whose duties include reviewing disclosure statements; and investigating possible violations of the Act.

- As of November 1, 2015, the Virginia Conflict of Interest and Ethics Advisory Council, which was created by the General Assembly, assumed responsibilities concerning the Act. Statements of Economic Interest and Financial Disclosure forms are submitted through its website: http://ethics.dls.virginia.gov/. The Council also maintains online training modules and issues advisory opinions on compliance with the Act.

- The Secretary of the Commonwealth’s Appointments Division assists with the initial filing of the Financial Disclosure.

The Governance and Legislative Affairs Division is available to serve as liaison between members and these resources, as needed. The Office of the Commissioner is also available to provide assistance.

Freedom of Information Act

The Virginia Freedom of Information Act (FOIA), § 2.2-3700 et seq. of the Code of Virginia is intended to ensure citizens ready access to records in the custody of public officials and free entry to meetings of public bodies where the business of the people is being conducted. Pursuant to § 2.2-3702 of the Code, CTB members have an affirmative duty to read and familiarize themselves with the Act and how it works.

Historically, the CTB, VDOT, and DRPT have practiced openness and accessibility to their activities. The CTB is required by FOIA to give notice of the date, time, and location of its official meetings, or of other meetings where two or more members of the CTB are present and participate, such as a public hearing on the SYIP. It is also sometimes necessary for CTB members to hold a closed meeting to discuss certain matters as authorized by FOIA.
For example, the FOIA statute permits closed meetings of public bodies to discuss actual or probable litigation, certain personnel matters, the acquisition of real property for public purposes, discussion of the award of a public contract, and the disposition of government-owned real property. For actions involving real property, closed meetings are also permitted when discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body. However, a closed meeting cannot be invoked just because the public body's attorney is present at the meeting or has been consulted regarding a matter up for discussion.

The FOIA statute also requires public bodies, before going into a closed meeting, to cast a recorded public vote as to its intention, stating specifically the purpose or purposes of the closed meeting. The motion must identify the subject matter, state the purpose of the meeting, and make specific reference to the applicable statutory exemption. While in a closed meeting, the public body must restrict its consideration to only those matters as specified in the motion authorizing the closed session. In order to be effective, any decisions reached in the closed session must, subsequently, be approved in an open, public meeting.

Except as provided in subsection G of § 2.2-3708 or § 2.2-3708.1, state public bodies may conduct any meeting wherein the public business is discussed or transacted through electronic communication means, provided (i) a quorum of the public body is physically assembled at one primary or central meeting location, (ii) notice of the meeting has been given in accordance with subsection C of § 2.2-3708, and (iii) the remote locations, from which additional members of the public body participate through electronic communication means, are open to the public. All persons attending the meeting at any of the meeting locations shall be afforded the same opportunity to address the public body as persons attending the primary or central location.

Section 2.2-3708.1 sets out the procedures that must be followed to allow a member of public body to participate in a meeting subject to FOIA through electronic communication means from a remote location that is not open to the public. Requirements include the following: (i) the public body must have adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation as allowed by law; (ii) a quorum of the public body must be physically assembled at the primary or central meeting location; and (iii) the public body must make arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

The Act allows members of a public body to separately contact all or part of the body’s membership to ascertain member positions concerning the transaction of public business, whether such contact is in person, by telephone, or by electronic communication, provided it is on a basis that does not constitute a meeting as defined by the Act.

The term "meeting" or "meetings" means:

the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.2-3708 or 2.2-3708.1, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. Neither the gathering of employees of a public body nor the gathering or attendance of two or more members of a public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, or (ii) at a public forum, candidate appearance, or debate,
the purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting, shall be deemed a "meeting" subject to the provisions of this chapter.

Fines for first violations of the Act range from $500 to $2,000. For subsequent violations, fines range from $2,000 to $5,000.

Section 2.2-3707.1 of the Code of Virginia requires executive branch agencies to post minutes of public meetings on the Internet. The law requires that draft minutes be posted within ten working days and that final minutes be posted within three working days of final approval of the minutes.

Virginia Public Records Act

The Virginia Public Records Act, § 42.1-76 et seq. of the Code of Virginia is intended to ensure all public officers and employees are aware of requirements associated with public records management and preservation and to ensure that the procedures used to manage and preserve public records are uniform throughout the Commonwealth. Pursuant to § 42.1-76.1 of the Code, CTB members have an affirmative duty to read and familiarize themselves with the Act and their obligations with respect to records management.

Compensation, Travel, and Reimbursement

Members of the CTB are entitled to compensation of $50 for each day's service, as provided by § 2.2-2813 (B) of the Code of Virginia. Members of boards, commissions, committees, councils and other similar bodies may not receive total compensation for a single day of more than one payment of the amount specified for attending meetings and for services performed on that day connected with the body, including all committees, subcommittees, or other related entities of the body of which the person is a member. Furthermore, whenever a member performs services or attends two or more meetings in a single day for two or more boards, commissions, etc., compensation and expenses shall be prorated among the bodies served. In addition, reimbursement at reasonable cost may be received for meals, overnight lodging expenses, and telephone calls, as provided by §§ 2.2-2813 (A) and 2.2-2813 (B) of the Code of Virginia.

The Commonwealth’s Department of Accounts annually issues state travel guidelines, including expense reimbursement rates. For specific information on current expense guidelines, lodging rates, and meals/incidental expenses reimbursement rates, consult the information in Appendix D, or contact the Commissioner’s Office.
Chapter 2: Relationships Among State Transportation Agencies

Organization of Agencies within the Transportation Secretariat

The Commonwealth Transportation Board (CTB) has direct authority to approve the policies and objectives of the Virginia Department of Transportation (VDOT) and the Department of Rail and Public Transportation (DRPT). The CTB allocates funds to other agencies (including some outside the Transportation Secretariat) through the funding mechanism established by statute. Although the member agencies in the Secretariat function independently of one another, they are linked to the CTB through their reporting relationship to the Secretary of Transportation, as shown below:

Organizational Structure of the Transportation Secretariat

*Secretary serves as Chairman of the CTB
Role of the Virginia Department of Transportation

The Virginia Department of Transportation (VDOT) has the responsibility for construction, maintenance, and operation of the interstate, primary, and secondary highways, under legislation enacted by the General Assembly and the overall guidance of the CTB. It is also responsible for coordinating highway programs with rail and public transportation programs developed at either the federal or state level. Additionally, it is responsible for the state urban construction program.

Pursuant to § 33.2-201 of the Code of Virginia, the Commonwealth is divided into nine geographic districts for the administration of highways. These districts are divided into field offices (including residency offices in eight districts and four district offices in the Northern Virginia District, an urban district), each typically consisting of two to seven counties, with a network of area headquarters supporting these offices.

At the senior management level, the Commissioner of Highways is the chief executive officer of VDOT, as provided for by § 33.2-222 of the Code of Virginia. Other members of the senior management staff are the chief deputy commissioner; the chief of administration; the chief engineer; the chief financial officer; the chief of policy; the deputy chief engineer; the chief of innovation; and nine district engineers/administrators.

At the divisional level, the Governance and Legislative Affairs Division serves as staff to the CTB to ensure that policy directives are maintained as a resource to the Secretary’s Office, the CTB, and senior VDOT management.

The purpose, mission, and values statements follow the organizational chart on the pages below, and provide general guidance for VDOT. Information about VDOT and current projects can be obtained from the Internet at the following address:

http://www.virginiadot.org
VDOT Mission and Shared Values Statements

Mission Statement

Our mission is to plan, deliver, operate and maintain a transportation system that is safe, enables easy movement of people and goods, enhances the economy and improves our quality of life.

In 2017, the General Assembly enacted legislation, HB 2241 and a companion bill, SB 1331 (Chapters 273 and 166 respectively), that established the core mission for VDOT: to maintain and operate the system of state highways; to develop, oversee, and manage highway projects included in the Six-Year Improvement Program pursuant to § 33.2-214 based on guidance from the Commonwealth Transportation Board or funded pursuant to § 33.2-1524; and to ensure the safety of the traveling public on the system of state highways.

Shared Values in Public Service

- Be responsive to customer needs, consider what VDOT does in terms of how it benefits our customers, and treat customers with respect, courtesy, and fairness
- Commit to safety and continuous improvement in everything we do, learning from mistakes and successes alike
- Trust, respect, support, and encourage each other
- Respect and protect the public investment
- Make decisions based on facts and sound judgment and accept accountability for our actions
- Strengthen our expertise in using information, tools, and technology to achieve high performance and stay on the cutting edge
- Think ahead, acting and planning creatively for today and tomorrow

VDOT's Budget

The Virginia Department of Transportation's (VDOT) annual budget for Fiscal Year 2018 is approximately $5.41 billion. This amount represents a one percent increase over the previous year. The increase from the previous year is primarily driven by project participation from the regional entities and localities, and an offsetting reduction in state revenue and a reduction in the planned use of GARVEE bonds. The annual budget is based on the most recent official state revenue forecast from December 2016 and estimated federal funding.

VDOT has four primary sources for its transportation revenues:

- Sales taxes on motor fuels
- Motor Vehicle Sales and Use Tax
- Motor Vehicle License Fee and
- State Sales and Use Tax

Funds that will be provided for highway maintenance and operations represent 40 percent of the total budget, followed by 35 percent for highway construction.

Smaller portions of the budget are directed to address the needs and requirements of debt service, support to other agencies, tolls, administration, and other programs.
The $5.41 billion budget is distributed as follows:

- Debt Service: $356.0 million
- Road maintenance (includes city/county street payments): $2.13 billion
- Support to other agencies, tolls, administration, etc.: $548.6 million
- Funding for local/regional projects in Hampton Roads and Northern Virginia: $492.5 million
- Construction: $1.87 billion

Process for Updating the Six-Year Improvement Program (VDOT)

The Six-Year Improvement Program (SYIP) is a document that outlines planned spending for transportation projects proposed for construction development or study for the next six years. The SYIP is updated annually and is the means by which the CTB meets its statutory obligation under the Code of Virginia to allocate funds to interstate, primary, secondary and urban highway systems, public transit, ports and airports and other programs for the immediate fiscal year. The SYIP supports more than 3,500 transportation projects to improve the state’s infrastructure.

The CTB allocates funds for the first fiscal year of the SYIP but the remaining five years are estimates of future allocations. Fiscal years start on July 1 and end on June 30.

The CTB updates the SYIP each year as revenue estimates are updated, priorities are revised, project schedules and costs change, and study results are known.

Development of the SYIP begins in the fall and the Virginia Department of Transportation along with the Department of Rail and Public Transportation hosts a series of public meetings seeking public comment. Each spring, a draft SYIP is presented to the CTB and made public for comment with a series of public meetings seeking input prior to finalizing the SYIP. The CTB approves the SYIP in June and it becomes effective July 1 of each year. The latest Six-Year Improvement Program (FY 2018-FY2023 SYIP) allocates $14.4 billion to transportation projects over the next six fiscal years beginning July 1, 2017.

In 2014, the General Assembly passed House Bill (HB) 2 (Chapter 726 of the 2014 Acts of Assembly), which required the CTB to develop a statewide prioritization process that shall be used to select projects for the SYIP beginning July 1, 2016. The CTB approved the overall policy and guidelines for implementation of this process at its June 17, 2015 meeting.

In 2015, the General Assembly passed HB 1887 (Chapter 684), which established a new transportation funding formula. The FY 2017-FY2022 SYIP is the first program to include projects selected through the new statewide prioritization process and funded through the new funding formula. Subsequent to the adoption of the statewide prioritization policy and process on June 17, 2015 (collectively the HB2 Prioritization Policy and Process) discussed above, the Board revised the policy and process, and rebranded the process as SMART System for the Management and Allocation of Resources for Transportation) SCALE (Safety, Congestion, Accessibility, Land Use, and Environment) at its July 28, 2016 meeting.
In 2017, the General Assembly enacted legislation, HB 2241 and a companion bill, SB 1331 (Chapters 273 and 166 respectively), designating the Office of Intermodal Planning and Investment of the Secretary of Transportation with the responsibility of overseeing and coordinating with VDOT and DRPT transportation planning activities, the development of the Six-Year Improvement Program, and implementation of the statewide prioritization process. The bills require the SYIP be developed in a transparent manner that provides the public, elected officials, and other stakeholders opportunities to make comments prior to the adoption of the program. The bills also require VDOT to make public a recommended list of projects eligible for funding under the State of Good Repair Program pursuant to § 33.2-369 from the list of prioritized pavement and bridge needs contained in the Commissioner's annual report published pursuant to § 33.2-232.

Role of the Virginia Department of Rail and Public Transportation

The Virginia Department of Rail and Public Transportation (DRPT) oversees the Commonwealth's participation in essential rail transportation, public transportation and transportation demand management (TDM) planning, programs and projects. DRPT’s role is to provide program management, technical expertise, financial support, planning assistance, and project oversight. DRPT is led by an appointed Agency Director who reports to both the Secretary of Transportation and the Commonwealth Transportation Board (CTB), which functions as DRPT’s policy and financial oversight board. The Agency Director and DRPT staff advise the Governor, the Secretary, the CTB, and the General Assembly on transportation policy.

DRPT Mission Statement

DRPT's mission is to facilitate and improve the mobility of the citizens of Virginia and promote the efficient transport of goods and people in a safe, reliable and cost-effective manner. To accomplish this mission, DRPT supports programs that:

- Assist in managing the growth in congestion on Virginia's highways.
- Improve access for the general public and businesses to transportation choices (public transportation, carpools, vanpools, human service transportation, passenger rail, freight rail and telecommuting).
- Provide access and improvements to Virginia's railways to encourage economic development and reduce traffic on Virginia’s highways.
- Increase communications to the general public, businesses and community decision makers on alternative transportation choices.

DRPT is the Commonwealth’s advocate for promoting multimodal transportation options to the general public, businesses, and community decision makers. As an agency entrusted with public dollars, DRPT seeks the highest possible return on investment to maximize limited funding, and strives to implement best practices.
In addition to serving as a funding partner for transit, TDM, and passenger and freight rail transportation services in Virginia, DRPT’s core functions include program management, project development and project oversight. Additionally, DRPT provides federally mandated state safety oversight (SSO) of rail transit systems in Virginia, including a tristate compact with Maryland and D.C. for WMATA safety oversight (Metro Safety Commission), as well as state safety oversight of the Hampton Roads Transit Tide light rail system.

DRPT planning activities are critical to project advancement, and they include strategic plan development, implementation of new rail and transit projects and services, regional transportation studies and market analyses, and on-site technical analysis and support for operators across the Commonwealth. DRPT assesses rail and transit needs and serves as a liaison between rail, transit and TDM programs to the U.S. Congress, federal transportation agencies, the Virginia General Assembly, regional agencies and local governments in the Commonwealth. DRPT supports research and training in the rail, transit and TDM disciplines and works closely with other agencies in the Transportation Secretariat to develop multimodal transportation solutions through planning studies and congestion mitigation initiatives.

The project oversight function of the agency extends across thousands of projects that receive capital grant funding from DRPT. These capital grants facilitate construction of infrastructure and facilities, the purchase of assets by grantees to achieve and maintain a state of good repair.

The grants management cycle begins with pre-application guidance and continues through various phases, including:

- application submission and review,
- programming and award, and
- project delivery and closeout.

Additionally, DRPT provides annual operating assistance to public transportation providers across the Commonwealth. These funds provide matching funds to transit agencies to support the portion of their operating expenses that are not covered by passenger fares.
DRPT is responsible for financial oversight and continued performance monitoring of long-term contractual requirements. These activities are performed by DRPT for the state and federal grant programs shown in Tables 1 and 2 below.

<table>
<thead>
<tr>
<th>State Grant Program</th>
<th>Program Description</th>
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<tbody>
<tr>
<td>Transit Operating Funds</td>
<td>Supports costs borne by eligible recipients for operating related public transportation expenses</td>
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<tr>
<td>Transit Capital Funds</td>
<td>Supports costs borne by eligible recipients for public transportation capital projects</td>
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<tr>
<td>Transit Demonstration Program</td>
<td>Supports innovative investments in all functional areas of public transportation</td>
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<tr>
<td>Public Transportation Intern Program</td>
<td>Supports increased awareness of public transportation as a career choice</td>
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<tr>
<td>Transit Technical Assistance</td>
<td>Supports planning or technical assistance to help improve or initiate public transportation related services</td>
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<tr>
<td>TDM/Commuter Assistance</td>
<td>Supports administration of existing or new local and regional Transportation Demand Management/Commuter Assistance programs</td>
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<tr>
<td>Transportation Management Project Assistance</td>
<td>Supports new and/or expanded TDM services that reduce demand for single occupancy vehicles and initiatives at the state, regional and community level, using innovative approaches to reducing traffic congestion.</td>
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<tr>
<td>Senior Transportation Program</td>
<td>Supports transit projects and programs that improve mobility for senior citizens</td>
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<tr>
<td>Rail Enhancement Fund</td>
<td>Supports the acquisition, improvement or expansion of equipment, rolling stock, railways, rights of way and other capital projects for passenger or freight rail purposes</td>
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<tr>
<td>Rail Preservation Program</td>
<td>Supports the preservation of shortline railroads through funding for maintenance and infrastructure improvements</td>
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<tr>
<td>Rail Industrial Access Program</td>
<td>Supports industrial development of new or substantially expanding businesses that use rail to move freight through funding of rail access and track improvements</td>
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<tr>
<td>Intercity Passenger Rail Operating and Capital Fund (IPROC)</td>
<td>Supports operating and capital needs for intercity passenger rail service in Virginia</td>
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<tr>
<td>Federal Grant Program</td>
<td>Program Description</td>
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<tr>
<td>FTA Section 5303 – Metropolitan Planning</td>
<td>Supports transit planning expenses</td>
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<td>FTA Section 5304 – Statewide Planning</td>
<td>Supports local and statewide transit planning projects</td>
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<tr>
<td>FTA Section 5307 – Small Urban Areas Program</td>
<td>Supports operating and capital costs of transit operators in small urban areas</td>
</tr>
<tr>
<td>FTA Section 5310 – Transportation for Elderly Persons and Persons with Disabilities</td>
<td>Supports the purchase of vehicles, equipment, New Freedom program operations and mobility management</td>
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<tr>
<td>FTA Section 5311 – Rural Areas</td>
<td>Supports operating and capital costs of transit operators in non-urbanized areas</td>
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<tr>
<td>FTA Section 5329 – State Safety Oversight</td>
<td>Supports federally mandated state safety oversight of rail transit systems in Virginia</td>
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<tr>
<td>23 USC 117 – Nationally Significant Freight and Highway Projects discretionary grant program</td>
<td>Formerly FASTLANE, now INFRA, provides significant federal discretionary resources to large, construction-ready projects. DRPT manages the rail elements of the Atlantic Gateway program which was awarded a $165 million FASTLANE grant in 2016</td>
</tr>
<tr>
<td>Passenger Rail Investment and Improvement Act of 2008 (PRIIA)</td>
<td>Governs the cost sharing roles and responsibilities between the Commonwealth and Amtrak regarding the four Virginia state sponsored Amtrak passenger rail services. Also mandates adoption of and four year updates to the Statewide Rail Plan. PRIIA also provided $150 million annual set-aside for 10 years for capital improvements to WMATA on the condition Virginia, Maryland, and D.C. each provided an additional $50 million annual match. DRPT manages Virginia’s match.</td>
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Allocation of Funds

Rail, public transportation and TDM services and projects in Virginia are supported by a variety of federal, state, local and private funding sources, in addition to the fares paid by users of those systems. Each the CTB allocates state and federal formula funds that support rail, transit and TDM services. Additionally DRPT provides technical support to grantees seeking federal discretionary grants for public transportation and rail such as the USDOT INFRA grant program, FTA bus discretionary grant program, TIGER program, and others.

Rail Allocations

The allocation of rail funds is based on grant applications submitted to DRPT during the agency’s annual application cycle open from December 1 to February 1 each year. Rail allocations are funded by passenger and freight rail funds which consist of the state portion of vehicle rental taxes collected in the Transportation Trust Fund, proceeds from the Transportation Capital Projects Revenue Bond funds, Federal Railroad Administration grant funds, the Shortline Railway Preservation and Development Fund, the Rail Industrial Access fund, general funds, VTA 2000 funds, and Sales and Use Tax funds.

Transit and TDM Allocations

The annual allocation of transit and TDM funds is based on grant applications submitted to DRPT during the annual application cycle open from December 1 to February 1 each year. Funds are distributed in accordance with Appropriation Act language and the provisions of the Code of Virginia that established the Mass Transit Trust Fund and the Mass Transit Capital Fund. Dedicated state revenues are provided for mass transit and TDM through a portion of the Transportation Trust Fund, proceeds from the Transportation Capital Projects Revenue Bond funds, state recordation tax funds for mass transit and Sales and Use Tax funds for mass transit. From time to time, the General Assembly provides General Funds to mass transit through the Appropriation Act. Since FY2014, transit operating funds in excess of the first $115M of available funds for distribution have been allocated in accordance with a CTB performance allocation-based system.

SMART SCALE Funding

DRPT, in conjunction with VDOT, provides planning, technical support, analysis, allocation and oversight of SMART SCALE funds awarded for public transportation and rail projects. Moving forward, the agency will also coordinate this process and functions with the Office of Intermodal and Program Innovation (OIPI).

Process for Updating the Six-Year Improvement Program

The Six-Year Improvement Program (SYIP) is updated annually and is the vehicle by which the CTB meets its statutory obligation under § 33.2-214 of the Code of Virginia to allocate funds to interstate, primary, and urban highway systems, public transit, rail, ports, and airports, and other programs for the immediate fiscal year. The SYIP also identifies planned program funding for the succeeding five fiscal years. The CTB allocates funds for the first year of the SYIP, but the remaining five years are estimates of future allocations. These estimates are subject to change in each subsequent update of the program to reflect revised revenue forecasts, cost estimates, changed priorities, or changes to federal and state laws.
The rail, transit and TDM portion of the Six-Year Improvement Program (SYIP) is updated annually in conjunction with the VDOT program update. The first year of the SYIP is the DRPT annual program of projects. The allocations in the annual program of projects are actual grants that are brought under contract after CTB approval and after the start of the new fiscal year. Capital projects proposed by rail and transit operators over the subsequent five years are identified in the SYIP and are estimates of federal, state and local funding that will be available to support these capital projects in each of the subsequent five years.

The annual program of projects is based on grant applications submitted to DRPT during the agency’s annual application cycle open from December 1 to February 1 each year. Transit and TDM grant applications are submitted via the Internet using DRPT’s On Line Grant Application (OLGA) system. DRPT staff members receive and evaluate all grant applications working closely with representatives of the applying grantees. Proposed projects are evaluated for eligibility and recommendations under a number of criteria, which are outlined in DRPT’s Program Application Guidance. DRPT’s recommendations are then presented to the CTB for review prior to the public release of a draft SYIP.

The annual program of projects contains a listing of each transit and TDM recipient of federal and/or state funding and groups the recipients by Construction District. This section of the SYIP shows all of the federal, state and local funds that are allocated and may be expended during the year by these recipients including funds generated locally, funds provided directly to them by the federal government and funds allocated to them by the CTB. Subsequent pages in the SYIP contain tables showing the specific allocation of funds under the purview of the CTB. This includes several federal funding programs and most of the state programs identified in Tables 3 and 4.

Projects proposed under the Rail Enhancement, Rail Preservation, and Intercity Passenger Rail Operating and Capital Programs are shown in a separate section of the SYIP and are shown over the full six year period. As with transit and TDM projects, the CTB approves the first year of the program and amounts in subsequent years are subject to change and are for planning purposes only. Rail Industrial Access Program projects are brought to the CTB throughout the year, rather than as part of an annual program.

The projects contained in DRPT’s annual program of projects are proposed by the local and regional rail, transit and TDM operators and therefore directly reflect the needs and priorities at the local level. DRPT participates with VDOT in the CTB Planning and Programming meetings held in the fall each year and the final allocation meetings held in the spring. This provides DRPT with additional opportunities to receive local government and citizen input into the programming process.

DRPT Budget

DRPT utilizes three levels of budgeting to maintain financial control over the funding under its responsibility. The first level of budgetary control is tied directly to the State planning and program budget system required by the General Assembly. It is a cyclical system that spans a two-year period and culminates in the passage of an Appropriation Act by the legislature. The Appropriation Act provides the legal authority for the annual expenditures of the agency. The system is results-driven with DRPT activities and programs divided into nine service areas: Rail Preservation Programs; Passenger and Freight Rail Programs; Rail Industrial Access Programs; Public Transportation Programs; Human Service Transportation Programs; Commuter Assistance Programs; Planning, Regulation and Safety Programs; and General Management and Direction (Agency Operating Budget).

DRPT, like all other state agencies, submits its budget to the State’s Department of Planning and Budget (DPB) approximately nine months in advance of its effective date to allow time for review and comment by the executive and legislative branches of Virginia government. DRPT’s annual CTB
budget is prepared after General Assembly passage of the annual Appropriation Act and is submitted to
the CTB for approval in June of each year. Therefore, the CTB budget is a more precise estimate of
the anticipated expenditures for the July 1 through June 30 fiscal year. It is important to note that the
annual SYIP allocations will not agree to the budgeted amounts due to various reasons, most notably
the inclusion of allocations in the SYIP of funding that does not flow through DRPT’s financial system.

DRPT’s CTB budget is supported by revenues from a variety of sources including state Highway
Maintenance and Operating (HMO) funds, Mass Transit Trust Funds, Transportation Efficiency
Improvement Funds, recordation taxes, rail and transit bonds supported by tax on insurance premiums,
proceeds from the Transportation Capital Projects Revenue Bond funds state Rail Enhancement funds
(vehicle rental taxes), Intercity Passenger Rail Operating and Capital funds (sales and use tax), Rail
Preservation funds, federal funds, and local funds that are provided as match for certain grants. DRPT
receives estimates prepared by the Virginia Department of Taxation through VDOT and prepares the
estimates of federal and local revenues.

The third level of budgeting utilized by DRPT is the internal agency operating budget which is
developed in conjunction with the CTB budget. The agency operating budget establishes financial
controls over the direct expenses of the agency in carrying out its charge of program management,
project oversight, and grants compliance.
APPENDIX A

Title 2.2

Chapter 31

State and Local Government Conflict of Interests Act


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Chapter 31

State and Local Government Conflict of Interests Act


§ 2.2-3100. Policy; application; construction.

The General Assembly, recognizing that our system of representative government is dependent in part upon (i) citizen legislative members representing fully the public in the legislative process and (ii) its citizens maintaining the highest trust in their public officers and employees, finds and declares that the citizens are entitled to be assured that the judgment of public officers and employees will be guided by a law that defines and prohibits inappropriate conflicts and requires disclosure of economic interests. To that end and for the purpose of establishing a single body of law applicable to all state and local government officers and employees on the subject of conflict of interests, the General Assembly enacts this State and Local Government Conflict of Interests Act so that the standards of conduct for such officers and employees may be uniform throughout the Commonwealth.

This chapter shall supersede all general and special acts and charter provisions which purport to deal with matters covered by this chapter except that the provisions of §§ 15.2-852, 15.2-2287, 15.2-2287.1, and 15.2-2289 and ordinances adopted pursuant thereto shall remain in force and effect. The provisions of this chapter shall be supplemented but not superseded by the provisions on ethics in public contracting in Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of this title and ordinances adopted pursuant to § 2.2-3104.2 regulating receipt of gifts.

The provisions of this chapter do not preclude prosecution for any violation of any criminal law of the Commonwealth, including Articles 2 (Bribery and Related Offenses, § 18.2-438 et seq.) and 3 (Bribery of Public Servants and Party Officials, § 18.2-446 et seq.) of Chapter 10 of Title 18.2, and do not constitute a defense to any prosecution for such a violation.

This chapter shall be liberally construed to accomplish its purpose.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3100.1. Copy of chapter; review by officers and employees.

Any person required to file a disclosure statement of personal interests pursuant to subsections A or B of § 2.2-3114, subsections A or B of § 2.2-3115 or § 2.2-3116 shall be furnished by the
public body's administrator a copy of this chapter within two weeks following the person's election, reelection, employment, appointment or reappointment.

All officers and employees shall read and familiarize themselves with the provisions of this chapter.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3101. Definitions.

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

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Affiliated business entity relationship" means a relationship, other than a parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. The candidate shall become subject to the provisions of this chapter upon the filing of a statement of qualification pursuant to § 24.2-501. The State Board of Elections or general registrar shall notify each such candidate of the provisions of this chapter. Notification made by the general registrar shall consist of information developed by the State Board of Elections.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a
subcontract only when the contract of which it is a part is with the officer's or employee's own governmental agency.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Employee" means all persons employed by a governmental or advisory agency, unless otherwise limited by the context of its use.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the private profession or occupation or volunteer service of an officer or employee or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public service; (vii) food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman; (xiii) travel related to an official meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a value of less than $20; (xv) attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered; or (xvi) gifts from relatives or personal friends. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse or the donee's son-in-law or daughter-in-law. For the purpose of this
definition, "personal friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2; (b) a lobbyist's principal as defined in § 2.2-419; (c) for an officer or employee of a local governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the local agency of which he is an officer or an employee; or (d) for an officer or employee of a state governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the Commonwealth. For purposes of this definition, "person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Governmental agency" means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties. Corporations organized or controlled by the Virginia Retirement System are "governmental agencies" for purposes of this chapter.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee.

"Officer" means any person appointed or elected to any governmental or advisory agency including local school boards, whether or not he receives compensation or other emolument of office. Unless the context requires otherwise, "officer" includes members of the judiciary.

"Parent-subsidiary relationship" means a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.

"Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, $5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, $5,000 annually; (iv) ownership of real or personal property if the interest exceeds $5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv).

"Personal interest in a contract" means a personal interest that an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.
"Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business or governmental agency, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. Notwithstanding the above, such personal interest in a transaction shall not be deemed to exist where (a) an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity or (b) an officer, employee, or elected member of a local governing body is appointed by such local governing body to serve on a governmental agency, or an officer, employee, or elected member of a separate local governmental agency formed by a local governing body is appointed to serve on a governmental agency, and the personal interest in the transaction of the governmental agency is the result of the salary, other compensation, fringe benefits, or benefits provided by the local governing body or the separate governmental agency to the officer, employee, elected member, or member of his immediate family.

"State and local government officers and employees" shall not include members of the General Assembly.

"State filer" means those officers and employees required to file a disclosure statement of their personal interests pursuant to subsection A or B of § 2.2-3114.

"Transaction" means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

**Article 2. Generally Prohibited and Unlawful Conduct**

**§ 2.2-3102. Application.**

This article applies to generally prohibited conduct that shall be unlawful and to state and local government officers and employees.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3103. Prohibited conduct.

No officer or employee of a state or local governmental or advisory agency shall:

1. Solicit or accept money or other thing of value for services performed within the scope of his official duties, except the compensation, expenses or other remuneration paid by the agency of which he is an officer or employee. This prohibition shall not apply to the acceptance of special benefits that may be authorized by law;

2. Offer or accept any money or other thing of value for or in consideration of obtaining employment, appointment, or promotion of any person with any governmental or advisory agency;

3. Offer or accept any money or other thing of value for or in consideration of the use of his public position to obtain a contract for any person or business with any governmental or advisory agency;

4. Use for his own economic benefit or that of another party confidential information that he has acquired by reason of his public position and which is not available to the public;

5. Accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence him in the performance of his official duties. This subdivision shall not apply to any political contribution actually used for political campaign or constituent service purposes and reported as required by Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2;

6. Accept any business or professional opportunity when he knows that there is a reasonable likelihood that the opportunity is being afforded him to influence him in the performance of his official duties;

7. Accept any honoraria for any appearance, speech, or article in which the officer or employee provides expertise or opinions related to the performance of his official duties. The term "honoraria" shall not include any payment for or reimbursement to such person for his actual travel, lodging, or subsistence expenses incurred in connection with such appearance, speech, or article or in the alternative a payment of money or anything of value not in excess of the per diem deduction allowable under § 162 of the Internal Revenue Code, as amended from time to time. The prohibition in this subdivision shall apply only to the Governor, Lieutenant Governor, Attorney General, Governor's Secretaries, and heads of departments of state government;

8. Accept a gift from a person who has interests that may be substantially affected by the performance of the officer's or employee's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the officer's or employee's impartiality in the matter affecting the donor. Violations of this subdivision shall not be subject to criminal law penalties;
9. Accept gifts from sources on a basis so frequent as to raise an appearance of the use of his public office for private gain. Violations of this subdivision shall not be subject to criminal law penalties; or

10. Use his public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law, provided, however, that this subdivision shall not restrict the authority of any public employer to govern conduct of its employees, and to take disciplinary action, in accordance with applicable law, and provided further that this subdivision shall not limit the authority of a constitutional officer to discipline or discharge an employee with or without cause.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3103.1. Certain gifts prohibited.

A. For purposes of this section:

"Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

B. No officer or employee of a local governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of $100 or any combination of gifts with an aggregate value in excess of $100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the local agency of which he is an officer or an employee. Gifts with a value of less than $20 are not subject to aggregation for purposes of this prohibition.

C. No officer or employee of a state governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of $100 or any combination of gifts with an aggregate value in excess of $100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the local agency of which he is an officer or an employee. Gifts with a value of less than $20 are not subject to aggregation for purposes of this prohibition.
of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the state governmental or advisory agency of which he is an officer or an employee or over which he has the authority to direct such agency's activities. Gifts with a value of less than $20 are not subject to aggregation for purposes of this prohibition.

D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of $100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

E. Notwithstanding the provisions of subsections B and C, such officer or employee or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding $100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged. Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed.

F. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of $100 from a person listed in subsection B or C if such gift was provided to such officer, employee, or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B or C may be a personal friend of such officer, employee, or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B or C is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of $100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

H. During the pendency of a civil action in any state or federal court to which the Commonwealth is a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any person that he knows or has reason to know is a person, organization, or business that is a party to such civil action. A person, organization, or
business that is a party to such civil action shall not knowingly give any gift to the Governor or the Attorney General or any of their employees who are subject to the provisions of this chapter.

I. The $100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

J. The provisions of this section shall not apply to any justice of the Supreme Court of Virginia, judge of the Court of Appeals of Virginia, judge of any circuit court, or judge or substitute judge of any district court. However, nothing in this subsection shall be construed to authorize the acceptance of any gift if such acceptance would constitute a violation of the Canons of Judicial Conduct for the State of Virginia.

2014, cc. 792, 804; 2015, cc. 763, 777; 2017, cc. 829, 832.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3103.2. Return of gifts.

No person shall be in violation of any provision of this chapter prohibiting the acceptance of a gift if (i) the gift is not used by such person and the gift or its equivalent in money is returned to the donor or delivered to a charitable organization within a reasonable period of time upon the discovery of the value of the gift and is not claimed as a charitable contribution for federal income tax purposes or (ii) consideration is given by the donee to the donor for the value of the gift within a reasonable period of time upon the discovery of the value of the gift provided that such consideration reduces the value of the gift to an amount not in excess of $100 as provided in subsection B or C of § 2.2-3103.1.

2015, cc. 763, 777.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3104. Prohibited conduct for certain officers and employees of state government.

For one year after the termination of public employment or service, no state officer or employee shall, before the agency of which he was an officer or employee, represent a client or act in a representative capacity on behalf of any person or group, for compensation, on matters related to legislation, executive orders, or regulations promulgated by the agency of which he was an officer or employee. This prohibition shall be in addition to the prohibitions contained in § 2.2-3103.
For the purposes of this section, "state officer or employee" shall mean (i) the Governor, Lieutenant Governor, Attorney General, and officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not, who are regularly employed on a full-time salaried basis; those officers and employees of executive branch agencies who report directly to the agency head; and those at the level immediately below those who report directly to the agency head and are at a payband 6 or higher and (ii) the officers and professional employees of the legislative branch designated by the joint rules committee of the General Assembly. For the purposes of this section, the General Assembly and the legislative branch agencies shall be deemed one agency.

To the extent this prohibition applies to the Governor's Secretaries, "agency" means all agencies assigned to the Secretary by law or by executive order of the Governor.

Any person subject to the provisions of this section may apply to the Council or Attorney General, as provided in § 2.2-3121 or 2.2-3126, for an advisory opinion as to the application of the restriction imposed by this section on any post-public employment position or opportunity.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3104.01. Prohibited conduct; bids or proposals under the Virginia Public Procurement Act, Public-Private Transportation Act, and Public-Private Education Facilities and Infrastructure Act; loans or grants from the Commonwealth's Development Opportunity Fund.

A. Neither the Governor, his political action committee, or the Governor’s Secretaries, if the Secretary is responsible to the Governor for an executive branch agency with jurisdiction over the matters at issue, shall knowingly solicit or accept a contribution, gift, or other item with a value greater than $50 from any bidder, offeror, or private entity, or from an officer or director of such bidder, offeror, or private entity, who has submitted a bid or proposal to an executive branch agency that is directly responsible to the Governor pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) (i) during the period between the submission of the bid and the award of the public contract under the Virginia Public Procurement Act or (ii) following the submission of a proposal under the Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure Act of 2002 until the execution of a comprehensive agreement thereunder.

B. The provisions of this section shall apply only for public contracts, proposals, or comprehensive agreements where the stated or expected value of the contract is $5 million or more. The provisions of this section shall not apply to contracts awarded as the result of competitive sealed bidding as set forth in § 2.2-4302.1.
C. Any person who knowingly violates this section shall be subject to a civil penalty of $500 or up to two times the amount of the contribution or gift, whichever is greater, and the contribution, gift, or other item shall be returned to the donor. The attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalties. Any civil penalties collected shall be payable to the State Treasurer for deposit to the general fund and shall be used exclusively to fund the Council.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3104.02. Prohibited conduct for constitutional officers.

In addition to the prohibitions contained in § 2.2-3103, no constitutional officer shall, during the one year after the termination of his public service, act in a representative capacity on behalf of any person or group, for compensation, on any matter before the agency of which he was an officer.

The provisions of this section shall not apply to any attorney for the Commonwealth.

Any person subject to the provisions of this section may apply to the attorney for the Commonwealth for the jurisdiction where such person was elected as provided in § 2.2-3126, for an advisory opinion as to the application of the restriction imposed by this section on any post-public employment position or opportunity.

2011, c. 591.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3104.1. Exclusion of certain awards from scope of chapter.

The provisions of this chapter shall not be construed to prohibit or apply to the acceptance by (i) any employee of a local government, or (ii) a teacher or other employee of a local school board of an award or payment in honor of meritorious or exceptional services performed by the teacher or employee and made by an organization exempt from federal income taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3104.2. Ordinance regulating receipt of gifts.
The governing body of any county, city, or town may adopt an ordinance setting a monetary limit on the acceptance of any gift by the officers, appointees or employees of the county, city or town and requiring the disclosure by such officers, appointees or employees of the receipt of any gift.

2003, c. 694.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Article 3. Prohibited Conduct Relating to Contracts

§ 2.2-3105. Application.

This article proscribes certain conduct relating to contracts by state and local government officers and employees. The provisions of this article shall be supplemented but not superseded by the provisions on ethics in public contracting in Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of this title.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3106. Prohibited contracts by officers and employees of state government and Eastern Virginia Medical School.

A. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with the governmental agency of which he is an officer or employee, other than his own contract of employment.

B. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with any other governmental agency of state government unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee’s personal interest in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over the employment or the employment activities of the member of his immediate family and the employee is not in a position to influence those activities;
2. The personal interest of an officer or employee of a public institution of higher education or the Eastern Virginia Medical School in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are engaged in teaching, research or administrative support positions at the educational institution or the Eastern Virginia Medical School, (ii) the governing board of the educational institution finds that it is in the best interests of the institution or the Eastern Virginia Medical School and the Commonwealth for such dual employment to exist, and (iii) after such finding, the governing board of the educational institution or the Eastern Virginia Medical School ensures that the officer or employee, or the immediate family member, does not have sole authority to supervise, evaluate or make personnel decisions regarding the other;

3. An officer's or employee's personal interest in a contract of employment with any other governmental agency of state government;

4. Contracts for the sale by a governmental agency or the Eastern Virginia Medical School of services or goods at uniform prices available to the general public;

5. An employee's personal interest in a contract between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or materials;

6. An employee's personal interest in a contract with his or her employing public institution of higher education to acquire the collections or scholarly works owned by the employee, including manuscripts, musical scores, poetry, paintings, books or other materials, writings, or papers of an academic, research, or cultural value to the institution, provided the president of the institution approves the acquisition of such collections or scholarly works as being in the best interests of the institution's public mission of service, research, or education;

7. Subject to approval by the board of visitors, an employee's personal interest in a contract between the Eastern Virginia Medical School or a public institution of higher education in the Commonwealth that operates a school of medicine or dentistry and a not-for-profit nonstock corporation that operates a clinical practice within such public institution of higher education or the Eastern Virginia Medical School and of which such employee is a member or employee;

8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract for research and development or commercialization of intellectual property between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a business in which the employee has a personal interest, if (i) the employee's personal interest has been disclosed to and approved by such public institution of higher education or the Eastern Virginia Medical School prior to the time at which the contract is entered into; (ii) the employee promptly files a disclosure statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before January 15; (iii) the institution has established a formal policy regarding such contracts, approved by the State Council of Higher Education or, in the case of the Eastern Virginia Medical School, a formal policy regarding such contracts in conformity with any applicable federal regulations that has been approved by its board of visitors; and (iv) no later than December 31 of each year, the institution or the Eastern Virginia Medical School...
Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth; or

9. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a business in which the employee has a personal interest, if (i) the personal interest has been disclosed to the institution or the Eastern Virginia Medical School prior to the time the contract is entered into; (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or before January 15; (iii) the employee does not participate in the institution's or the Eastern Virginia Medical School's decision to contract; (iv) the president of the institution or the Eastern Virginia Medical School finds and certifies in writing that the contract is for goods and services needed for quality patient care, including related medical education or research, by the institution's medical center or the Eastern Virginia Medical School, its affiliated teaching hospitals and other organizations necessary for the fulfillment of its mission, including the acquisition of drugs, therapies and medical technologies; and (v) no later than December 31 of each year, the institution or the Eastern Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each open contract entered subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth.

D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development or commercialization of intellectual property or the employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interests, the policies established by the Eastern Virginia Medical School pursuant to such federal requirements shall constitute compliance with subdivisions C 8 and C 9, upon notification by the Eastern Virginia Medical School to the Secretary of the Commonwealth by January 31 of each year of evidence of their compliance with such federal policies and regulations.

E. The board of visitors may delegate the authority granted under subdivision C 8 to the president of the institution. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision C 8. In those instances where the board has delegated such authority, on or before December 1 of each year, the president of the relevant institution shall file a report with the relevant board of visitors disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of
the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, the details of how revenues are to be dispersed, and any other information requested by the board of visitors.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3107. Prohibited contracts by members of county boards of supervisors, city councils and town councils.

A. No person elected or appointed as a member of the governing body of a county, city or town shall have a personal interest in (i) any contract with his governing body, or (ii) any contract with any governmental agency that is a component part of his local government and which is subject to the ultimate control of the governing body of which he is a member, or (iii) any contract other than a contract of employment with any other governmental agency if such person's governing body appoints a majority of the members of the governing body of the second governmental agency.

B. The provisions of this section shall not apply to:

1. A member's personal interest in a contract of employment provided (i) the officer or employee was employed by the governmental agency prior to July 1, 1983, in accordance with the provisions of the former Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) of Title 2.1 as it existed on June 30, 1983, or (ii) the employment first began prior to the member becoming a member of the governing body;

2. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the public; or

3. A contract awarded to a member of a governing body as a result of competitive sealed bidding where the governing body has established a need for the same or substantially similar goods through purchases prior to the election or appointment of the member to serve on the governing body. However, the member shall have no involvement in the preparation of the specifications for such contract, and the remaining members of the governing body, by written resolution, shall state that it is in the public interest for the member to bid on such contract.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3108. Prohibited contracts by members of school boards.
A. No person elected or appointed as a member of a local school board shall have a personal interest in (i) any contract with his school board or (ii) any contract with any governmental agency that is subject to the ultimate control of the school board of which he is a member.

B. The provisions of this section shall not apply to:

1. A member’s personal interest in a contract of employment provided the employment first began prior to the member becoming a member of the school board;

2. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the public; or

3. A contract awarded to a member of a school board as a result of competitive sealed bidding where the school board has established a need for the same or substantially similar goods through purchases prior to the election or appointment of the member to serve on the school board. However, the member shall have no involvement in the preparation of the specifications for such contract, and the remaining members of the school board, by written resolution, shall state that it is in the public interest for the member to bid on such contract.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3109. Prohibited contracts by other officers and employees of local governmental agencies.

A. No other officer or employee of any governmental agency of local government, including a hospital authority as defined in § 2.2-3109.1, shall have a personal interest in a contract with the agency of which he is an officer or employee other than his own contract of employment.

B. No officer or employee of any governmental agency of local government, including a hospital authority as defined in § 2.2-3109.1, shall have a personal interest in a contract with any other governmental agency that is a component of the government of his county, city or town unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or is awarded as a result of a procedure embodying competitive principles as authorized by subdivision A 10 or 11 of § 2.2-4343 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee’s personal interest in additional contracts for goods or services, or contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over (i) the employment or the employment activities of the member of his immediate family and (ii) the employee is not in a position to influence those activities or the award of the contract for goods or services;
2. An officer’s or employee’s personal interest in a contract of employment with any other governmental agency that is a component part of the government of his county, city or town;

3. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public;

4. Members of local governing bodies who are subject to § 2.2-3107;

5. Members of local school boards who are subject to § 2.2-3108; or

6. Any ownership or financial interest of members of the governing body, administrators, and other personnel serving in a public charter school in renovating, lending, granting, or leasing public charter school facilities, as the case may be, provided such interest has been disclosed in the public charter school application as required by § 22.1-212.8.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3109.1. Prohibited contracts; additional exclusions for contracts by officers and employees of hospital authorities.

A. As used in this section, "hospital authority" means a hospital authority established pursuant to Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2 or an Act of Assembly.

B. The provisions of § 2.2-3109 shall not apply to:

1. The personal interest of an officer or employee of a hospital authority in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are licensed members of the medical profession or hold administrative support positions at the hospital authority, (ii) the governing board of the hospital authority finds that it is in the best interests of the hospital authority and the county, city, or town for such dual employment to exist, and (iii) after such finding, the governing board of the hospital authority ensures that neither the officer or employee, nor the immediate family member, has sole authority to supervise, evaluate, or make personnel decisions regarding the other;

2. Subject to approval by the governing board of the hospital authority, an officer or employee’s personal interest in a contract between his hospital authority and a professional entity that operates a clinical practice at any medical facilities of such other hospital authority and of which such officer or employee is a member or employee;

3. Subject to approval by the relevant governing body, an officer or employee’s personal interest in a contract for research and development or commercialization of intellectual property between the hospital authority and a business in which the employee has a personal interest,
provided (i) the officer or employee's personal interest has been disclosed to and approved by the hospital authority prior to the time at which the contract is entered into; (ii) the officer or employee promptly files a disclosure statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before January 15; (iii) the local hospital authority has established a formal policy regarding such contracts in conformity with any applicable federal regulations that has been approved by its governing body; and (iv) no later than December 31 of each year, the local hospital authority files an annual report with the Virginia Conflict of Interest and Ethics Advisory Council disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of such hospital authority's commitment or investment of resources or finances for each contract, and any other information requested by the Virginia Conflict of Interest and Ethics Advisory Council; or

4. Subject to approval by the relevant governing body, an officer or employee's personal interest in a contract between the hospital authority and a business in which the officer or employee has a personal interest, provided (i) the personal interest has been disclosed to the hospital authority prior to the time the contract is entered into; (ii) the officer or employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or before January 15; (iii) the officer or employee does not participate in the hospital authority's decision to contract; (iv) the president or chief executive officer of the hospital authority finds and certifies in writing that the contract is for goods and services needed for quality patient care, including related medical education or research, by any of the hospital authority's medical facilities or any of its affiliated organizations, or is otherwise necessary for the fulfillment of its mission, including but not limited to the acquisition of drugs, therapies, and medical technologies; and (v) no later than December 31 of each year, the hospital authority files an annual report with the Virginia Conflict of Interest and Ethics Advisory Council disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of the hospital authority's commitment or investment of resources or finances for each contract, and any other information requested by the Virginia Conflict of Interest and Ethics Advisory Council.

C. Notwithstanding the provisions of subdivisions B 3 and B 4, if the research and development or commercialization of intellectual property or the officer or employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interest, the policies established by the hospital authority pursuant to such federal requirements shall constitute compliance with subdivisions B 3 and B 4, upon notification by the hospital authority to the Virginia Conflict of Interest and Ethics Advisory Council by January 31 of each year of evidence of its compliance with such federal policies and regulations.

D. The governing body may delegate the authority granted under subdivision B 2 to the president or chief executive officer of hospital authority. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision B 3. In those instances where the board has delegated such authority, on or before December 1 of each year, the president or chief executive officer of the hospital authority shall file a report with the relevant governing body disclosing each open contract
entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority’s employee responsible for administering each contract, the details of the hospital authority's commitment or investment of resources or finances for each contract, the details of how revenues are to be dispersed, and any other information requested by the governing body.

2015, c. 699; 2016, cc. 773, 774.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3110. Further exceptions.

A. The provisions of Article 3 (§ 2.2-3106 et seq.) shall not apply to:

1. The sale, lease or exchange of real property between an officer or employee and a governmental agency, provided the officer or employee does not participate in any way as such officer or employee in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof;

2. The publication of official notices;

3. Contracts between the government or school board of a county, city, or town with a population of less than 10,000 and an officer or employee of that county, city, or town government or school board when the total of such contracts between the government or school board and the officer or employee of that government or school board or a business controlled by him does not exceed $5,000 per year or such amount exceeds $5,000 and is less than $25,000 but results from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as provided for in § 2.2-3115;

4. An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of $5,000 per year, provided the officer or employee or a member of his immediate family does not participate and has no authority to participate in the procurement or letting of such contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

5. When the governmental agency is a public institution of higher education, an officer or employee whose personal interest in a contract with the institution is by reason of an ownership in the contracting firm in excess of three percent of the contracting firm’s equity or such ownership interest and income from the contracting firm is in excess of $5,000 per year, provided that (i) the officer or employee's ownership interest, or ownership and income interest, and that of any immediate family member in the contracting firm is disclosed in writing to the
president of the institution, which writing certifies that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the institution, (ii) the president of the institution makes a written finding as a matter of public record that the contract is in the best interests of the institution, (iii) the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of the institution or disqualifies himself as a matter of public record, and (iv) does not participate on behalf of the institution in negotiating the contract or approving the contract;

6. Except when the governmental agency is the Virginia Retirement System, contracts between an officer’s or employee’s governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the officer or employee has a personal interest, provided the officer or employee disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

7. Contracts for the purchase of goods or services when the contract does not exceed $500;

8. Grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency;

9. An officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of his marriage to his spouse who is employed by the same agency, if the spouse was employed by such agency for five or more years prior to marrying such officer or employee; or

10. Contracts entered into by an officer or employee or immediate family member of an officer or employee of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 to participate in the Virginia Agricultural Best Management Practices Cost-Share Program (the Program) established in accordance with § 10.1-546.1 or to participate in other cost-share programs for the installation of best management practices to improve water quality. This subdivision shall not apply to subcontracts or other agreements entered into by an officer or employee of a soil and water conservation district to provide services for implementation of a cost-share contract established under the Program or such other cost-share programs.

B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f)(4) of former § 2.1-348 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household and the annual salary of such subordinate is $35,000 or more.
Article 4. Prohibited Conduct Relating to Transactions

§ 2.2-3111. Application.

This article proscribes certain conduct by state and local government officers and employees having a personal interest in a transaction.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3112. Prohibited conduct concerning personal interest in a transaction; exceptions.

A. Each officer and employee of any state or local governmental or advisory agency who has a personal interest in a transaction shall disqualify himself from participating in the transaction if (i) the transaction has application solely to property or a business or governmental agency in which he has a personal interest or a business that has a parent-subsidiary or affiliated business entity relationship with the business in which he has a personal interest or (ii) he is unable to participate pursuant to subdivision B 1, 2, or 3. Any disqualification under the provisions of this subsection shall be recorded in the public records of the officer’s or employee’s governmental or advisory agency. The officer or employee shall disclose his personal interest as required by subsection E of § 2.2-3114 or subsection F of § 2.2-3115 and shall not vote or in any manner act on behalf of his agency in the transaction. The officer or employee shall be prohibited from (i) attending any portion of a closed meeting authorized by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) when the matter in which he has a personal interest is discussed and (ii) discussing the matter in which he has a personal interest with other governmental officers or employees at any time.

B. An officer or employee of any state or local government or advisory agency who has a personal interest in a transaction may participate in the transaction:

1. If he is a member of a business, profession, occupation, or group of three or more persons the members of which are affected by the transaction, and he complies with the declaration requirements of subsection F of § 2.2-3114 or subsection H of § 2.2-3115;

2. When a party to the transaction is a client of his firm if he does not personally represent or provide services to such client and he complies with the declaration requirements of subsection G of § 2.2-3114 or subsection I of § 2.2-3115; or
3. If it affects the public generally, even though his personal interest, as a member of the public, may also be affected by that transaction.

C. Disqualification under the provisions of this section shall not prevent any employee having a personal interest in a transaction in which his agency is involved from representing himself or a member of his immediate family in such transaction provided he does not receive compensation for such representation and provided he complies with the disqualification and relevant disclosure requirements of this chapter.

D. Notwithstanding any other provision of law, if disqualifications of officers or employees in accordance with this section leave less than the number required by law to act, the remaining member or members shall constitute a quorum for the conduct of business and have authority to act for the agency by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members. Notwithstanding any provisions of this chapter to the contrary, members of a local governing body whose sole interest in any proposed sale, contract of sale, exchange, lease or conveyance is by virtue of their employment by a business involved in a proposed sale, contract of sale, exchange, lease or conveyance, and where such member's or members' vote is essential to a constitutional majority required pursuant to Article VII, Section 9 of the Constitution of Virginia and § 15.2-2100, such member or members of the local governing body may vote and participate in the deliberations of the governing body concerning whether to approve, enter into or execute such sale, contract of sale, exchange, lease or conveyance. Official action taken under circumstances that violate this section may be rescinded by the agency on such terms as the interests of the agency and innocent third parties require.

E. The provisions of subsection A shall not prevent an officer or employee from participating in a transaction merely because such officer or employee is a party in a legal proceeding of a civil nature concerning such transaction.

F. The provisions of subsection A shall not prevent an employee from participating in a transaction regarding textbooks or other educational material for students at state institutions of higher education, when those textbooks or materials have been authored or otherwise created by the employee.

G. The provisions of this section shall not prevent any justice of the Supreme Court of Virginia, judge of the Court of Appeals of Virginia, judge of any circuit court, judge or substitute judge of any district court, member of the State Corporation Commission, or member of the Virginia Workers' Compensation Commission from participating in a transaction where such individual's participation involves the performance of adjudicative responsibilities as set forth in Canon 3 of the Canons of Judicial Conduct for the State of Virginia. However, nothing in this subsection shall be construed to authorize such individual's participation in a transaction if such participation would constitute a violation of the Canons of Judicial Conduct for the State of Virginia.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

**Article 5. Disclosure Statements Required to Be Filed**

**§ 2.2-3113. Application.**

This article requires disclosure of certain personal and financial interests by state and local government officers and employees.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

**§ 2.2-3114. Disclosure by state officers and employees.**

A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers’ Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Virginia Alcoholic Beverage Control Board, and members of the Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, and the Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms
shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher education in the Commonwealth shall not be required to file the disclosure form prescribed by the Council pursuant to § 2.2-3117 or 2.2-3118.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3114.1. Filings of statements of economic interests by General Assembly members.

The filing of a current statement of economic interests by a General Assembly member, member-elect, or candidate for the General Assembly pursuant to §§ 30-110 and 30-111 of the General Assembly Conflicts of Interests Act (§ 30-100 et seq.) shall suffice for the purposes of this chapter. The Secretary of the Commonwealth may obtain from the Council a copy of the statement of a General Assembly member who is appointed to a position for which a statement is required pursuant to § 2.2-3114. No General Assembly member, member-elect, or candidate shall be required to file a separate statement of economic interests for the purposes of § 2.2-3114.

2002, c. 36; 2015, cc. 763, 777.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3114.2. Report of gifts by certain officers and employees of state government.

The Governor, Lieutenant Governor, Attorney General, and each member of the Governor's Cabinet shall file, on or before May 1, a report of gifts accepted or received by him or a member of his immediate family during the period beginning on January 1 complete through adjournment sine die of the regular session of the General Assembly. The gift report shall be on a form prescribed by the Council and shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. For purposes of this section, "adjournment sine die" means adjournment on the last legislative day of the regular session and does not include the ensuing reconvened session. Any gifts reported pursuant to this section shall not be listed on the annual disclosure form prescribed by the Council pursuant to § 2.2-3117.

2016, cc. 773, 774.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3115. Disclosure by local government officers and employees.

A. In accordance with the requirements set forth in § 2.2-3118.2, the members of every governing body and school board of each county and city and of towns with populations in excess of 3,500 shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.
In accordance with the requirements set forth in § 2.2-3118.2, the members of the governing body of any authority established in any county or city, or part or combination thereof, and having the power to issue bonds or expend funds in excess of $10,000 in any fiscal year, shall file, as a condition to assuming office, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such a statement annually on or before February 1, unless the governing body of the jurisdiction that appoints the members requires that the members file the form set forth in § 2.2-3117.

In accordance with the requirements set forth in § 2.2-3118.2, persons occupying such positions of trust appointed by governing bodies and persons occupying such positions of employment with governing bodies as may be designated to file by ordinance of the governing body shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

In accordance with the requirements set forth in § 2.2-3118.2, persons occupying such positions of trust appointed by school boards and persons occupying such positions of employment with school boards as may be designated to file by an adopted policy of the school board shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of local boards, commissions and councils as may be designated by the governing body shall file, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1.

C. No person shall be mandated to file any disclosure not otherwise required by this article.

D. The disclosure forms required by subsections A and B shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council at least 30 days prior to the filing deadline, and the clerks of the governing body and school board shall distribute the forms to designated individuals at least 20 days prior to the filing deadline. Forms shall be filed and maintained as public records for five years in the office of the clerk of the respective governing body or school board. Forms filed by members of governing bodies of authorities shall be filed and maintained as public records for five years in the office of the clerk of the governing body of the county or city. Such forms shall be made public no later than six weeks after the filing deadline.

E. Candidates for membership in the governing body or school board of any county, city or town with a population of more than 3,500 persons shall file a disclosure statement of their personal interests as required by § 24.2-502.

F. Any officer or employee of local government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112 or
otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his
interest, including the full name and address of the business and the address or parcel number
for the real estate if the interest involves a business or real estate, and his disclosure shall be
reflected in the public records of the agency for five years in the office of the administrative head
of the officer's or employee's governmental or advisory agency.

G. In addition to any disclosure required by subsections A and B, in each county and city and in
towns with populations in excess of 3,500, members of planning commissions, boards of zoning
appeals, real estate assessors, and all county, city and town managers or executive officers
shall make annual disclosures of all their interests in real estate located in the county, city or
town in which they are elected, appointed, or employed. Such disclosure shall include any
business in which such persons own an interest, or from which income is received, if the
primary purpose of the business is to own, develop or derive compensation through the sale,
exchange or development of real estate in the county, city or town. In accordance with the
requirements set forth in § 2.2-3118.2, such disclosure shall be filed as a condition to assuming
office or employment, and thereafter shall be filed annually with the clerk of the governing body
of such county, city, or town on or before February 1. Such disclosures shall be filed and
maintained as public records for five years. Such forms shall be made public no later than six
weeks after the filing deadline. Forms for the filing of such reports shall be made available by
the Virginia Conflict of Interest and Ethics Advisory Council to the clerk of each governing body.

H. An officer or employee of local government who is required to declare his interest pursuant to
subdivision B 1 of § 2.2-3112 shall declare his interest by stating (i) the transaction involved, (ii)
the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he
is a member of a business, profession, occupation, or group the members of which are affected
by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and
in the public interest. The officer or employee shall either make his declaration orally to be
recorded in written minutes for his agency or file a signed written declaration with the clerk or
administrative head of his governmental or advisory agency, as appropriate, who shall, in either
case, retain and make available for public inspection such declaration for a period of five years
from the date of recording or receipt. If reasonable time is not available to comply with the
provisions of this subsection prior to participation in the transaction, the officer or employee shall
prepare and file the required declaration by the end of the next business day. The officer or
employee shall also orally disclose the existence of the interest during each meeting of the
governmental or advisory agency at which the transaction is discussed and such disclosure
shall be recorded in the minutes of the meeting.

I. An officer or employee of local government who is required to declare his interest pursuant to
subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii)
that a party to the transaction is a client of his firm, (iii) that he does not personally represent or
provide services to the client, and (iv) that he is able to participate in the transaction fairly,
objectively, and in the public interest. The officer or employee shall either make his declaration
orally to be recorded in written minutes for his agency or file a signed written declaration with
the clerk or administrative head of his governmental or advisory agency, as appropriate, who
shall, in either case, retain and make available for public inspection such declaration for a period
of five years from the date of recording or receipt. If reasonable time is not available to comply
with the provisions of this subsection prior to participation in the transaction, the officer or
employee shall prepare and file the required declaration by the end of the next business day.
J. The clerk of the governing body or school board that releases any form to the public pursuant to this section shall redact from the form any residential address, personal telephone number, or signature contained on such form; however, any form filed pursuant to subsection G shall not have any residential addresses redacted.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3116. Disclosure by certain constitutional officers.

For the purposes of this chapter, holders of the constitutional offices of treasurer, sheriff, attorney for the Commonwealth, clerk of the circuit court, and commissioner of the revenue of each county and city shall be required to file with the Council, as a condition to assuming office, the Statement of Economic Interests prescribed by the Council pursuant to § 2.2-3117. These officers shall file statements annually on or before February 1. Candidates shall file statements as required by § 24.2-502. Statements shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. These officers shall be subject to the prohibition on certain gifts set forth in subsection B of § 2.2-3103.1.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3117. Disclosure form.

The disclosure form to be used for filings required by subsections A and D of § 2.2-3114 and subsections A and E of § 2.2-3115 shall be prescribed by the Council. Except as otherwise provided in § 2.2-3115, all completed forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. Any person who knowingly and intentionally makes a false statement of a material fact on the Statement of Economic Interests is guilty of a Class 5 felony.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.
§ 2.2-3118. Disclosure form; certain citizen members.

The financial disclosure form to be used for filings required pursuant to subsection B of § 2.2-3114 and subsection B of § 2.2-3115 shall be filed in accordance with the provisions of § 30-356. The financial disclosure form shall be prescribed by the Council. Except as otherwise provided in § 2.2-3115, all completed forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3118.1. Special provisions for individuals serving in or seeking multiple positions or offices; reappointees.

A. The filing of a single current statement of economic interests by an individual required to file the form prescribed in § 2.2-3117 shall suffice for the purposes of this chapter as filing for all positions or offices held or sought by such individual during a single reporting period. The filing of a single current financial disclosure statement by an individual required to file the form prescribed in § 2.2-3118 shall suffice for the purposes of this chapter as filing for all positions or offices held or sought by such individual and requiring the filing of the § 2.2-3118 form during a single reporting period.

B. Any individual who has met the requirement for periodically filing a statement provided in § 2.2-3117 or § 2.2-3118 shall not be required to file an additional statement upon such individual's reappointment to the same office or position for which he is required to file, provided such reappointment occurs within six months after filing a statement pursuant to § 2.2-3117 and within 12 months after filing a statement pursuant to § 2.2-3118.

2005, c. 397; 2014, cc. 792, 804; 2016, cc. 773, 774.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3118.2. Disclosure form; filing requirements.

A. An officer or employee required to file an annual disclosure on or before February 1 pursuant to this article shall disclose his personal interests and other information as required on the form prescribed by the Council for the preceding calendar year complete through December 31. An officer or employee required to file a disclosure as a condition to assuming office or employment shall file such disclosure on or before the day such office or position of employment is assumed and disclose his personal interests and other information as required on the form prescribed by the Council for the preceding 12-month period complete through the last day of the month immediately preceding the month in which the office or position of employment is assumed;
however, any officer or employee who assumes office or a position of employment in January shall be required to only file an annual disclosure on or before February 1 for the preceding calendar year complete through December 31.

B. When the deadline for filing any disclosure pursuant to this article falls on a Saturday, Sunday, or legal holiday, the deadline for filing shall be the next day that is not a Saturday, Sunday, or legal holiday.

2017, cc. 829, 832.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Article 6. School Boards and Employees of School Boards

§ 2.2-3119. Additional provisions applicable to school boards and employees of school boards; exceptions.

A. Notwithstanding any other provision of this chapter, it shall be unlawful for the school board of any county or city or of any town constituting a separate school division to employ or pay any teacher or other school board employee from the public funds, federal, state or local, or for a division superintendent to recommend to the school board the employment of any teacher or other employee, if the teacher or other employee is the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law of the superintendent, or of any member of the school board.

This section shall apply to any person employed by any school board in the operation of the public free school system, adult education programs or any other program maintained and operated by a local county, city or town school board.

B. This section shall not be construed to prohibit the employment, promotion, or transfer within a school division of any person within a relationship described in subsection A when such person:

1. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher’s aide by a school board prior to the taking of office of any member of such board or division superintendent of schools; or

2. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher’s aide by a school board prior to the inception of such relationship; or

3. Was employed by a school board at any time prior to June 10, 1994, and had been employed at any time as a teacher or other employee of any Virginia school board prior to the taking of office of any member of such school board or division superintendent of schools.

C. A person employed as a substitute teacher may not be employed to any greater extent than he was employed by the school board in the last full school year prior to the taking of office of
such board member or division superintendent or to the inception of such relationship. The exceptions in subdivisions B 1, B 2, and B 3 shall apply only if the prior employment has been in the same school divisions where the employee and the superintendent or school board member now seek to serve simultaneously.

D. If any member of the school board or any division superintendent knowingly violates these provisions, he shall be personally liable to refund to the local treasury any amounts paid in violation of this law, and the funds shall be recovered from the individual by action or suit in the name of the Commonwealth on the petition of the attorney for the Commonwealth. Recovered funds shall be paid into the local treasury for the use of the public schools.

E. The provisions of this section shall not apply to employment by a school district located in Planning Districts 3, 4, 11, 12, 13, and 17 of the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, or brother-in-law of any member of the school board provided (i) the member certifies that he had no involvement with the hiring decision and (ii) the superintendent certifies to the remaining members of the governing body in writing that the employment is based upon merit and fitness and the competitive rating of the qualifications of the individual and that no member of the board had any involvement with the hiring decision.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Article 7. Penalties and Remedies

§ 2.2-3120. Knowing violation of chapter a misdemeanor.

Any person who knowingly violates any of the provisions of Articles 2 through 6 (§§ 2.2-3102 through 2.2-3119) of this chapter shall be guilty of a Class 1 misdemeanor, except that any member of a local governing body who knowingly violates subsection A of § 2.2-3112 or subsection D or F of § 2.2-3115 shall be guilty of a Class 3 misdemeanor. A knowing violation under this section is one in which the person engages in conduct, performs an act or refuses to perform an act when he knows that the conduct is prohibited or required by this chapter.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3121. Advisory opinions.

A. A state officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation resulted from his good faith reliance on a written opinion of the Attorney
General or a formal opinion or written informal advice of the Council made in response to his written request for such opinion or advice and the opinion or advice was made after a full disclosure of the facts regardless of whether such opinion or advice is later withdrawn provided the alleged violation occurred prior to the withdrawal of the opinion or advice.

B. A local officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation resulted from his good faith reliance on a written opinion of the attorney for the Commonwealth or a formal opinion or written informal advice of the Council made in response to his written request for such opinion or advice and the opinion or advice was made after a full disclosure of the facts regardless of whether such opinion or advice is later withdrawn, provided that the alleged violation occurred prior to the withdrawal of the opinion or advice. The written opinion of the attorney for the Commonwealth shall be a public record and shall be released upon request.

C. If any officer or employee serving at the local level of government is charged with a knowing violation of this chapter, and the alleged violation resulted from his reliance upon a written opinion of his county, city, or town attorney, made after a full disclosure of the facts, that such action was not in violation of this chapter, then the officer or employee shall have the right to introduce a copy of the opinion at his trial as evidence that he did not knowingly violate this chapter.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3122. Knowing violation of chapter constitutes malfeasance in office or employment.

Any person who knowingly violates any of the provisions of this chapter shall be guilty of malfeasance in office or employment. Upon conviction thereof, the judge or jury trying the case, in addition to any other fine or penalty provided by law, may order the forfeiture of such office or employment.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3123. Invalidation of contract; rescission of sales.

A. Any contract made in violation of § 2.2-3103 or §§ 2.2-3106 through 2.2-3109 may be declared void and may be rescinded by the governing body of the contracting or selling governmental agency within five years of the date of such contract. In cases in which the contract is invalidated, the contractor shall retain or receive only the reasonable value, with no
increment for profit or commission, of the property or services furnished prior to the date of
receiving notice that the contract has been voided. In cases of recision of a contract of sale, any
refund or restitution shall be made to the contracting or selling governmental agency.

B. Any purchase by an officer or employee made in violation of § 2.2-3103 or §§ 2.2-3106
through 2.2-3109 may be rescinded by the governing body of the contracting or selling
governmental agency within five years of the date of such purchase.


The chapters of the acts of assembly referenced in the historical citation at the end of this
section may not constitute a comprehensive list of such chapters and may exclude chapters
whose provisions have expired.

§ 2.2-3124. Civil penalty from violation of this chapter.

A. In addition to any other fine or penalty provided by law, an officer or employee who knowingly
violates any provision of §§ 2.2-3103 through 2.2-3112 shall be subject to a civil penalty in an
amount equal to the amount of money or thing of value received as a result of such violation. If
the thing of value received by the officer or employee in violation of §§ 2.2-3103 through 2.2-
3112 increases in value between the time of the violation and the time of discovery of the
violation, the greater value shall determine the amount of the civil penalty. Further, all money or
other things of value received as a result of such violation shall be forfeited in accordance with
the provisions of § 19.2-386.33.

B. An officer or employee required to file the disclosure form prescribed by § 2.2-3117 who fails
to file such form within the time period prescribed shall be assessed a civil penalty in an amount
equal to $250. The Council shall notify the Attorney General of any state officer's or employee's
failure to file the required form and the Attorney General shall assess and collect the civil
penalty. The clerk of the school board or the clerk of the governing body of the county, city, or
town shall notify the attorney for the Commonwealth for the locality in which the officer or
employee was elected or is employed of any local officer's or employee's failure to file the
required form and the attorney for the Commonwealth shall assess and collect the civil penalty.
The Council shall notify the Attorney General and the clerk shall notify the attorney for the
Commonwealth within 30 days of the deadline for filing. All civil penalties collected pursuant to
this subsection shall be deposited into the general fund and used exclusively to fund the
Council.

cc. 763, 777.

The chapters of the acts of assembly referenced in the historical citation at the end of this
section may not constitute a comprehensive list of such chapters and may exclude chapters
whose provisions have expired.

§ 2.2-3125. Limitation of actions.
The statute of limitations for the criminal prosecution of a person for violation of any provision of this chapter shall be one year from the time the Attorney General, if the violation is by a state officer or employee, or the attorney for the Commonwealth, if the violation is by a local officer or employee, has actual knowledge of the violation or five years from the date of the violation, whichever event occurs first. Any prosecution for malfeasance in office shall be governed by the statute of limitations provided by law.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3126. Enforcement.

A. The provisions of this chapter relating to an officer or employee serving at the state level of government shall be enforced by the Attorney General.

In addition to any other powers and duties prescribed by law, the Attorney General shall have the following powers and duties within the area for which he is responsible under this section:

1. He shall advise the agencies of state government and officers and employees serving at the state level of government on appropriate procedures for complying with the requirements of this chapter. He may review any disclosure statements, without notice to the affected person, for the purpose of determining satisfactory compliance, and shall investigate matters that come to his attention reflecting possible violations of the provisions of this chapter by officers and employees serving at the state level of government;

2. If he determines that there is a reasonable basis to conclude that any officer or employee serving at the state level of government has knowingly violated any provision of this chapter, he shall designate an attorney for the Commonwealth who shall have complete and independent discretion in the prosecution of such officer or employee;

3. He shall render advisory opinions to any state officer or employee who seeks advice as to whether the facts in a particular case would constitute a violation of the provisions of this chapter. He shall determine which opinions or portions thereof are of general interest to the public and may, from time to time, be published.

Irrespective of whether an opinion of the Attorney General has been requested and rendered, any person has the right to seek a declaratory judgment or other judicial relief as provided by law.

B. The provisions of this chapter relating to an officer or employee serving at the local level of government shall be enforced by the attorney for the Commonwealth within the political subdivision for which he is elected.

Each attorney for the Commonwealth shall be responsible for prosecuting violations by an officer or employee serving at the local level of government and, if the Attorney General
designates such attorney for the Commonwealth, violations by an officer or employee serving at
the state level of government. In the event the violation by an officer or employee serving at the
local level of government involves more than one local jurisdiction, the Attorney General shall
designate which of the attorneys for the Commonwealth of the involved local jurisdictions shall
enforce the provisions of this chapter with regard to such violation.

Each attorney for the Commonwealth shall establish an appropriate written procedure for
implementing the disclosure requirements of local officers and employees of his county, city or
town, and for other political subdivisions, whose principal offices are located within the
jurisdiction served by such attorney for the Commonwealth. The attorney for the Commonwealth
shall provide a copy of this act to all local officers and employees in the jurisdiction served by
such attorney who are required to file a disclosure statement pursuant to Article 5 (§ 2.2-3113 et
seq,) of this chapter. Failure to receive a copy of the act shall not be a defense to such officers
and employees if they are prosecuted for violations of the act.

Each attorney for the Commonwealth shall render advisory opinions as to whether the facts in a
particular case would constitute a violation of the provisions of this chapter to the governing
body and any local officer or employee in his jurisdiction and to political subdivisions other than
a county, city or town, including regional political subdivisions whose principal offices are
located within the jurisdiction served by such attorney for the Commonwealth. If the advisory
opinion is written, then such written opinion shall be a public record and shall be released upon
request. In case the opinion given by the attorney for the Commonwealth indicates that the facts
would constitute a violation, the officer or employee affected thereby may request that the
Attorney General review the opinion. A conflicting opinion by the Attorney General shall act to
revoke the opinion of the attorney for the Commonwealth. The Attorney General shall determine
which of his reviewing opinions or portions thereof are of general interest to the public and may,
from time to time, be published.

Irrespective of whether an opinion of the attorney for the Commonwealth or the Attorney
General has been requested and rendered, any person has the right to seek a declaratory
judgment or other judicial relief as provided by law.


The chapters of the acts of assembly referenced in the historical citation at the end of this
section may not constitute a comprehensive list of such chapters and may exclude chapters
whose provisions have expired.

§ 2.2-3127. Venue.

Any prosecution for a violation involving an officer serving at the state level of government shall
be brought in the Circuit Court of the City of Richmond. Any prosecution for a violation involving
an employee serving at the state level of government shall be within the jurisdiction in which the
employee has his principal place of state employment.

Any proceeding provided in this chapter shall be brought in a court of competent jurisdiction
within the county or city in which the violation occurs if the violation involves an officer or
employee serving at the local level of government.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

**Article 8. Orientation for State Filers**

§ 2.2-3128. Semiannual orientation course.

Each state agency shall offer at least semiannually to each of its state filers an orientation course on this chapter, on ethics in public contracting pursuant to Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of this title, if applicable to the filer, and on any other applicable regulations that govern the official conduct of state officers and employees.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3129. Records of attendance.

Each state agency shall maintain records indicating the specific attendees, each attendee's job title, and dates of their attendance for each orientation course offered pursuant to § 2.2-3128 for a period of not less than five years after each course is given. These records shall be public records subject to inspection and copying consistent with § 2.2-3704.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3130. Attendance requirements.

Except as set forth in § 2.2-3131, each state filer shall attend the orientation course required in § 2.2-3128, as follows:

1. For a state filer who holds a position with the agency on January 1, 2004, not later than December 31, 2004 and, thereafter, at least once during each consecutive period of two calendar years commencing on January 1, 2006.

2. For a person who becomes a state filer with the agency after January 1, 2004, within two months after he or she becomes a state filer and at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3131. Exemptions.

A. The requirements of § 2.2-3130 shall not apply to state filers with a state agency who have taken an equivalent ethics orientation course through another state agency within the time periods set forth in subdivision 1 or 2 of § 2.2-3130, as applicable.

B. State agencies may jointly conduct and state filers from more than one state agency may jointly attend an orientation course required by § 2.2-3128, as long as the course content is relevant to the official duties of the attending state filers.

C. Before conducting each orientation course required by § 2.2-3128, state agencies shall consult with the Attorney General and the Virginia Conflict of Interest and Ethics Advisory Council regarding appropriate course content.

2004, cc. 134, 392; 2014, cc. 792, 804.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.
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**APPENDIX B**

**Title 2.2**

**Chapter 37**

**Virginia Freedom of Information Act**

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Title 2.2
Chapter 37
Virginia Freedom of Information Act

§ 2.2-3700. Short title; policy.

A. This chapter may be cited as "The Virginia Freedom of Information Act."

B. By enacting this chapter, the General Assembly ensures the people of the Commonwealth ready access to public records in the custody of a public body or its officers and employees, and free entry to meetings of public bodies wherein the business of the people is being conducted. The affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government. Unless a public body or its officers or employees specifically elect to exercise an exemption provided by this chapter or any other statute, every meeting shall be open to the public and all public records shall be available for inspection and copying upon request. All public records and meetings shall be presumed open, unless an exemption is properly invoked.

The provisions of this chapter shall be liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government. Any exemption from public access to records or meetings shall be narrowly construed and no record shall be withheld or meeting closed to the public unless specifically made exempt pursuant to this chapter or other specific provision of law. This chapter shall not be construed to discourage the free discussion by government officials or employees of public matters with the citizens of the Commonwealth.

All public bodies and their officers and employees shall make reasonable efforts to reach an agreement with a requester concerning the production of the records requested.

Any ordinance adopted by a local governing body that conflicts with the provisions of this chapter shall be void.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3701. Definitions.

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

"Closed meeting" means a meeting from which the public is excluded.
"Electronic communication" means any audio or combined audio and visual communication method.

"Emergency" means an unforeseen circumstance rendering the notice required by this chapter impossible or impracticable and which circumstance requires immediate action.

"Information" as used in the exclusions established by §§ 2.2-3705.1 through 2.2-3705.7, means the content within a public record that references a specifically identified subject matter, and shall not be interpreted to require the production of information that is not embodied in a public record.

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.2-3708 or 2.2-3708.1, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. Neither the gathering of employees of a public body nor the gathering or attendance of two or more members of a public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, or (ii) at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting, shall be deemed a "meeting" subject to the provisions of this chapter.

"Open meeting" or "public meeting" means a meeting at which the public may be present.

"Public body" means any legislative body, authority, board, bureau, commission, district or agency of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and counties, municipal councils, governing bodies of counties, school boards and planning commissions; governing boards of public institutions of higher education; and other organizations, corporations or agencies in the Commonwealth supported wholly or principally by public funds. It shall include (i) the Virginia Birth-Related Neurological Injury Compensation Program and its board of directors established pursuant to Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 and (ii) any committee, subcommittee, or other entity however designated, of the public body created to perform delegated functions of the public body or to advise the public body. It shall not exclude any such committee, subcommittee or entity because it has private sector or citizen members. Corporations organized by the Virginia Retirement System are "public bodies" for purposes of this chapter.

For the purposes of the provisions of this chapter applicable to access to public records, constitutional officers and private police departments as defined in § 9.1-101 shall be considered public bodies and, except as otherwise expressly provided by law, shall have the same obligations to disclose public records as other custodians of public records.

"Public records" means all writings and recordings that consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostatting, photography,
magnetic impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business.

"Regional public body" means a unit of government organized as provided by law within defined boundaries, as determined by the General Assembly, which unit includes two or more localities.

"Scholastic records" means those records containing information directly related to a student or an applicant for admission and maintained by a public body that is an educational agency or institution or by a person acting for such agency or institution.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3702. Notice of chapter.

Any person elected, reelected, appointed or reappointed to any body not excepted from this chapter shall (i) be furnished by the public body's administrator or legal counsel with a copy of this chapter within two weeks following election, reelection, appointment or reappointment and (ii) read and become familiar with the provisions of this chapter.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election records; access by persons incarcerated in a state, local, or federal correctional facility.

A. The provisions of this chapter shall not apply to:

1. The Virginia Parole Board, except that (i) information from the Virginia Parole Board providing the number of inmates considered by the Board for discretionary parole, the number of inmates granted or denied parole, and the number of parolees returned to the custody of the Department of Corrections solely as a result of a determination by the Board of a violation of parole shall be open to inspection and available for release, on a monthly basis, as provided by § 2.2-3704; (ii) all guidance documents, as defined in § 2.2-4001, shall be public records and subject to the
provisions of this chapter; and (iii) all records concerning the finances of the Virginia Parole Board shall be public records and subject to the provisions of this chapter. The information required by clause (i) shall be furnished by offense, sex, race, age of the inmate, and the locality in which the conviction was obtained, upon the request of the party seeking the information. The information required by clause (ii) shall include all documents establishing the policy of the Board or any change in or clarification of such policy with respect to grant, denial, deferral, revocation, or supervision of parole or geriatric release or the process for consideration thereof, and shall be clearly and conspicuously posted on the Board's website. However, such information shall not include any portion of any document reflecting the application of any policy or policy change or clarification of such policy to an individual inmate;

2. Petit juries and grand juries;

3. Family assessment and planning teams established pursuant to § 2.2-5207;

4. The Virginia State Crime Commission; and

5. The records required by law to be maintained by the clerks of the courts of record, as defined in § 1-212, and courts not of record, as defined in § 16.1-69.5. However, other records maintained by the clerks of such courts shall be public records and subject to the provisions of this chapter.

B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford any rights to any person (i) incarcerated in a state, local or federal correctional facility, whether or not such facility is (a) located in the Commonwealth or (b) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.) or (ii) civilly committed pursuant to the Sexually Violent Predators Act (§ 37.2-900 et seq.). However, this subsection shall not be construed to prevent such persons from exercising their constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a criminal prosecution.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3703.1. Disclosure pursuant to court order or subpoena.

Nothing contained in this chapter shall have any bearing upon disclosures required to be made pursuant to any court order or subpoena. No discretionary exemption from mandatory disclosure shall be construed to make records covered by such discretionary exemption privileged under the rules of discovery, unless disclosure is otherwise prohibited by law.
2014, c. 319.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; charges; transfer of records for storage, etc.

A. Except as otherwise specifically provided by law, all public records shall be open to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall be provided by the custodian in accordance with this chapter by inspection or by providing copies of the requested records, at the option of the requester. The custodian may require the requester to provide his name and legal address. The custodian of such records shall take all necessary precautions for their preservation and safekeeping.

B. A request for public records shall identify the requested records with reasonable specificity. The request need not make reference to this chapter in order to invoke the provisions of this chapter or to impose the time limits for response by a public body. Any public body that is subject to this chapter and that is the custodian of the requested records shall promptly, but in all cases within five working days of receiving a request, provide the requested records to the requester or make one of the following responses in writing:

1. The requested records are being entirely withheld. Such response shall identify with reasonable particularity the volume and subject matter of withheld records, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.

2. The requested records are being provided in part and are being withheld in part. Such response shall identify with reasonable particularity the subject matter of withheld portions, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.

3. The requested records could not be found or do not exist. However, if the public body that received the request knows that another public body has the requested records, the response shall include contact information for the other public body.

4. It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. Such response shall specify the conditions that make a response impossible. If the response is made within five working days, the public body shall have an additional seven work days in which to provide one of the four preceding responses.

C. Any public body may petition the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records or requires an extraordinarily lengthy search, and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before
proceeding with the petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

D. Subject to the provisions of subsection G, no public body shall be required to create a new record if the record does not already exist. However, a public body may abstract or summarize information under such terms and conditions as agreed between the requester and the public body.

E. Failure to respond to a request for records shall be deemed a denial of the request and shall constitute a violation of this chapter.

F. A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. The public body may also make a reasonable charge for the cost incurred in supplying records produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than 50 acres. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen.

G. Public records maintained by a public body in an electronic data processing system, computer database, or any other structured collection of data shall be made available to a requester at a reasonable cost, not to exceed the actual cost in accordance with subsection F. When electronic or other databases are combined or contain exempt and nonexempt records, the public body may provide access to the exempt records if not otherwise prohibited by law, but shall provide access to the nonexempt records as provided by this chapter.

Public bodies shall produce nonexempt records maintained in an electronic database in any tangible medium identified by the requester, including, where the public body has the capability, the option of posting the records on a website or delivering the records through an electronic mail address provided by the requester, if that medium is used by the public body in the regular course of business. No public body shall be required to produce records from an electronic database in a format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in any format under such terms and conditions as agreed between the requester and public body, including the payment of reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available format to another shall not be deemed the creation, preparation, or compilation of a new public record.

H. In any case where a public body determines in advance that charges for producing the requested records are likely to exceed $200, the public body may, before continuing to process the request, require the requester to agree to payment of a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the
requested records. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the requester.

I. Before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.

J. In the event a public body has transferred possession of public records to any entity, including but not limited to any other public body, for storage, maintenance, or archiving, the public body initiating the transfer of such records shall remain the custodian of such records for purposes of responding to requests for public records made pursuant to this chapter and shall be responsible for retrieving and supplying such public records to the requester. In the event a public body has transferred public records for storage, maintenance, or archiving and such transferring public body is no longer in existence, any public body that is a successor to the transferring public body shall be deemed the custodian of such records. In the event no successor entity exists, the entity in possession of the public records shall be deemed the custodian of the records for purposes of compliance with this chapter, and shall retrieve and supply such records to the requester. Nothing in this subsection shall be construed to apply to records transferred to the Library of Virginia for permanent archiving pursuant to the duties imposed by the Virginia Public Records Act (§ 42.1-76 et seq.). In accordance with § 42.1-79, the Library of Virginia shall be the custodian of such permanently archived records and shall be responsible for responding to requests for such records made pursuant to this chapter.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3704.01. Records containing both excluded and nonexcluded information; duty to redact.

No provision of this chapter is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by this chapter or by any other provision of law. A public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under this chapter or other provision of law applies to the entire content of the
public record. Otherwise, only those portions of the public record containing information subject to an exclusion under this chapter or other provision of law may be withheld, and all portions of the public record that are not so excluded shall be disclosed.

2016, cc. 620, 716.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3704.1. Posting of notice of rights and responsibilities by state and local public bodies; assistance by the Freedom of Information Advisory Council.

A. All state public bodies subject to the provisions of this chapter, any county or city, any town with a population of more than 250, and any school board shall make available the following information to the public upon request and shall post a link to such information on the homepage of their respective official public government websites:

1. A plain English explanation of the rights of a requester under this chapter, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with this chapter. For purposes of this section, "plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession;

2. Contact information for the FOIA officer designated by the public body pursuant to § 2.2-3704.2 to (i) assist a requester in making a request for records or (ii) respond to requests for public records;

3. A general description, summary, list, or index of the types of public records maintained by such public body;

4. A general description, summary, list, or index of any exemptions in law that permit or require such public records to be withheld from release;

5. Any policy the public body has concerning the type of public records it routinelywithholds from release as permitted by this chapter or other law; and

6. The following statement: "A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of § 2.2-3704 of the Code of Virginia."
B. Any state public body subject to the provisions of this chapter and any county or city, and any town with a population of more than 250, shall post a link on its official public government website to the online public comment form on the Freedom of Information Advisory Council’s website to enable any requester to comment on the quality of assistance provided to the requester by the public body.

C. The Freedom of Information Advisory Council, created pursuant to § 30-178, shall assist in the development and implementation of the provisions of subsection A, upon request.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3704.2. Public bodies to designate FOIA officer.

A. All state public bodies, including state authorities, that are subject to the provisions of this chapter and all local public bodies that are subject to the provisions of this chapter, shall designate and publicly identify one or more Freedom of Information Act officers (FOIA officer) whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body’s compliance with the provisions of this chapter.

B. For such state public bodies, the name and contact information of the public body’s FOIA officer to whom members of the public may direct requests for public records and who will oversee the public body’s compliance with the provisions of this chapter shall be made available to the public upon request and be posted on the respective public body’s official public government website at the time of designation and maintained thereafter on such website for the duration of the designation.

C. For such local public bodies, the name and contact information of the public body’s FOIA officer to whom members of the public may direct requests for public records and who will oversee the public body’s compliance with the provisions of this chapter shall be made available in a way reasonably calculated to provide notice to the public, including posting at the public body’s place of business, posting on its official public government website, or including such information in its publications.

D. For the purposes of this section, local public bodies shall include constitutional officers.

E. Any such FOIA officer shall possess specific knowledge of the provisions of this chapter and be trained at least annually by legal counsel for the public body or the Virginia Freedom of Information Advisory Council (the Council) or through an online course offered by the Council. Any such training shall document that the training required by this subsection has been fulfilled.

F. The name and contact information of a FOIA officer trained by legal counsel of a public body shall be (i) submitted to the Council by July 1 of each year on a form developed by the Council
for that purpose and (ii) updated in a timely manner in the event of any changes to such information.

G. The Council shall maintain on its website a listing of all FOIA officers, including name, contact information, and the name of the public body such FOIA officers serve.

2016, c. 748; 2017, cc. 290, 778.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3705. Repealed.

Repealed by Acts 2004, c. 690.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to public bodies.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Personnel information concerning identifiable individuals, except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of such information and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such information shall be disclosed.

Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

No provision of this chapter or any provision of Chapter 38 (§ 2.2-3800 et seq.) shall be construed as denying public access to (i) contracts between a public body and its officers or employees, other than contracts settling public employee employment disputes held confidential as personnel records under § 2.2-3705.1; (ii) records of the name, position, job classification, official salary, or rate of pay of, and records of the allowances or reimbursements for expenses paid to, any officer, official, or employee of a public body; or (iii) the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees. The provisions of this subdivision, however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is $10,000 or less.
2. Written advice of legal counsel to state, regional or local public bodies or the officers or employees of such public bodies, and any other information protected by the attorney-client privilege.

3. Legal memoranda and other work product compiled specifically for use in litigation or for use in an active administrative investigation concerning a matter that is properly the subject of a closed meeting under § 2.2-3711.

4. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by a public body.

As used in this subdivision, "test or examination" shall include (a) any scoring key for any such test or examination and (b) any other document that would jeopardize the security of the test or examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as provided by law, or limit access to individual records as provided by law. However, the subject of such employment tests shall be entitled to review and inspect all records relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, the test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

5. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

6. Vendor proprietary information software that may be in the public records of a public body. For the purpose of this subdivision, "vendor proprietary information software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

7. Computer software developed by or for a state agency, public institution of higher education in the Commonwealth, or political subdivision of the Commonwealth.

8. Appraisals and cost estimates of real property subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease.

9. Information concerning reserves established in specific claims administered by the Department of the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of Chapter 18, or by any county, city, or town; and investigative notes, correspondence and information furnished in confidence with respect to an investigation of a
claim or a potential claim against a public body's insurance policy or self-insurance plan. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports upon expiration of the period of limitations for the filing of a civil suit.

10. Personal contact information furnished to a public body for the purpose of receiving electronic mail from the public body, provided that the electronic mail recipient has requested that the public body not disclose such information. However, access shall not be denied to the person who is the subject of the record. As used in this subdivision, "personal contact information" means the information provided to the public body for the purpose of receiving electronic mail from the public body and includes home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device.

11. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the Virginia Administrative Dispute Resolution Act (§ 2.2-4115 et seq.).

12. Information relating to the negotiation and award of a specific contract where competition or bargaining is involved and where the release of such information would adversely affect the bargaining position or negotiating strategy of the public body. Such information shall not be withheld after the public body has made a decision to award or not to award the contract. In the case of procurement transactions conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the provisions of this subdivision shall not apply, and any release of information relating to such transactions shall be governed by the Virginia Public Procurement Act.

13. Account numbers or routing information for any credit card, debit card, or other account with a financial institution of any person or public body. However, access shall not be denied to the person who is the subject of the information. For the purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, savings and loan companies or associations, and credit unions.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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1. Confidential information, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

2. Information that describes the design, function, operation, or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

3. Information that would disclose the security aspects of a system safety program plan adopted pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety Oversight agency; and information in the possession of such agency, the release of which would jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway safety.

4. Information concerning security plans and specific assessment components of school safety audits, as provided in § 22.1-279.8.

Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the effectiveness of security plans after (i) any school building or property has been subjected to fire, explosion, natural disaster, or other catastrophic event or (ii) any person on school property has suffered or been threatened with any personal injury.

5. Information concerning the mental health assessment of an individual subject to commitment as a sexually violent predator under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 held by the Commitment Review Committee; except that in no case shall information identifying the victims of a sexually violent predator be disclosed.

6. Subscriber data provided directly or indirectly by a communications services provider to a public body that operates a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system if the data is in a form not made available by the communications services provider to the public generally. Nothing in this subdivision shall prevent the disclosure of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.

For the purposes of this subdivision:

"Communications services provider" means the same as that term is defined in § 58.1-647.

"Subscriber data" means the name, address, telephone number, and any other information identifying a subscriber of a communications services provider.

7. Subscriber data collected by a local governing body in accordance with the Enhanced Public Safety Telephone Services Act (§ 56-484.12 et seq.) and other identifying information of a personal, medical, or financial nature provided to a local governing body in connection with a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system if such records are not otherwise publicly available.
Nothing in this subdivision shall prevent the disclosure of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.

For the purposes of this subdivision:

"Communications services provider" means the same as that term is defined in § 58.1-647.

"Subscriber data" means the name, address, telephone number, and any other information identifying a subscriber of a communications services provider.

8. Information held by 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, that would (i) reveal strategies under consideration or development by the Council or such commission or organizations to prevent the closure or realignment of federal military installations located in Virginia or the relocation of national security facilities located in Virginia, to limit the adverse economic effect of such realignment, closure, or relocation, or to seek additional tenant activity growth from the Department of Defense or federal government or (ii) disclose trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Council or such commission or organizations in connection with their work.

In order to invoke the trade secret protection provided by clause (ii), the submitting entity shall, in writing and at the time of submission (a) invoke this exclusion, (b) identify with specificity the information for which such protection is sought, and (c) state the reason why such protection is necessary. Nothing in this subdivision shall be construed to prevent the disclosure of all or part of any record, other than a trade secret that has been specifically identified as required by this subdivision, after the Department of Defense or federal agency has issued a final, unappealable decision, or in the event of litigation, a court of competent jurisdiction has entered a final, unappealable order concerning the closure, realignment, or expansion of the military installation or tenant activities, or the relocation of the national security facility, for which records are sought.

9. Information, as determined by the State Comptroller, that describes the design, function, operation, or implementation of internal controls over the Commonwealth’s financial processes and systems, and the assessment of risks and vulnerabilities of those controls, including the annual assessment of internal controls mandated by the State Comptroller, if disclosure of such information would jeopardize the security of the Commonwealth’s financial assets. However, records relating to the investigation of and findings concerning the soundness of any fiscal process shall be disclosed in a form that does not compromise internal controls. Nothing in this subdivision shall be construed to prohibit the Auditor of Public Accounts or the Joint Legislative Audit and Review Commission from reporting internal control deficiencies discovered during the course of an audit.
10. Information relating to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system that (i) describes the design, function, programming, operation, or access control features of the overall system, components, structures, individual networks, and subsystems of the STARS or any other similar local or regional communications system or (ii) relates to radio frequencies assigned to or utilized by STARS or any other similar local or regional communications system, code plugs, circuit routing, addressing schemes, talk groups, fleet maps, encryption, or programming maintained by or utilized by STARS or any other similar local or regional public safety communications system.

11. Information concerning a salaried or volunteer Fire/EMS company or Fire/EMS department if disclosure of such information would reveal the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties.

12. Information concerning the disaster recovery plans or the evacuation plans in the event of fire, explosion, natural disaster, or other catastrophic event for hospitals and nursing homes regulated by the Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 provided to the Department of Health. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the effectiveness of executed evacuation plans after the occurrence of fire, explosion, natural disaster, or other catastrophic event.

13. Records received by the Department of Criminal Justice Services pursuant to §§ 9.1-184, 22.1-79.4, and 22.1-279.8 or for purposes of evaluating threat assessment teams established by a public institution of higher education pursuant to § 23.1-805 or by a private nonprofit institution of higher education, to the extent such records reveal security plans, walk-through checklists, or vulnerability and threat assessment components.

14. Information contained in (i) engineering, architectural, or construction drawings; (ii) operational, procedural, tactical planning, or training manuals; (iii) staff meeting minutes; or (iv) other records that reveal any of the following, the disclosure of which would jeopardize the safety or security of any person; governmental facility, building, or structure or persons using such facility, building, or structure; or public or private commercial office, multifamily residential, or retail building or its occupants:

a. Critical infrastructure information or the location or operation of security equipment and systems of any public building, structure, or information storage facility, including ventilation systems, fire protection equipment, mandatory building emergency equipment or systems, elevators, electrical systems, telecommunications equipment and systems, or utility equipment and systems;

b. Vulnerability assessments, information not lawfully available to the public regarding specific cybersecurity threats or vulnerabilities, or security plans and measures of an entity, facility, building structure, information technology system, or software program;

c. Surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational or transportation plans or protocols; or
d. Interconnectivity, network monitoring, network operation centers, master sites, or systems related to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system.

The same categories of records of any person or entity submitted to a public body for the purpose of antiterrorism response planning or cybersecurity planning or protection may be withheld from disclosure if such person or entity in writing (a) invokes the protections of this subdivision, (b) identifies with specificity the records or portions thereof for which protection is sought, and (c) states with reasonable particularity why the protection of such records from public disclosure is necessary to meet the objective of antiterrorism, cybersecurity planning or protection, or critical infrastructure information security and resilience. Such statement shall be a public record and shall be disclosed upon request.

Any public body receiving a request for records excluded under clauses (a) and (b) of this subdivision 14 shall notify the Secretary of Public Safety and Homeland Security or his designee of such request and the response made by the public body in accordance with § 2.2-3704.

Nothing in this subdivision 14 shall prevent the disclosure of records relating to (1) the structural or environmental soundness of any such facility, building, or structure or (2) an inquiry into the performance of such facility, building, or structure after it has been subjected to fire, explosion, natural disaster, or other catastrophic event.

As used in this subdivision, "critical infrastructure information" means the same as that term is defined in 6 U.S.C. § 131.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. (Effective until January 15, 2018) Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Alcoholic Beverage Control Board, the Virginia Lottery, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to
Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

1. (Effective January 15, 2018) Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth pursuant to § 54.1-108.

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this subdivision shall prevent the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud,
Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. The names, addresses, and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body.

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of
the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of 18 years. For scholastic records of students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent’s parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a
public institution of higher education in the Commonwealth, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such records shall be disclosed.

2. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment or promotion, or (iii) receipt of an honor or honorary recognition.

3. Information held by the Brown v. Board of Education Scholarship Committee that would reveal personally identifiable information, including scholarship applications, personal financial information, and confidential correspondence and letters of recommendation.

4. Information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions’ 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 institution alone or in conjunction with a governmental body or a private concern, where such information has not been publicly released, published, copyrighted or patented.

5. Information held by the University of Virginia or the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, that contain 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 be harmful to the competitive position of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be.

6. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College Savings Plan 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, including personal information related to (i) qualified beneficiaries as that term is defined in § 23.1-700, (ii) designated survivors, or (iii) authorized individuals. Nothing in this subdivision shall be construed to prevent disclosure or publication of information in a statistical or other form that does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

For purposes of this subdivision:

"Authorized individual" means an individual who may be named by the account owner to receive information regarding the account but who does not have any control or authority over the account.
"Designated survivor" means the person who will assume account ownership in the event of the account owner's death.

7. Information maintained in connection with fundraising activities by or for a public institution of higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or prospective donors or (ii) wealth assessments; estate, financial, or tax planning information; health-related information; employment, familial, or marital status information; electronic mail addresses, facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or prospective donors. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation, or the identity of the donor unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the institution for the performance of research services or other work or (ii) the terms and conditions of such grants or contracts.

8. Information held by a threat assessment team established by a local school board pursuant to § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment or intervention with a specific individual. However, in the event an individual who has been under assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious bodily injury, including any felony sexual assault, to another person, such information of the threat assessment team concerning the individual under assessment shall be made available as provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The public body providing such information shall remove personally identifying information of any person who provided information to the threat assessment team under a promise of confidentiality.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.
Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person’s right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent’s parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants; information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1; information held by the Health Practitioners’ Monitoring Program Committee within the Department of Health Professions that identifies any practitioner who may be, or who is actually, impaired to the extent that disclosure is prohibited by § 54.1-2517; and information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program (Program) pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

3. Reports, documentary evidence, and other information as specified in §§ 51.5-122 and 51.5-141 and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 and information and statistical registries required to be kept confidential pursuant to Chapter 1 (§ 63.2-100 et seq.) of Title 63.2.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. However, nothing in this subdivision shall prevent the disclosure of information from the records of
completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; or (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6.

8. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

9. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

10. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

11. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

12. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to prevent the disclosure of statistical summaries, abstracts, or other information in aggregate form.

13. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with
Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

14. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

15. Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

16. (For contingent effective date, see Editor's note.) Records of and information held by the Emergency Department Care Coordination Program required to be kept confidential pursuant to § 32.1-372.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

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

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

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.
5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

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

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

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

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

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

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of
2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

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

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

(3) Stating the reasons why protection is necessary.

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

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.
13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

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

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming Board related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

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

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable
television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. 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.).

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

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

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

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

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

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

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

c. Stating the reasons why protection is necessary.
The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

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

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

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

c. Stating the reasons why protection is necessary.

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

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects or, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.
In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

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

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

(3) Stating the reasons why protection is necessary.

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

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

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

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

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

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

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

c. Stating the reasons why protection is necessary.

28. Information relating to a grant or loan application, or accompanying a grant or loan application, submitted to the Virginia Research Investment Committee established pursuant to
Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of a party to a grant or loan application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant or loan application; and memoranda, staff evaluations, or other information prepared by the Committee or its staff, or a reviewing entity pursuant to subsection D of § 23.1-3133, exclusively for the evaluation of grant or loan applications, including any scoring or prioritization documents prepared for and forwarded to the Committee pursuant to subsection D of § 23.1-3133.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Committee:

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

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

c. Stating the reasons why protection is necessary.

The Virginia Research Investment Committee shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the party to the application. The Committee shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

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

b. Identifying with specificity the data or other materials for which protection is sought; and
c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or 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 the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.
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; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; 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 a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

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. Information 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 charged or 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 own information shall not be denied.
9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information 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. 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 exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, 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 information 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. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, 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, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, 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) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of 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.

13. 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.

14. Information held by 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; 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 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 information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

15. Information held by the Department of Environmental Quality, the State Water Control Board, the 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 information 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 prevent the disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or 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.

17. Information held by 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.

18. Information held by 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.

19. 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 or his agents or employees or persons employed to perform an audit or examination of holder records.
20. Information held by 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 that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

21. Information held by state or local park and recreation departments and local and regional park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to prevent 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 such information of 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 information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

22. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that 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.

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 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, if disclosure of such information 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 if 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 exclusion from disclosure meets the requirements set forth in subdivision b.

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

25. Information held by the Department of Corrections made confidential by § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

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

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

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

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse teams established pursuant to § 15.2-1627.5. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3705.8. Limitation on record exclusions.

Nothing in this chapter shall be construed as denying public access to the nonexempt portions of a report of a consultant hired by or at the request of a local public body or the mayor or chief executive or administrative officer of such public body if (i) the contents of such report have been distributed or disclosed to members of the local public body or (ii) the local public body has scheduled any action on a matter that is the subject of the consultant’s report.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3705.8. Limitation on record exclusions.

Nothing in this chapter shall be construed as denying public access to the nonexempt portions of a report of a consultant hired by or at the request of a local public body or the mayor or chief executive or administrative officer of such public body if (i) the contents of such report have been distributed or disclosed to members of the local public body or (ii) the local public body has scheduled any action on a matter that is the subject of the consultant’s report.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3706. Disclosure of criminal records; limitations.

A. All public bodies engaged in criminal law-enforcement activities shall provide requested records in accordance with this chapter as follows:

1. Records required to be released:

a. Criminal incident information relating to felony offenses, which shall include:

(1) A general description of the criminal activity reported;

(2) The date the alleged crime was committed;

(3) The general location where the alleged crime was committed;

(4) The identity of the investigating officer or other point of contact; and

(5) A general description of any injuries suffered or property damaged or stolen.

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of subdivision a.

Where the release of criminal incident information, however, is likely to jeopardize an ongoing investigation or prosecution or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information. Nothing in subdivision a shall be construed to authorize the withholding of those portions of such information that are not likely to cause the above-referenced damage;

b. Adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation;

c. Information relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest; and

d. Records of completed unattended death investigations to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death" means a death determined to be a suicide, accidental or natural death where no criminal charges will be initiated, and "immediate family" means the decedent's
2. Discretionary releases. The following records are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such disclosure is prohibited by law:

a. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence relating to a criminal investigation or prosecution, other than criminal incident information subject to release in accordance with subdivision 1 a;

b. Reports submitted in confidence to (i) state and local law enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1;

c. Records of local law enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity;

d. All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment;

e. Records of law enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law enforcement personnel or the general public;

f. All records of adult persons under (i) investigation or supervision by a local pretrial services agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation, probation supervision, or monitoring by a local community-based probation services agency in accordance with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state probation and parole services in accordance with Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1;

g. Records of a law enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties;

h. Those portions of any records containing information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective details. Nothing in this subdivision shall operate to allow the withholding of information concerning the overall costs or expenses associated with undercover operations or protective details;

i. Records of (i) background investigations of applicants for law enforcement agency employment, (ii) administrative investigations relating to allegations of wrongdoing by
employees of a law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement agencies that are made confidential by law;

j. The identity of any victim, witness, or undercover officer, or investigative techniques or procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited or restricted under § 19.2-11.2; and

k. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including information obtained from state, local, and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913; and

3. Prohibited releases. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

B. Noncriminal records. Those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature may be withheld where the release of such information would jeopardize the safety or privacy of any person. Access to personnel records of persons employed by a law-enforcement agency shall be governed by the provisions of subdivision A 2 i of this section and subdivision 1 of § 2.2-3705.1, as applicable.

C. Records of any call for service or other communication to an emergency 911 system or communicated with any other equivalent reporting system shall be subject to the provisions of this chapter.

D. Conflict resolution. In the event of conflict between this section as it relates to requests made under this section and other provisions of law, this section shall control.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3707. Meetings to be public; notice of meetings; recordings; minutes.

A. All meetings of public bodies shall be open, except as provided in §§ 2.2-3707.01 and 2.2-3711.

B. No meeting shall be conducted through telephonic, video, electronic or other communication means where the members are not physically assembled to discuss or transact public business, except as provided in § 2.2-3708, 2.2-3708.1 or as may be specifically provided in Title 54.1 for the summary suspension of professional licenses.
C. Every public body shall give notice of the date, time, and location of its meetings by:

1. Posting such notice on its official public government website, if any;

2. Placing such notice in a prominent public location at which notices are regularly posted; and

3. Placing such notice at the office of the clerk of the public body or, in the case of a public body that has no clerk, at the office of the chief administrator.

All state public bodies subject to the provisions of this chapter shall also post notice of their meetings on a central, publicly available electronic calendar maintained by the Commonwealth. Publication of meeting notices by electronic means by other public bodies shall be encouraged.

The notice shall be posted at least three working days prior to the meeting.

D. Notice, reasonable under the circumstance, of special, emergency, or continued meetings shall be given contemporaneously with the notice provided to the members of the public body conducting the meeting.

E. Any person may annually file a written request for notification with a public body. The request shall include the requester’s name, address, zip code, daytime telephone number, electronic mail address, if available, and organization, if any. The public body receiving such request shall provide notice of all meetings directly to each such person. Without objection by the person, the public body may provide electronic notice of all meetings in response to such requests.

F. At least one copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body. The proposed agendas for meetings of state public bodies where at least one member has been appointed by the Governor shall state whether or not public comment will be received at the meeting and, if so, the approximate point during the meeting when public comment will be received.

G. Any person may photograph, film, record or otherwise reproduce any portion of a meeting required to be open. The public body conducting the meeting may adopt rules governing the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting to prevent interference with the proceedings, but shall not prohibit or otherwise prevent any person from photographing, filming, recording, or otherwise reproducing any portion of a meeting required to be open. No public body shall conduct a meeting required to be open in any building or facility where such recording devices are prohibited.

H. Minutes shall be recorded at all open meetings. However, minutes shall not be required to be taken at deliberations of (i) standing and other committees of the General Assembly; (ii) legislative interim study commissions and committees, including the Virginia Code Commission; (iii) study committees or commissions appointed by the Governor; or (iv) study commissions or study committees, or any other committees or subcommittees appointed by the governing bodies or school boards of counties, cities and towns, except where the membership of any
such commission, committee or subcommittee includes a majority of the governing body of the county, city or town or school board.

Minutes, including draft minutes, and all other records of open meetings, including audio or audio/visual records shall be deemed public records and subject to the provisions of this chapter.

Minutes shall be in writing and shall include (i) the date, time, and location of the meeting; (ii) the members of the public body recorded as present and absent; and (iii) a summary of the discussion on matters proposed, deliberated or decided, and a record of any votes taken. In addition, for electronic communication meetings conducted in accordance with § 2.2-3708, minutes of state public bodies shall include (a) the identity of the members of the public body at each remote location identified in the notice who participated in the meeting through electronic communications means, (b) the identity of the members of the public body who were physically assembled at the primary or central meeting location, and (c) the identity of the members of the public body who were not present at the locations identified in clauses (a) and (b), but who monitored such meeting through electronic communications means.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3707.01. Meetings of the General Assembly.

A. Except as provided in subsection B, public access to any meeting of the General Assembly or a portion thereof shall be governed by rules established by the Joint Rules Committee and approved by a majority vote of each house at the next regular session of the General Assembly. At least 60 days before the adoption of such rules, the Joint Rules Committee shall (i) hold regional public hearings on such proposed rules and (ii) provide a copy of such proposed rules to the Virginia Freedom of Information Advisory Council.

B. Floor sessions of either house of the General Assembly; meetings, including work sessions, of any standing or interim study committee of the General Assembly; meetings, including work sessions, of any subcommittee of such standing or interim study committee; and joint committees of conference of the General Assembly; or a quorum of any such committees or subcommittees, shall be open and governed by this chapter.

C. Meetings of the respective political party caucuses of either house of the General Assembly, including meetings conducted by telephonic or other electronic communication means, without regard to (i) whether the General Assembly is in or out of regular or special session or (ii) whether such caucuses invite staff or guests to participate in their deliberations, shall not be deemed meetings for the purposes of this chapter.
D. No regular, special, or reconvened session of the General Assembly held pursuant to Article IV, Section 6 of the Constitution of Virginia shall be conducted using electronic communication means pursuant § 2.2-3708.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3707.1. Posting of minutes for state boards and commissions.

All boards, commissions, councils, and other public bodies created in the executive branch of state government and subject to the provisions of this chapter shall post minutes of their meetings on such body’s official public government website and on a central electronic calendar maintained by the Commonwealth. Draft minutes of meetings shall be posted as soon as possible but no later than 10 working days after the conclusion of the meeting. Final approved meeting minutes shall be posted within three working days of final approval of the minutes.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3708. Electronic communication meetings; applicability; physical quorum required; exceptions; notice; report.

A. Except as expressly provided in subsection G of this section or § 2.2-3708.1, no local governing body, school board, or any authority, board, bureau, commission, district or agency of local government, any committee thereof, or any entity created by a local governing body, school board, or any local authority, board, or commission shall conduct a meeting wherein the public business is discussed or transacted through telephonic, video, electronic or other communication means where the members are not physically assembled. Nothing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation.

B. Except as provided in subsection G or H of this section or subsection D of § 2.2-3707.01, state public bodies may conduct any meeting wherein the public business is discussed or transacted through electronic communication means, provided (i) a quorum of the public body is physically assembled at one primary or central meeting location, (ii) notice of the meeting has been given in accordance with subsection C, and (iii) the remote locations, from which additional members of the public body participate through electronic communication means, are open to the public. All persons attending the meeting at any of the meeting locations shall be afforded the same opportunity to address the public body as persons attending the primary or central location.
If an authorized public body holds an electronic meeting pursuant to this section, it shall also hold at least one meeting annually where members in attendance at the meeting are physically assembled at one location and where no members participate by electronic communication means.

C. Notice of any regular meeting held pursuant to this section shall be provided at least three working days in advance of the date scheduled for the meeting. Notice, reasonable under the circumstance, of special, emergency, or continued meetings held pursuant to this section shall be given contemporaneously with the notice provided to members of the public body conducting the meeting. For the purposes of this subsection, "continued meeting" means a meeting that is continued to address an emergency or to conclude the agenda of a meeting for which proper notice was given.

The notice shall include the date, time, place, and purpose for the meeting; shall identify the locations for the meeting; and shall include a telephone number that may be used at remote locations to notify the primary or central meeting location of any interruption in the telephonic or video broadcast of the meeting to the remote locations. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access restored.

D. A copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of the public body and that have been made available to the staff of the public body in sufficient time for duplication and forwarding to all locations where public access will be provided shall be made available to the public at the time of the meeting. Minutes of all meetings held by electronic communication means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through electronic communication means shall be recorded by name in roll-call fashion and included in the minutes.

E. Three working days’ notice shall not be required for meetings authorized under this section held in accordance with subsection G. Public bodies conducting emergency meetings through electronic communication means shall comply with the provisions of subsection D requiring minutes of the meeting. The nature of the emergency shall be stated in the minutes.

F. Any authorized public body that meets by electronic communication means shall make a written report of the following to the Virginia Freedom of Information Advisory Council by December 15 of each year:

1. The total number of electronic communication meetings held that year;
2. The dates and purposes of the meetings;
3. A copy of the agenda for the meeting;
4. The number of sites for each meeting;
5. The types of electronic communication means by which the meetings were held;
6. The number of participants, including members of the public, at each meeting location;
7. The identity of the members of the public body recorded as absent and those recorded as present at each meeting location;

8. A summary of any public comment received about the electronic communication meetings; and

9. A written summary of the public body's experience using electronic communication meetings, including its logistical and technical experience.

In addition, any authorized public body shall make available to the public at any meeting conducted in accordance with this section a public comment form prepared by the Virginia Freedom of Information Advisory Council in accordance with § 30-179.

G. Any public body may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to address the emergency. The public body convening a meeting in accordance with this subsection shall (a) give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided members of the public body conducting the meeting; (b) make arrangements for public access to such meeting; and (c) otherwise comply with the provisions of this section. The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3708.1. Participation in meetings due to personal matter; certain disabilities; distance from meeting location for certain public bodies.

A. A member of a public body may participate in a meeting governed by this chapter through electronic communication means from a remote location that is not open to the public only as follows and subject to the requirements of subsection B:

1. If, on or before the day of a meeting, a member of the public body holding the meeting notifies the chair of the public body that such member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter, and the public body holding the meeting records in its minutes the specific nature of the personal matter and the remote location from which the member participated. If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection B, such disapproval shall be recorded in the minutes with specificity.
Such participation by the member shall be limited each calendar year to two meetings;  

2. If a member of a public body notifies the chair of the public body that such member is unable to attend a meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance and the public body records this fact and the remote location from which the member participated in its minutes; or

3. If, on the day of a meeting, a member of a regional public body notifies the chair of the public body that such member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting and the public body holding the meeting records in its minutes the remote location from which the member participated. If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection B, such disapproval shall be recorded in the minutes with specificity.

B. Participation by a member of a public body as authorized under subsection A shall be only under the following conditions:

1. The public body has adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation, subject to the express limitations imposed by this section. Once adopted, the policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting;

2. A quorum of the public body is physically assembled at the primary or central meeting location; and

3. The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

2007, c. 945; 2013, cc. 119, 694; 2014, cc. 492, 524; 2017, c. 616.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3709. Expired.

Expired.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3710. Transaction of public business other than by votes at meetings prohibited.
A. Unless otherwise specifically provided by law, no vote of any kind of the membership, or any part thereof, of any public body shall be taken to authorize the transaction of any public business, other than a vote taken at a meeting conducted in accordance with the provisions of this chapter. No public body shall vote by secret or written ballot, and unless expressly provided by this chapter, no public body shall vote by telephone or other electronic communication means.

B. Notwithstanding the foregoing, nothing contained herein shall be construed to prohibit (i) separately contacting the membership, or any part thereof, of any public body for the purpose of ascertaining a member’s position with respect to the transaction of public business, whether such contact is done in person, by telephone or by electronic communication, provided the contact is done on a basis that does not constitute a meeting as defined in this chapter or (ii) the House of Delegates or the Senate of Virginia from adopting rules relating to the casting of votes by members of standing committees. Nothing in this subsection shall operate to exclude any public record from the provisions of this chapter.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

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

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

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

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student’s parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.
3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

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

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

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

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

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) 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 (b) 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.

10 Discussion or consideration by 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 of matters relating to specific gifts, bequests, and grants from private sources.
11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. 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.

14. 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.

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

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. 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 excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

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 subject to the exclusion in subdivision 2 or 14 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 by a local finance
board or board of trustees of a trust established by one or more local public bodies to invest
funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-
1544 et seq.) of Chapter 15 of Title 15.2, or by the board of 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 board of visitors of the University of Virginia, prepared by
the retirement system, or a local finance board or board of trustees, or the Virginia College
Savings Plan or provided to the retirement system a local finance board or board of trustees, 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, a local finance board or board of trustees, the board of 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 board of visitors of the University of Virginia 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. Discussion or consideration by the Virginia Commonwealth University Health System
Authority or the board of visitors of Virginia Commonwealth University of any of the following:
the acquisition or disposition by the Authority of real property, equipment, or technology
software or hardware and related goods or services, where disclosure would adversely affect
the bargaining position or negotiating strategy of the Authority; matters relating to gifts or
bequests to, and fund-raising activities of, the Authority; grants and contracts for services or
work to be performed by the Authority; marketing or operational strategies plans of the Authority
where disclosure of such strategies or plans would adversely affect the competitive position of

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the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

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 subject to the exclusion in 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 subject to the exclusion in 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 subject to the exclusion in subdivision 5 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. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or
cable television services and subject to the exclusion in 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.).

33. 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 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. 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.

35. 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 criminal investigative files subject to the exclusion in subdivision A 2 a of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in 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.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. 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 subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. 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 subject to the exclusion in subdivision 8 of § 2.2-3705.2.
42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (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.

46. (Effective January 15, 2018) Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in 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 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

48. 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.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child by a child abuse team established pursuant to § 15.2-1627.5.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, or any subcommittee thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.
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.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3712. Closed meetings procedures; certification of proceedings.

A. No closed meeting shall be held unless the public body proposing to convene such meeting has taken an affirmative recorded vote in an open meeting approving a motion that (i) identifies the subject matter, (ii) states the purpose of the meeting as authorized in subsection A of § 2.2-3711 or other provision of law and (iii) cites the applicable exemption from open meeting requirements provided in subsection A of § 2.2-3711 or other provision of law. The matters contained in such motion shall be set forth in detail in the minutes of the open meeting. A general reference to the provisions of this chapter, the authorized exemptions from open
meeting requirements, or the subject matter of the closed meeting shall not be sufficient to satisfy the requirements for holding a closed meeting.

B. The notice provisions of this chapter shall not apply to closed meetings of any public body held solely for the purpose of interviewing candidates for the position of chief administrative officer. Prior to any such closed meeting for the purpose of interviewing candidates, the public body shall announce in an open meeting that such closed meeting shall be held at a disclosed or undisclosed location within 15 days thereafter.

C. The public body holding a closed meeting shall restrict its discussion during the closed meeting only to those matters specifically exempted from the provisions of this chapter and identified in the motion required by subsection A.

D. At the conclusion of any closed meeting, the public body holding such meeting shall immediately reconvene in an open meeting and shall take a roll call or other recorded vote to be included in the minutes of that body, certifying that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Any member of the public body who believes that there was a departure from the requirements of clauses (i) and (ii), shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place. The statement shall be recorded in the minutes of the public body.

E. Failure of the certification required by subsection D to receive the affirmative vote of a majority of the members of the public body present during a meeting shall not affect the validity or confidentiality of such meeting with respect to matters considered therein in compliance with the provisions of this chapter. The recorded vote and any statement made in connection therewith, shall upon proper authentication, constitute evidence in any proceeding brought to enforce the provisions of this chapter.

F. A public body may permit nonmembers to attend a closed meeting if such persons are deemed necessary or if their presence will reasonably aid the public body in its consideration of a topic that is a subject of the meeting.

G. A member of a public body shall be permitted to attend a closed meeting held by any committee or subcommittee of that public body, or a closed meeting of any entity, however designated, created to perform the delegated functions of or to advise that public body. Such member shall in all cases be permitted to observe the closed meeting of the committee, subcommittee or entity. In addition to the requirements of § 2.2-3707, the minutes of the committee or other entity shall include the identity of the member of the parent public body who attended the closed meeting.

H. Except as specifically authorized by law, in no event may any public body take action on matters discussed in any closed meeting, except at an open meeting for which notice was given as required by § 2.2-3707.
I. Minutes may be taken during closed meetings of a public body, but shall not be required. Such minutes shall not be subject to mandatory public disclosure.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3713. Proceedings for enforcement of chapter.

A. Any person, including the attorney for the Commonwealth acting in his official or individual capacity, denied the rights and privileges conferred by this chapter may proceed to enforce such rights and privileges by filing a petition for mandamus or injunction, supported by an affidavit showing good cause. Such petition may be brought in the name of the person notwithstanding that a request for public records was made by the person's attorney in his representative capacity. Venue for the petition shall be addressed as follows:

1. In a case involving a local public body, to the general district court or circuit court of the county or city from which the public body has been elected or appointed to serve and in which such rights and privileges were so denied;

2. In a case involving a regional public body, to the general district or circuit court of the county or city where the principal business office of such body is located; and

3. In a case involving a board, bureau, commission, authority, district, institution, or agency of the state government, including a public institution of higher education, or a standing or other committee of the General Assembly, to the general district court or the circuit court of the residence of the aggrieved party or of the City of Richmond.

B. In any action brought before a general district court, a corporate petitioner may appear through its officer, director or managing agent without the assistance of counsel, notwithstanding any provision of law or Rule of the Supreme Court of Virginia to the contrary.

C. Notwithstanding the provisions of § 8.01-644, the petition for mandamus or injunction shall be heard within seven days of the date when the same is made, provided the party against whom the petition is brought has received a copy of the petition at least three working days prior to filing. The hearing on any petition made outside of the regular terms of the circuit court of a locality that is included in a judicial circuit with another locality or localities shall be given precedence on the docket of such court over all cases that are not otherwise given precedence by law.

D. The petition shall allege with reasonable specificity the circumstances of the denial of the rights and privileges conferred by this chapter. A single instance of denial of the rights and privileges conferred by this chapter shall be sufficient to invoke the remedies granted herein. If the court finds the denial to be in violation of the provisions of this chapter, the petitioner shall be entitled to recover reasonable costs, including costs and reasonable fees for expert witnesses, and attorneys’ fees from the public body if the petitioner substantially prevails on the
merits of the case, unless special circumstances would make an award unjust. In making this
determination, a court may consider, among other things, the reliance of a public body on an
opinion of the Attorney General or a decision of a court that substantially supports the public
body’s position.

E. In any action to enforce the provisions of this chapter, the public body shall bear the burden
of proof to establish an exclusion by a preponderance of the evidence. No court shall be
required to accord any weight to the determination of a public body as to whether an exclusion
applies. Any failure by a public body to follow the procedures established by this chapter shall
be presumed to be a violation of this chapter.

F. Failure by any person to request and receive notice of the time and place of meetings as
provided in § 2.2-3707 shall not preclude any person from enforcing his rights and privileges
conferred by this chapter.

1999, cc. 703, 726; 2001, c. 844; 2007, c. 560; 2009, c. 634; 2010, c. 299; 2011, cc. 133, 783;
2016, cc. 620, 716.

The chapters of the acts of assembly referenced in the historical citation at the end of this
section may not constitute a comprehensive list of such chapters and may exclude chapters
whose provisions have expired.

§ 2.2-3714. Violations and penalties.

In a proceeding commenced against any officer, employee, or member of a public body under §
2.2-3713 for a violation of § 2.2-3704, 2.2-3705.1 through 2.2-3705.7, 2.2-3706, 2.2-3707, 2.2-
3708, 2.2-3708.1, 2.2-3710, 2.2-3711 or 2.2-3712, the court, if it finds that a violation was
willfully and knowingly made, shall impose upon such officer, employee, or member in his
individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil
penalty of not less than $500 nor more than $2,000, which amount shall be paid into the State
Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than
$2,000 nor more than $5,000.

1976, c. 467, § 2.1-346.1; 1978, c. 826; 1984, c. 252; 1989, c. 358; 1996, c. 578; 1999, cc. 703,

The chapters of the acts of assembly referenced in the historical citation at the end of this
section may not constitute a comprehensive list of such chapters and may exclude chapters
whose provisions have expired.
APPENDIX C

Title 42.1

Chapter 7

Virginia Public Records Act

§ 42.1-76 Legislative intent; title of chapter
§ 42.1-76.1 Notice of Chapter
§ 42.1-77 Definitions
§ 42.1-78 Confidentiality safeguarded
§ 42.1-79 Records management function vested in the Library of Virginia
§ 42.1-79.1 Repealed
§ 42.1-80 Repealed
§ 42.1-82 Duties and powers of Library Board
§ 42.1-83 Repealed
§ 42.1-84 Repealed
§ 42.1-85 Records Management Program; agencies to cooperate; agencies to designate records officer
§ 42.1-86 Essential public records; security recovery copies; disaster plans
§ 42.1-86.1 Disposition of public records
§ 42.1-87 Archival public records
§ 42.1-88 Custodians to deliver all records at expiration of term; penalty for noncompliance
§ 42.1-89 Petition and court order for return of public records not in authorized possession
§ 42.1-90 Seizure of public records not in authorized possession
§ 42.1-90.1 Auditing
§ 42.1-91 Repealed
Title 42.1
Chapter 7
Virginia Public Records Act

§ 42.1-76. Legislative intent; title of chapter.

The General Assembly intends by this chapter to establish a single body of law applicable to all public officers and employees on the subject of public records management and preservation and to ensure that the procedures used to manage and preserve public records will be uniform throughout the Commonwealth.

This chapter may be cited as the Virginia Public Records Act.

1976, c. 746.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 42.1-76.1. Notice of Chapter.

Any person elected, reelected, appointed, or reappointed to the governing body of any agency subject to this chapter shall (i) be furnished by the agency or public body’s administrator or legal counsel with a copy of this chapter within two weeks following election, reelection, appointment, or reappointment and (ii) read and become familiar with the provisions of this chapter.

2006, c. 60.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 42.1-77. Definitions.

As used in this chapter:

"Agency" means all boards, commissions, departments, divisions, institutions, authorities, or parts thereof, of the Commonwealth or its political subdivisions and includes the offices of constitutional officers.

"Archival quality" means a quality of reproduction consistent with established standards specified by state and national agencies and organizations responsible for establishing such standards, such as the Association for Information and Image Management, the American National Standards Institute, and the National Institute of Standards and Technology.
"Archival record" means a public record of continuing and enduring value useful to the citizens of the Commonwealth and necessary to the administrative functions of public agencies in the conduct of services and activities mandated by law that is identified on a Library of Virginia approved records retention and disposition schedule as having sufficient informational value to be permanently maintained by the Commonwealth.

"Archives" means the program administered by The Library of Virginia for the preservation of archival records.

"Board" means the State Library Board.

"Conversion" means the act of moving electronic records to a different format, especially data from an obsolete format to a current format.

"Custodian" means the public official in charge of an office having public records.

"Disaster plan" means the information maintained by an agency that outlines recovery techniques and methods to be followed in case of an emergency that impacts the agency's records.

"Electronic record" means a public record whose creation, storage, and access require the use of an automated system or device. Ownership of the hardware, software, or media used to create, store, or access the electronic record has no bearing on a determination of whether such record is a public record.

"Essential public record" means records that are required for recovery and reconstruction of any agency to enable it to resume its core operations and functions and to protect the rights and interests of persons.

"Librarian of Virginia" means the State Librarian of Virginia or his designated representative.

"Lifecycle" means the creation, use, maintenance, and disposition of a public record.

"Metadata" means data describing the context, content, and structure of records and their management through time.

"Migration" means the act of moving electronic records from one information system or medium to another to ensure continued access to the records while maintaining the records' authenticity, integrity, reliability, and usability.

"Original record" means the first generation of the information and is the preferred version of a record. Archival records should to the maximum extent possible be original records.

"Preservation" means the processes and operations involved in ensuring the technical and intellectual survival of authentic records through time.

"Private record" means a record that does not relate to or affect the carrying out of the constitutional, statutory, or other official ceremonial duties of a public official, including the
correspondence, diaries, journals, or notes that are not prepared for, utilized for, circulated, or communicated in the course of transacting public business.

"Public official" means all persons holding any office created by the Constitution of Virginia or by any act of the General Assembly, the Governor and all other officers of the executive branch of the state government, and all other officers, heads, presidents or chairmen of boards, commissions, departments, and agencies of the state government or its political subdivisions.

"Public record" or "record" means recorded information that documents a transaction or activity by or with any public officer, agency or employee of an agency. Regardless of physical form or characteristic, the recorded information is a public record if it is produced, collected, received or retained in pursuance of law or in connection with the transaction of public business. The medium upon which such information is recorded has no bearing on the determination of whether the recording is a public record.

For purposes of this chapter, "public record" shall not include nonrecord materials, meaning materials made or acquired and preserved solely for reference use or exhibition purposes, extra copies of documents preserved only for convenience or reference, and stocks of publications.

"Records retention and disposition schedule" means a Library of Virginia-approved timetable stating the required retention period and disposition action of a records series. The administrative, fiscal, historical, and legal value of a public record shall be considered in appraising its appropriate retention schedule. The terms "administrative," "fiscal," "historical," and "legal" value shall be defined as:

1. "Administrative value": Records shall be deemed of administrative value if they have continuing utility in the operation of an agency.

2. "Fiscal value": Records shall be deemed of fiscal value if they are needed to document and verify financial authorizations, obligations, and transactions.

3. "Historical value": Records shall be deemed of historical value if they contain unique information, regardless of age, that provides understanding of some aspect of the government and promotes the development of an informed and enlightened citizenry.

4. "Legal value": Records shall be deemed of legal value if they document actions taken in the protection and proving of legal or civil rights and obligations of individuals and agencies.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 42.1-78. Confidentiality safeguarded.
Any records made confidential by law shall be so treated. Records which by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of this chapter. Records in the custody of The Library of Virginia which are required to be closed to the public shall be open for public access 75 years after the date of creation of the record. No provision of this chapter shall be construed to authorize or require the opening of any records ordered to be sealed by a court. All records deposited in the archives that are not made confidential by law shall be open to public access.

1976, c. 746; 1979, c. 110; 1990, c. 778; 1994, c. 64; 2006, c. 60.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 42.1-79. Records management function vested in The Library of Virginia.

A. The archival and records management function shall be vested in The Library of Virginia. The Library of Virginia shall be the official custodian and trustee for the Commonwealth of all public records of whatever kind, and regardless of physical form or characteristics, that are transferred to it from any agency. As the Commonwealth's official repository of public records, The Library of Virginia shall assume ownership and administrative control of such records on behalf of the Commonwealth. The Library of Virginia shall own and operate any equipment necessary to manage and retain control of electronic archival records in its custody, but may, at its discretion, contract with third-party entities to provide any or all services related to managing archival records on equipment owned by the contractor, by other third parties, or by The Library of Virginia.

B. The Librarian of Virginia shall name a State Archivist who shall perform such functions as the Librarian of Virginia assigns.

C. Whenever legislation affecting public records management and preservation is under consideration, The Library of Virginia shall review the proposal and advise the General Assembly on the effects of its proposed implementation.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 42.1-79.1. Repealed.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.
§§ 42.1-80, 42.1-81. Repealed.

Repealed by Acts 2003, c. 177.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 42.1-82. Duties and powers of Library Board.

A. The State Library Board shall:

1. Issue regulations concerning procedures for the disposal, physical destruction or other disposition of public records containing social security numbers. The procedures shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or undecipherable by any means.

2. Issue regulations and guidelines designed to facilitate the creation, preservation, storage, filing, reformatting, management, and destruction of public records by agencies. Such regulations shall mandate procedures for records management and include recommendations for the creation, retention, disposal, or other disposition of public records.

B. The State Library Board may establish advisory committees composed of persons with expertise in the matters under consideration to assist the Library Board in developing regulations and guidelines.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 42.1-83. Repealed.

Repealed by Acts 2006, c. 60, cl. 2.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 42.1-84. Repealed.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 42.1-85. Records Management Program; agencies to cooperate; agencies to designate records officer.

A. The Library of Virginia shall administer a records management program for the application of efficient and economical methods for managing the lifecycle of public records consistent with regulations and guidelines promulgated by the State Library Board, including operation of a records center or centers. The Library of Virginia shall establish procedures and techniques for the effective management of public records, make continuing surveys of records and records keeping practices, and recommend improvements in current records management practices, including the use of space, equipment, software, and supplies employed in creating, maintaining, and servicing records.

B. Any agency with public records shall cooperate with The Library of Virginia in conducting surveys. Each agency shall establish and maintain an active, continuing program for the economical and efficient management of the records of such agency. The agency shall be responsible for ensuring that its public records are preserved, maintained, and accessible throughout their lifecycle, including converting and migrating electronic records as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration. Any public official who converts or migrates an electronic record shall ensure that it is an accurate copy of the original record. The converted or migrated record shall have the force of the original.

C. Each state agency and political subdivision of this Commonwealth shall designate as many as appropriate, but at least one, records officer to serve as a liaison to The Library of Virginia for the purposes of implementing and overseeing a records management program, and coordinating legal disposition, including destruction, of obsolete records. Designation of state agency records officers shall be by the respective agency head. Designation of a records officer for political subdivisions shall be by the governing body or chief administrative official of the political subdivision. Each entity responsible for designating a records officer shall provide The Library of Virginia with the name and contact information of the designated records officer, and shall ensure that such information is updated in a timely manner in the event of any changes.

D. The Library of Virginia shall develop and make available training and education opportunities concerning the requirements of and compliance with this chapter for records officers in the Commonwealth.

1976, c. 746; 1990, c. 778; 1994, c. 64; 1998, c. 427; 2006, c. 60.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 42.1-86. Essential public records; security recovery copies; disaster plans.
A. In cooperation with the head of each agency, The Library of Virginia shall establish and maintain a program for the selection and preservation of essential public records. The program shall provide for preserving, classifying, arranging, and indexing essential public records so that such records are made available to the public. The program shall provide for making recovery copies or designate as recovery copies existing copies of such essential public records.

B. Recovery copies shall meet quality standards established by The Library of Virginia and shall be made by a process that accurately reproduces the record and forms a durable medium. A recovery copy may also be made by creating a paper or electronic copy of an original electronic record. Recovery copies shall have the same force and effect for all purposes as the original record and shall be as admissible in evidence as the original record whether the original record is in existence or not. Recovery copies shall be preserved in the place and manner prescribed by the State Library Board and the Governor.

C. The Library of Virginia shall develop a plan to ensure preservation of public records in the event of disaster or emergency as defined in § 44-146.16. This plan shall be coordinated with the Department of Emergency Management and copies shall be distributed to all agency heads. The plan shall be reviewed and updated at least once every five years. The personnel of the Library shall be responsible for coordinating emergency recovery operations when public records are affected. Each agency shall ensure that a plan for the protection and recovery of public records is included in its comprehensive disaster plan.

C. The Library of Virginia shall develop a plan to ensure preservation of public records in the event of disaster or emergency as defined in § 44-146.16. This plan shall be coordinated with the Department of Emergency Management and copies shall be distributed to all agency heads. The plan shall be reviewed and updated at least once every five years. The personnel of the Library shall be responsible for coordinating emergency recovery operations when public records are affected. Each agency shall ensure that a plan for the protection and recovery of public records is included in its comprehensive disaster plan.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 42.1-86.1. Disposition of public records.

A. No agency shall sell or give away public records. No agency shall destroy or discard a public record unless (i) the record appears on a records retention and disposition schedule approved pursuant to § 42.1-82 and the record's retention period has expired; (ii) a certificate of records destruction, as designated by the Librarian of Virginia, has been properly completed and approved by the agency's designated records officer; and (iii) there is no litigation, audit, investigation, request for records pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), or renegotiation of the relevant records retention and disposition schedule pending at the expiration of the retention period for the applicable records series. After a record is destroyed or discarded, the agency shall forward the original certificate of records destruction to The Library of Virginia.

B. No agency shall destroy any public record created before 1912 without first offering it to The Library of Virginia.

C. Each agency shall ensure that records created after July 1, 2006 and authorized to be destroyed or discarded in accordance with subsection A, are destroyed or discarded in a timely manner in accordance with the provisions of this chapter; provided, however, such records that contain identifying information as defined in clauses (iii) through (ix), or clause (xii) of subsection...
C of §18.2-186.3, shall be destroyed within six months of the expiration of the records retention period.


The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§42.1-87. Archival public records.

A. Custodians of archival public records shall keep them in fire-resistant, environmentally controlled, physically secure rooms designed to ensure proper preservation and in such arrangement as to be easily accessible. Current public records should be kept in the buildings in which they are ordinarily used. It shall be the duty of each agency to consult with The Library of Virginia to determine the best manner in which to store long-term or archival electronic records. In entering into a contract with a third-party storage provider for the storage of public records, an agency shall require the third-party to cooperate with The Library of Virginia in complying with rules and regulations promulgated by the Board.

B. Public records deemed unnecessary for the transaction of the business of any state agency, yet deemed to be of archival value, may be transferred with the consent of the Librarian of Virginia to the custody of the Library of Virginia.

C. Public records deemed unnecessary for the transaction of the business of any county, city, or town, yet deemed to be of archival value, shall be stored either in The Library of Virginia or in the locality, at the decision of the local officials responsible for maintaining public records. Archival public records shall be returned to the locality upon the written request of the local officials responsible for maintaining local public records. Microfilm shall be stored in The Library of Virginia but the use thereof shall be subject to the control of the local officials responsible for maintaining local public records.

D. Record books deemed archival should be copied or repaired, renovated or rebound if worn, mutilated, damaged or difficult to read. Whenever the public records of any public official are in need of repair, restoration or rebinding, a judge of the court of record or the head of such agency or political subdivision of the Commonwealth may authorize that the records in need of repair be removed from the building or office in which such records are ordinarily kept, for the length of time necessary to repair, restore or rebind them, provided such restoration and rebinding preserves the records without loss or damage to them. Before any restoration or repair work is initiated, a treatment proposal from the contractor shall be submitted and reviewed in consultation with The Library of Virginia. Any public official who causes a record book to be copied shall attest it and shall certify an oath that it is an accurate copy of the original book. The copy shall then have the force of the original.

E. Nothing in this chapter shall be construed to divest agency heads of the authority to determine the nature and form of the records required in the administration of their several departments or to compel the removal of records deemed necessary by them in the performance of their statutory duty.
§ 42.1-88. Custodians to deliver all records at expiration of term; penalty for noncompliance.

Any custodian of any public records shall, at the expiration of his term of office, appointment or employment, deliver to his successor, or, if there be none, to The Library of Virginia, all books, writings, letters, documents, public records, or other information, recorded on any medium kept or received by him in the transaction of his official business; and any such person who shall refuse or neglect for a period of ten days after a request is made in writing by the successor or Librarian of Virginia to deliver the public records as herein required shall be guilty of a Class 3 misdemeanor.

§ 42.1-89. Petition and court order for return of public records not in authorized possession.

The Librarian of Virginia or his designated representative such as the State Archivist or any public official who is the custodian of public records in the possession of a person or agency not authorized by the custodian or by law to possess such public records shall petition the circuit court in the city or county in which the person holding such records resides or in which the materials in issue, or any part thereof, are located for the return of such records. The court shall order such public records be delivered to the petitioner upon finding that the materials in issue are public records and that such public records are in the possession of a person not authorized by the custodian of the public records or by law to possess such public records. If the order of delivery does not receive compliance, the plaintiff shall request that the court enforce such order through its contempt power and procedures.

§ 42.1-90. Seizure of public records not in authorized possession.

A. At any time after the filing of the petition set out in § 42.1-89 or contemporaneous with such filing, the person seeking the return of the public records may by ex parte petition request the
judge or the court in which the action was filed to issue an order directed at the sheriff or other proper officer, as the case may be, commanding him to seize the materials which are the subject of the action and deliver the same to the court under the circumstances hereinafter set forth.

B. The judge aforesaid shall issue an order of seizure upon receipt of an affidavit from the petitioner which alleges that the material at issue may be sold, secreted, removed out of this Commonwealth or otherwise disposed of so as not to be forthcoming to answer the final judgment of the court respecting the same; or that such property may be destroyed or materially damaged or injured if permitted to remain out of the petitioner’s possession.

C. The aforementioned order of seizure shall issue without notice to the respondent and without the posting of any bond or other security by the petitioner.

1975, c. 180; 1976, c. 746.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 42.1-90.1. Auditing.

The Librarian may, in his discretion, conduct an audit of the records management practices of any agency. Any agency subject to the audit shall cooperate and provide the Library with any records or assistance that it requests. The Librarian shall compile a written summary of the findings of the audit and any actions necessary to bring the agency into compliance with this chapter. The summary shall be a public record, and shall be made available to the agency subject to the audit, the Governor, and the chairmen of the House and Senate Committees on General Laws and the House Appropriations and Senate Finance Committees of the General Assembly.

2006, c. 60.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 42.1-91. Repealed.

Repealed by Acts 2006, c. 60, cl. 2.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.
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APPENDIX D

VDOT TRAVEL POLICY

Note: this section contains general information concerning policies and procedures for approval of travel for state business for VDOT employees, and is based on guidance provided by the Department of Accounts. Commonwealth Transportation Board members should refer to information dealing with lodging and meal/incidental expense reimbursements. This version of the policy has been updated to reflect the new IRS mileage rate effective January 1, 2018.
VIRGINIA DEPARTMENT OF TRANSPORTATION  
FISCAL DIVISION  
PROCEDURAL MEMORANDUM

<table>
<thead>
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<th>NUMBER:</th>
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<td>VDOT TRAVEL GUIDELINES</td>
<td>PM-FD-4</td>
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<th>DATE:</th>
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<td>VDOT TRAVEL GUIDELINES</td>
<td>January 1, 2018</td>
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<td>ALL PREVIOUS VERSIONS FOR TRAVEL BEFORE January 1, 2018</td>
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</table>

<table>
<thead>
<tr>
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<th>JANICE LONG</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>CONTROLLER</td>
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</table>

Signed approval on file

EFFECTIVE DATE

January 1, 2018
New Personal Mileage Reimbursement rate effective January 1, 2018

New lodging rate effective October 1, 2017

POLICY

All Virginia Department of Transportation (VDOT) employees who travel on State business must conform to these policies and procedures. Travel costs should be limited to only those expenses that are necessary for providing essential services to the Commonwealth’s citizens. When planning travel and incurring travel expenses, economy, prudence and necessity should be our primary concern.

For business travel within the state that conforms to the state rates and is below the thresholds addressed under “TRAVEL PLANNING”, the responsible District or Division leader can approve the business travel.

VDOT’s Controller or designee must approve any exceptions to these policies and procedures. Some exceptions may require additional approval of the Commissioner’s Office and/or State Comptroller.

DEFINITIONS

Base Point: Place, office or building where traveler works on a regular basis. Employees are limited to one base point.

Commuting Distance: Round trip distance traveled routinely by employees between their residence and base point.

Incidental Expense: Service fees, tips, and transportation between lodging and meals.

International Travel: Travel to areas outside the 48 contiguous states.

M&IE: Meals and Incidental Expenses

Official Station: Area within 25 miles of employee’s base point.

Receipts: Refers to ORIGINAL unless otherwise indicated.

Travel Status: Travel outside an employee’s official station, unless part of the employee’s regular routine duties.

Emergency: A sudden, unexpected, or unpredictable occurrence; or an event involving clear and imminent danger; or when 24-hour operations begin.

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INTRODUCTION

VDOT will reimburse individuals traveling on official State business for reasonable and necessary expenses for employee’s NON-ROUTINE travel at state rates, as applicable. These expenses are subject to public review and should be reasonable in appearance as well as fact. Prudent judgment is expected of employees making travel arrangements and expenditures.

All exceptions to this policy require approval of VDOT’s Controller or designee.

TRAVEL PLANNING

Prior approval from VDOT management must be documented (generally via email) in advance of the travel dates for the following:

- Any proposed overnight travel in which the total cost is expected to exceed $500.
- Out of state travel
- International travel
- Meals and/or Lodging exceeding guidelines

All known costs associated with the trip, such as lodging, transportation, meals, air fare, registration and any other travel costs or fees, including those that are direct billed, must be included and itemized in the documentation of approval. Approval should be obtained at least 5 working days prior to the travel date and attached to the travel reimbursement request.

Advance approval by VDOT management is required and must be documented (generally via email) for any proposed overnight travel in which the total cost is expected to exceed $500. Appropriate management includes:

- Area Headquarters and Residency Staff – Assistant Residency Administrator level or higher
- District staff – District Section Head level or higher
- Division staff – Assistant Division Administrator level or higher

Note: An employee in a position that requires frequent, similar travel to perform their job duties is exempt from this requirement. Written approval from the division/district administrator and CFO stating that an estimate is unnecessary for a particular employee must be kept on file in lieu of individual emails for each trip.

Advance approval by the Chief Deputy Commissioner is required for:

- International travel

This approval must be documented (generally via email) and attached with the travel reimbursement documents. Include the date of the Chief Deputy Commissioner’s approval in the comments field in Cardinal.

Advance approval by the Chief Financial Officer is required for:

- Out-of-state travel (except D.C.) regardless of the funding source

This approval must be documented (generally via email) and attached with the travel reimbursement documents. Include the date of the Chief Financial Officer’s approval in the comments field in Cardinal.

- Meals and/or lodging exceeding the travel guidelines (see section titled “Lodging, Meals & Incidental Expenses Reimbursement Rates”)

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- Travelers must submit cost comparisons as part of their justification. Submit name and addresses of hotels used for alternate cost comparisons justifying the exception. Travelers and their supervisors are responsible for exercising good judgment and ensuring that costs are reasonable in appearance as well as in fact.
- The justification for the additional amount must be entered in the comments field on the expense report page in Cardinal. Any additional information that cannot fit in that field can be submitted to the CFO via email.
- Meals and/or lodging exceeding the travel guidelines will automatically route in Cardinal to the employee’s Directorate Chief and then to the Chief Financial Officer for approval.
- The Chief Financial Officer will deny any Travel Request not received (in advance OR that does not adequately justify the costs).

Please Note: lodging rates that exceed the guidelines by more than 150% require Chief Financial Officer and DOA approval BEFORE the trip. Additionally, the Cardinal system will automatically route the reimbursement to the Chief Financial Officer for payment approval. If the lodging rate is not approved in advance, the traveler is responsible for charges in excess of the allowable amount.

Advance approval by the Chief Financial Officer is also required for:
- Lodging other than hotels and motels (e.g. apartments). Submit cost comparison statement for the total cost using alternate accommodation including length of contract (See Temporary Transfer procedures for forms and guidance.).

**TRAINING**

Training Funded Through the Statewide Learning Plan and Budget

Beginning July 1, 2016, requests for attendance at Training events that are funded through the Statewide Learning Plan and Budget, whether or not travel is involved, are to be made through VDOT’s Human Resources Division prior to the event. The Human Resources Division will secure appropriate management approvals and once approved the applicable notifications will be issued by the Human Resources Division. Approval notifications from the Human Resources Division must be attached electronically in pdf format to the travel reimbursement request along with all other required documentation (hotel bills, etc.) in order for the district accounting/Fiscal office to process payment.

**NON-VDOT SPONSORED CONFERENCES, SEMINARS, and WORKSHOPS**

In planning meetings or conferences, first preferences should be given to state-owned facilities.

Beginning July 1, 2016, advance approval from the Chief Financial Officer (CFO) is required via email, for overnight travel attendance and reimbursement, if more than three VDOT attendees, at non-VDOT sponsored Conferences, Seminars and Workshops, and any Training NOT funded by the Statewide Learning Plan and Budget by Human Resources Division. The e-mail approval from the CFO must be attached with the Travel Expense Report. Sponsoring divisions or districts must determine the number and names of VDOT employees attending from all work units and if more than three, must provide the information via email to the Chief Financial Officer for approval in advance of the event. Only those approved by the Chief Financial Officer will be given authorization for travel and travel reimbursement.
Day travel by more than three VDOT employees to non-VDOT sponsored conferences, seminars and workshops must be approved by the District/Division Administrator or designee.

Please see the Job Aid for Advance Approval by Chief Financial Officer (CFO) for Non-VDOT Sponsored Conferences, Seminars and Workshops when more than Three VDOT Employees are attending.

**TRAVEL CHARGE CARD**

Travel charge cards are available for State employees who travel overnight at least twice a year on State business.

Travel cards are for reimbursable travel expenses and also for any personal expenses not easily separated from business expenses. Cardholders use cards to obtain travel advances from automatic teller machines (ATM’s). They may also charge lodging, meals, or other travel expenses. Charge card bills are sent to the employee, who is responsible for payment, including any late charges for payments more than 60 days overdue.

Monthly travel card statements are provided to Division and District Administrators. Division and District Administrators are responsible for ensuring that travel card usage complies with Fiscal Division guidelines. That review should provide reasonable assurance that cash advances and charges are legitimate travel expenses.

Travel Charge Cards may be obtained from Fiscal Division — 804-371-8874.

**TEMPORARY TRAVEL ADVANCES**

Travel advances are available for employees who rarely travel. Advances are issued for expenses that the employee will be required to pay out of pocket. Travel advances must be repaid by the employee within 30 days of the processing of the travel reimbursement voucher.

Employees are also eligible for one travel advance, when their charge cards have been revoked due to non-use. It is the employee’s responsibility to have the card re-activated. If an employee’s travel card is revoked due to delinquent or non-payment, s/he is not eligible for a travel advance.

Travel Advances must be entered into and approved in CARDINAL and paperwork submitted to district accounting office/Fiscal office at least 5 workdays prior to the date of travel or an advance may not be processed. Any overage should be returned to the District Accounting (or Central Office Cash Receipts Section) within 5 workdays of return. Please make checks payable to the Treasurer of Virginia.

**LODGING**

Lodging is reimbursed when employees travel outside their official station.

Lodging guidelines EXCLUDE taxes and surcharges. Taxes and surcharges are reimbursable.

However, guidelines do INCLUDE internet service fees charged when lodging is booked on-line through an internet service. This fee should be added to the room rate. If booking more than one night, the service fee should be divided by the number of nights, and an equal share added to each
nightly rate. The room rate plus the service fee are considered lodging expense and should not exceed the allowable lodging rates.

The Small Purchase Charge Card may be used to “hold” a reservation only. Payment for lodging is prohibited, unless the hotel sends a “direct bill” to the agency and is authorized through Administrative Services Division (for Central Office Divisions) or the District Program Administrator.

**LODGING, MEALS & INCIDENTAL EXPENSES REIMBURSEMENT RATES**

All lodging rates are governed by the U.S. General Services Administration (GSA) rates for in-state and out-of-state travel. The traveler must search for the travel destination using the search criteria on the website:

[http://www.gsa.gov/portal/content/104877](http://www.gsa.gov/portal/content/104877)

For an additional look up option, Cardinal query V_AP_EX_TRAVEL_RATES list the GSA rates. Open the query into an Excel spreadsheet and use the “Find” feature for the travel destination.

**NOTE:** Footnotes to the GSA rates table does **NOT** apply to state policy. The traveler’s reimbursement is based on the city or county in which the hotel is physically located.

The search may return more than one possible rate for the location entered. If the location is not listed in the GSA table itself, the standard rate applies.

The GSA table does not list a separate standard rate for in-state and out-of-state; however, Cardinal still list them separately with different rates (see chart below). Use the rate listed in Cardinal for in-state and out-of-state locations that are not listed in the GSA table.

<table>
<thead>
<tr>
<th>Standard Rates</th>
<th>Lodging</th>
<th>Meals &amp; IE</th>
</tr>
</thead>
<tbody>
<tr>
<td>In-state (INST)*</td>
<td>$93</td>
<td>$51</td>
</tr>
<tr>
<td>Out-of-state (OUTOS)*</td>
<td>$93</td>
<td>$51</td>
</tr>
</tbody>
</table>

*Cardinal’s abbreviations for in-state and out-of-state listed in the location drop down box.

Lodging reservations may be made via the internet, using service providers such as Priceline.com, Expedia.com, Orbitz.com, Travelocity.com, etc. Please note the sum of the service provider fees plus the room rate may not exceed the lodging rates.

**MEAL AND INCIDENTAL EXPENSES (M&IE)**

Meals and certain incidental travel expenses are reimbursable for overnight business travel, but may not be direct billed. These rates are all inclusive (taxes, tips, etc.). Incidental expenses include bellhop/waifer tips, valet, personal telephone calls, laundry and transportation between lodging and meals, etc.

All M&IE Rates are governed by the U.S. General Services Administration (GSA) rates located at the link below. These rates should also be used to determine the maximum meal reimbursement amounts for official business meals and/or the M&IE reduction.

[http://www.gsa.gov/portal/content/101518](http://www.gsa.gov/portal/content/101518)

**M&IE RATE TABLE**

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The M&IE per diem rate must correspond to the location of the overnight stay.

<table>
<thead>
<tr>
<th>M&amp;IE TOTAL</th>
<th>$51</th>
<th>$54</th>
<th>$59</th>
<th>$64</th>
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<td>Breakfast</td>
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<td>$12</td>
<td>$13</td>
<td>$15</td>
<td>$16</td>
<td>$17</td>
</tr>
<tr>
<td>Lunch</td>
<td>$12</td>
<td>$13</td>
<td>$15</td>
<td>$16</td>
<td>$17</td>
<td>$18</td>
</tr>
<tr>
<td>Dinner</td>
<td>$23</td>
<td>$24</td>
<td>$26</td>
<td>$28</td>
<td>$31</td>
<td>$34</td>
</tr>
<tr>
<td>Meals total</td>
<td>$46</td>
<td>$49</td>
<td>$54</td>
<td>$59</td>
<td>$64</td>
<td>$69</td>
</tr>
<tr>
<td>Incidental Expenses (Non-travel days)</td>
<td>$5</td>
<td>$5</td>
<td>$5</td>
<td>$5</td>
<td>$5</td>
<td>$5</td>
</tr>
</tbody>
</table>

75% Travel Days (Meals x 3/4 + $3.75 incidental) |

|                | $38.25 | $40.50 | $44.25 | $48.00 | $51.75 | $55.50 |

On departure and return days (Travel Days), 75% of the incidental ($3.75) and 75% of the meal rate are reimbursable. For example, if the M & IE rate allows a $51 total reimbursement, $38.25 would be allowed on the departure and return day.

$51 * .75 = $38.25

Departure Day: Where you spend that night
Return Day: Where you spent the night before returning to home base

When meals are provided at no cost in conjunction with travel events, the applicable M&IE per diem reimbursement is reduced by the amount shown for the applicable meal in the M&IE Rate Table. For example, if the M & IE rate allows a $51 total reimbursement and lunch was provided at no cost, total allowable reimbursement for that day would be $39 (51 - $12 lunch).

When meals are provided at no cost in conjunction with travel events on a travel departure or return day the full meals per diem is reduced by the rate for the appropriate meal(s) provided, including the allowable incidental is then multiplied by 75%. For example, if the M & IE rate allows a $51 total reimbursement, and lunch was provided at no cost on a travel departure or return day, the total allowable reimbursement for that day would be $29.25.

\[(51 - 12 \text{ lunch}) = 39 \times 0.75 = 29.25\]

When meals are included with registration or lodging expense as part of a package, the number and type of meals (breakfast, lunch, and dinner) provided must be recorded on the Cardinal Expense Report. When continental breakfast or reception is offered as part of travel event, such as a conference, and meal/ timing is sufficient, the traveler must reduce the per diem by appropriate allowance amount unless traveler has a medical restriction and the event does not honor the request made within the deadline specified by the event. The request not honored must be documented on the travel reimbursement.

If a breakfast is offered at no charge by the hotel and the traveler does not partake in the breakfast due to any reasonable circumstance (e.g. early work hours do not allow for participation in the provided breakfast, the food provided was not adequate, the traveler’s dietary needs were not met, etc.), then the traveler must note this on their travel reimbursement.

**OTHER MISCELLANEOUS EXPENSES**
Other reimbursable travel expenses include:
- Business Telephone Calls (This includes personal cell phone charges that result from business calls—i.e. the cost of the business calls or the cost of other calls that result from exceeding “free minutes” because of business calls.)
- Internet Access, Hotel Business Center Charges
- Facsimiles
- Taxes, fees, and surcharges paid by the traveler for lodging
- Tolls, Parking Fees — require an original receipt if greater than $75.00 attached electronically in pdf format to the Cardinal Expense Report

These expenses and any other unusual expenses require documented justification to be reimbursed.

Disallowable expenses include:
- Lost or stolen articles
- Alcoholic beverages
- Damage to personal vehicles or other items
- Services to gain entry to a locked vehicle
- Movie rentals charged to hotel bills
- Any expenses related to personal negligence (e.g. non-cancelled reservation, fines, etc.)
- Entertainment expenses
- Travel Insurance (Personal injury/loss, trip cancellation etc.).
- Towing charges
- Expenses for children, spouses, and companions

The above list is not inclusive. Employees and supervisors should use prudent judgment as expenses are subject to public review and should be reasonable in appearance as well as fact.

TRAVEL CREDITS

The traveler must report any travel credits, reduced rates, or free services to the Department and deduct them from expenses claimed.

EXCEPTIONS FOR MEAL REIMBURSEMENT

Generally, meals not requiring an overnight stay are not reimbursable. There are 3 exceptions - Business Meals, Overtime Meals, and Emergency Meals:

Business Meals require:
- Substantive and bona fide business discussion (include description or topic of discussion and/or agenda)
- Identify all persons involved in the meal, include Itemized Receipt(s)
- Prior written approval of Division/District Administrator or Assistant District Administration for Business with written delegation authority from District Administration.

Business meals are reimbursed for actual expenses (tips and delivery), up to amount allowed by the M&IE Rates.

The purchase of all food and meals are exempt from Virginia retail sales and use tax.

All food purchases, with the exception of recognition meals (please refer to Human Resources policies and procedures for Recognition Programs) require the same approval and supporting documentation as business meals.
Overtime and Emergency Meals Allowances: Updated July 29, 2014

Overtime and Emergency meal allowances paid are reportable taxable income as per IRS guidelines effective for the payments beginning in calendar year 2014. Emergency meal allowances will be reimbursed quarterly through payroll. Overtime meal allowances will also be processed through payroll as the request is received from the employee. Overtime and emergency meal allowances will not be processed through Travel and Expense Module and an expense report is not required to be entered in Cardinal. For emergency/overtime meal allowances eligibility requirements and procedures, please refer to FD-2015-1 Emergency/Overtime Meal Allowances procedures located on Inside VDOT – Fiscal Page.

MISCELLANEOUS EXPENSES:
During emergency operations, VDOT will allow staff on duty to make necessary personal phone calls from the closest VDOT facility. Phone calls should be reasonable in length and frequency. A telephone log for each date and phone number must be provided by VDOT at the facility and completed by employees placing calls:

   Employee Name
   Phone Number called
   Time of day

When traveling overnight, the employee may also be reimbursed for up to 10 additional minutes per day for evening calls, when s/he provides the original telephone bill.

PERSONAL VEHICLE USE

Reimbursement rates are set in the current Appropriation Act (Section 4 – 5.04f). Currently, the rates for the first 15,000 miles driven in each fiscal year for an employee to perform official job duties are as follows:

- Effective January 1, 2018, this rate is $0.545 per mile. This mileage rate can be viewed on the IRS Site: [2018 Standard Mileage Rates for Business, Medical and Moving Announced](https://www.irs.gov/individuals/mileage-rates).
- For the first 15,000 miles per fiscal year, the traveler is reimbursed $0.545 cents per mile when travel averages less than 200 miles per day OR a state-owned vehicle/OFMS rental is unavailable. Approval by the District/Division Administrator or designee is not required.
- The traveler is reimbursed $0.246 cents per mile for the first 15,000 miles when travel averages 200 miles or more per day AND a state-owned vehicle/OFMS rental was available or the District/Division Administrator or designee does not certify the personal automobile was cost beneficial to VDOT. If the higher mileage rate is used for reimbursement, the District/Division Administrator or designee approval is required and justification must be documented and attached to the Cardinal Employee Expense Reimbursement Form. Employees should conduct a cost/benefit analysis using OFMS TRIP CALCULATOR to determine whether an OFMS rental or personally-owned vehicle should be used in official State travel. Please refer to the Department of General Services - Office of Fleet Management Services Trip Calculator. Link: [DGS Trip Calculator](https://www.dgs.virginia.gov/fleetmgmt/).

Employees are eligible for reimbursement of non-commuting mileage when using personal vehicles for official State business. “Non-commuting” mileage is mileage in excess of the employee’s normal commute from home to official work station.

Reimbursement rates are reduced to $0.13 per mile for travel in excess of 15,000 miles per fiscal year.

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PUBLIC TRANSPORTATION

Air/Rail Travel

Documents that validate the mode and class of travel including boarding pass are required for all air and rail reimbursements made directly to the employee.

Employees should obtain tourist/economy fares for air travel. Exceptions may be approved for business class if:

AIR
- Business class is no more than the lowest available tourist/economy fare
- The employee pays the difference
- Transoceanic, intercontinental trips of more than 8 hours
- Travel to Western Europe when business is conducted within 3 hours of landing.

RAIL
- When it does not cost more than the lowest available tourist/economy fare (comparison must be attached to travel voucher), or
- When reserved economy seats are not offered on the route, or
- If the traveler pays the difference.

All exceptions require documentation. First class air or rail travel will not be reimbursed.

Air and Rail tickets may be purchased via the Small Purchase Charge Card or Travel charge card. If SPCC is used, arrangements for payment with the card shall be authorized through Administrative Services Division (for Central Office Divisions) or the District Program Administrator, including documentation supporting the necessary approvals for the ticket purchase.

Car Rental (Including Enterprise)

The traveler should select the most economical agency and type of car available. When renting through Enterprise via the Statewide Enterprise contract, the traveler should return receipts for gas and car rentals to the person responsible for preparing vouchers for car rentals and gas cards. The person preparing the voucher should verify the detail receipts against the summary billings received from Enterprise / Mansfield prior to payment. Any discrepancies (missing receipts, charges for tax, etc.) should be reviewed with the traveler and/or the vendor prior to payment.

Car Rental Insurance
If the traveler is:
- State employee in the U.S.         Decline – covered by State
- Non-state employee               Accept – reimbursable expense

Travelers must refuel the rental vehicle before returning it to the rental contractor, unless an exception is noted. Refueling is reimbursable with receipt. In no instance should the traveler enter into a “Fuel Agreement” or pay for fuel at the time of rental or before vehicle is used.

TRAVEL EXPENSE REIMBURSEMENT

Beginning August 1, 2017, VDOT Expense Reports for travel and non-travel will be paperless. The Expense Report in the Cardinal system must be completed and certified by the employee and approved in the Cardinal system by the supervisor for all travel and non-travel cost reimbursements. Any required supporting documentation (hotel bills, receipts, etc.) must be attached to the Expense Report in Cardinal in pdf format.
Link to Paperless Travel Expense Report Guidance

In those cases, in which the employee/traveler’s Expense Report is completed and submitted by another Cardinal user, the employee/traveler must provide a certification to the Cardinal user completing the report on the employee/traveler’s behalf. The employee/traveler may email the Cardinal user his/her certification of the expense for that specific Expense Report using the following language, which is to be electronically attached to the Expense Report in Cardinal.

“I certify that the expenses provided and listed on the expense report were incurred by me on official business of the Commonwealth of Virginia and include only such expenses necessary in the conduct of that business.”

Alternatively, a paper-signed certification statement made by the employee/traveler with above language for the specific Expense Report may be scanned to pdf and attached to the Expense Report in Cardinal.

If neither the employee nor supervisor has access to Cardinal, a paper certification may be used for certification by the employee and approval by the supervisor, and scanned as an attachment in Cardinal.

Link to Employee Business Expense Certification

Exception of certification – If the supporting documentation for an expense already has the signature of the employee, for example, Safety Shoe and Tuition Reimbursement form, the certification statement is not required.

Notes:
- Ensure all supporting documentations are attached as pdf format in Expense Report in Cardinal before submitting the Expense Report.
- Once the employee’s Expense Report is submitted in Cardinal by the employee or another Cardinal user on behalf of the employee, it is very important to notify the employee’s supervisor for approval, as there is no automatic notification to the supervisor in Cardinal.

Information required for travel expense reimbursement includes:
- Reason for travel (include the name of the meeting, conference, training, etc.)
- Pdf format itemized lodging receipts with $0.00 balance
- For lodging obtained through internet providers, employee will provide pdf format of final page from internet site.
- Pdf receipts for meals costing $75 or more
- Pdf registration receipts
- “For Hire Transportation” pdf I receipts required when over $75 (Taxi, shuttle vans) – tips are reimbursable up to 15% of the fare. Reimbursement for limousine or other forms of luxury transportation services are not allowed
- Parking and toll original receipts in pdf format, with explanation, when over $75
- Dates of departure and return
- Travel to location
- Work hours and overtime hours for overtime meals
- Mode of travel, if personal automobile was determined to be cost-beneficial, the reason must be stated in the Notes Section in CARDINAL
- Agenda for conferences and training
- Reason for business phone calls or facsimiles
• E-mail(s) in pdf format of prior approvals from the appropriate persons or Learning Center for conferences and lodging/meal rates over the per diem or international travel (See sections on Travel Planning and Conferences, Training, Seminars and Workshops)

This information should be attached to the Cardinal Expense Report, which must be certified by the employee and approved by the supervisor.

If a traveler is not preparing his/her own Expense Report in Cardinal, the following must be provided to the Travel & Expense Coordinator to allow for accurate and timely submission of the Expense Report on their behalf:

• Reason for travel (including of the meeting, conference, training, workshop, etc.)
• Dates of departure and return
• Location – City, State
• Agenda, if no agenda or email specify
• Itemized lodging receipts with $0.00 balance
• For lodging obtained through internet providers, employee will provide pdf format of final page from internet site
• Meals – list all meals provided or indicate no meals provided
• Registration receipts
• “For Hire Transportation” pdf receipts required when over $75 (Taxi, shuttle vans) – tips are reimbursable up to 15% of the fare. Reimbursement for limousine or other forms of luxury transportation services are not allowed.
• Parking and toll original receipts in pdf, with explanation, when over $75
• Mode of travel; State vehicle or if personal automobile was determined to be cost-beneficial, the reason must be stated and normal daily commuting miles listed
• All required approvals – E-mail(s) of prior approvals from the appropriate persons or Learning Center for conferences and lodging/meal rates over the per diem or international travel (See section on Travel Planning and Conferences, Training, Seminars and Workshops)
• Employee Business Expense Certification email or form for non-Cardinal users and those not submitting their own expense report in Cardinal

**REIMBURSEMENT PROCESS**

Reimbursement should be requested within 30 working days after the trip is completed. By certifying the Cardinal Expense Report, the traveler:

• Certifies that the information is correct and the items included are legitimate expenses necessary to conduct of State business
• Agrees to the deduction from salary of any advances not repaid within 60 days of issuance

By approving the Expense Report in Cardinal, the supervisor:

• Certifies that the travel was approved and necessary for conduct of State business
• Agrees to ensure deduction from employee pay of advance not paid within 60 days of issuance

Travel and non-travel expense reimbursements made to employees from the Expense Module in the Cardinal system are deposited to the same bank account as the employee’s payroll direct deposit payments. These payments are reflected in the payroll direct deposit account as soon as
reimbursements are fully approved in the Cardinal system. *If employee received paycheck by Paycard, a check will be issued and mailed to employee’s home address.*

PLEASE NOTE: Both the employee and the supervisor are subject to Standards of Conduct and will be disciplined accordingly if they knowingly misrepresent expenditures in order to obtain reimbursement.