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SENATE BILL NO. 377

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend and reenact §§ 2.2-3711, as it is currently effective and as it may become effective, 24.2-946, and 24.2-948.4 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 9.3 of Title 24.2 sections numbered 24.2-948.6, 24.2-948.7, and 24.2-948.8, relating to campaign finance; prohibited personal use of campaign funds; complaints, hearings, civil penalty, and advisory opinions.

Patrons—Boysko, Carroll Foy and Salim; Delegate: Shin

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3711, as it is currently effective and as it may become effective, 24.2-946, and 24.2-948.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 9.3 of Title 24.2 sections numbered 24.2-948.6, 24.2-948.7, and 24.2-948.8 as follows:

§ 2.2-3711. (Effective until date pursuant to Acts 2023, cc. 756 and 778, cl. 5) 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.

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.

59 9. Discussion or consideration by governing boards of public institutions of higher education of matters
60 relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be
61 performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and
62 contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public
63 institution of higher education in the Commonwealth shall be subject to public disclosure upon written
64 request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government"
65 means any government other than the United States government or the government of a state or a political
66 subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United
67 States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by
68 foreign governments or foreign persons or if a majority of the membership of any such entity is composed of
69 foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii)
70 "foreign person" means any individual who is not a citizen or national of the United States or a trust territory
71 or protectorate thereof.

72 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
73 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and
74 The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private
75 sources.

76 11. Discussion or consideration of honorary degrees or special awards.

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

79 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible
80 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed
81 by the member, provided the member may request in writing that the committee meeting not be conducted in
82 a closed meeting.

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

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

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

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

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

102 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity
103 threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency
104 service officials concerning actions taken to respond to such matters or a related threat to public safety;
105 discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in
106 an open meeting would jeopardize the safety of any person or the security of any facility, building, structure,
107 information technology system, or software program; or discussion of reports or plans related to the security
108 of any governmental facility, building or structure, or the safety of persons using such facility, building or
109 structure.

110 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of
111 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
112 a trust established by one or more local public bodies to invest funds for postemployment benefits other than
113 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of
114 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College
115 Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or
116 other ownership interest in an entity, where such security or ownership interest is not traded on a
117 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
118 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or
119 a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement

120 system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of
 121 confidentiality, of the future value of such ownership interest or the future financial performance of the
 122 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed
 123 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University
 124 of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent
 125 the disclosure of information relating to the identity of any investment held, the amount invested or the
 126 present value of such investment.

127 21. Those portions of meetings in which individual child death cases are discussed by the State Child
 128 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual
 129 child death cases are discussed by a regional or local child fatality review team established pursuant to §
 130 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence
 131 fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual
 132 adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5,
 133 those portions of meetings in which individual adult death cases are discussed by a local or regional adult
 134 fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual
 135 death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those
 136 portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality
 137 Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of
 138 persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review
 139 Committee established pursuant to § 37.2-314.1.

140 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
 141 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons
 142 to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia
 143 Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-
 144 related information pertaining to the operations of the University of Virginia Medical Center or Eastern
 145 Virginia Medical School, as the case may be, including business development or marketing strategies and
 146 activities with existing or future joint venturers, partners, or other parties with whom the University of
 147 Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any
 148 arrangement for the delivery of health care, if disclosure of such information would adversely affect the
 149 competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

150 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or
 151 the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
 152 disposition by the Authority of real property, equipment, or technology software or hardware and related
 153 goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of
 154 the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and
 155 contracts for services or work to be performed by the Authority; marketing or operational strategies plans of
 156 the Authority where disclosure of such strategies or plans would adversely affect the competitive position of
 157 the Authority; and members of the Authority's medical and teaching staffs and qualifications for
 158 appointments thereto.

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

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

166 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
 167 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-
 168 484.12, related to the provision of wireless E-911 service.

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

175 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6
 176 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-
 177 1800, or any independent review panel appointed to review information and advise the responsible public
 178 entity concerning such records.

179 29. Discussion of the award of a public contract involving the expenditure of public funds, including
 180 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in

181 an open session would adversely affect the bargaining position or negotiating strategy of the public body.

182 30. Discussion or consideration of grant or loan application information subject to the exclusion in
183 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

184 31. Discussion or consideration by the Commitment Review Committee of information subject to the
185 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent
186 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

187 32. Discussion or consideration of confidential proprietary information and trade secrets developed and
188 held by a local public body providing certain telecommunication services or cable television services and
189 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
190 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

191 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
192 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets
193 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

194 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security
195 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1 *and review by the State Board of Elections*
196 *of complaints related to the personal use of campaign funds pursuant to § 24.2-948.7.*

197 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
198 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

199 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
200 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings
201 of the Committee to deliberate concerning the annual maximum scholarship award, review and consider
202 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover
203 scholarship awards.

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

207 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
208 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by
209 any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan
210 acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee
211 appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

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

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

216 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
217 executive order for the purpose of studying and making recommendations regarding preventing closure or
218 realignment of federal military and national security installations and facilities located in Virginia and
219 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
220 local governing body, during which there is discussion of information subject to the exclusion in subdivision
221 8 of § 2.2-3705.2.

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

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

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

232 45. Discussion or consideration of personal and proprietary information related to the resource
233 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection
234 E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain
235 information that has been certified for release by the person who is the subject of the information or
236 transformed into a statistical or aggregate form that does not allow identification of the person who supplied,
237 or is the subject of, the information.

238 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
239 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of
240 applicants for licenses and permits and of licensees and permittees.

241 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion

242 in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.)
243 of Chapter 22.

244 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26
245 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity
246 Board.

247 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team
248 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a
249 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases
250 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and
251 63.2-1605.

252 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
253 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions
254 of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33
255 of § 2.2-3705.7.

256 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development
257 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information
258 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the
259 Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

260 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the
261 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of
262 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

263 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or
264 revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of
265 any license or permit related to casino gaming, and discussion, consideration, or review of matters related to
266 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

267 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding
268 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting
269 and any discussion, consideration, or review of matters related to investigations excluded from mandatory
270 disclosure under subdivision 1 of § 2.2-3705.3.

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

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

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

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

288 **§ 2.2-3711. (Effective pursuant to Acts 2023, cc. 756 and 778, cl. 5) Closed meetings authorized for**
289 **certain limited purposes.**

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

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

301 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
302 involve the disclosure of information contained in a scholastic record concerning any student of any public

303 institution of higher education in the Commonwealth or any state school system. However, any such student,
304 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be
305 present during the taking of testimony or presentation of evidence at a closed meeting, if such student,
306 parents, or guardians so request in writing and such request is submitted to the presiding officer of the
307 appropriate board.

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

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

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

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

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326 requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to
327 permit the closure of a meeting merely because an attorney representing the public body is in attendance or is
328 consulted on a matter.

329 9. Discussion or consideration by governing boards of public institutions of higher education of matters
330 relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be
331 performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and
332 contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public
333 institution of higher education in the Commonwealth shall be subject to public disclosure upon written
334 request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government"
335 means any government other than the United States government or the government of a state or a political
336 subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United
337 States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by
338 foreign governments or foreign persons or if a majority of the membership of any such entity is composed of
339 foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii)
340 "foreign person" means any individual who is not a citizen or national of the United States or a trust territory
341 or protectorate thereof.

342 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
343 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and
344 The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private
345 sources.

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348 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

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350 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed
351 by the member, provided that the member may request in writing that the committee meeting not be
352 conducted in a closed meeting.

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

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359 activity and estimating general and nongeneral fund revenues.

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361 subdivision 1 of § 2.2-3705.5.

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 369 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension
 370 of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary
 371 services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

372 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity
 373 threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency
 374 service officials concerning actions taken to respond to such matters or a related threat to public safety;
 375 discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in
 376 an open meeting would jeopardize the safety of any person or the security of any facility, building, structure,
 377 information technology system, or software program; or discussion of reports or plans related to the security
 378 of any governmental facility, building or structure, or the safety of persons using such facility, building or
 379 structure.

380 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of
 381 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
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 386 other ownership interest in an entity, where such security or ownership interest is not traded on a
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 389 a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement
 390 system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of
 391 confidentiality, of the future value of such ownership interest or the future financial performance of the
 392 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed
 393 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University
 394 of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent
 395 the disclosure of information relating to the identity of any investment held, the amount invested or the
 396 present value of such investment.

397 21. Those portions of meetings in which individual child death cases are discussed by the State Child
 398 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual
 399 child death cases are discussed by a regional or local child fatality review team established pursuant to §
 400 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence
 401 fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual
 402 adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5,
 403 those portions of meetings in which individual adult death cases are discussed by a local or regional adult
 404 fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual
 405 death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those
 406 portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality
 407 Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of
 408 persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review
 409 Committee established pursuant to § 37.2-314.1.

410 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion
 411 University, as the case may be, and those portions of meetings of any persons to whom management
 412 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
 413 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,
 414 business-related information pertaining to the operations of the University of Virginia Medical Center or the
 415 Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business
 416 development or marketing strategies and activities with existing or future joint venturers, partners, or other
 417 parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
 418 at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of
 419 health care, if disclosure of such information would adversely affect the competitive position of the
 420 University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion
 421 University, as the case may be.

422 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or
 423 the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
 424 disposition by the Authority of real property, equipment, or technology software or hardware and related

425 goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of
426 the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and
427 contracts for services or work to be performed by the Authority; marketing or operational strategies plans of
428 the Authority where disclosure of such strategies or plans would adversely affect the competitive position of
429 the Authority; and members of the Authority's medical and teaching staffs and qualifications for
430 appointments thereto.

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

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

438 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
439 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-
440 484.12, related to the provision of wireless E-911 service.

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

447 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6
448 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-
449 1800, or any independent review panel appointed to review information and advise the responsible public
450 entity concerning such records.

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

454 30. Discussion or consideration of grant or loan application information subject to the exclusion in
455 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

456 31. Discussion or consideration by the Commitment Review Committee of information subject to the
457 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent
458 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

459 32. Discussion or consideration of confidential proprietary information and trade secrets developed and
460 held by a local public body providing certain telecommunication services or cable television services and
461 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
462 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

463 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
464 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets
465 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

466 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security
467 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1 *and review by the State Board of Elections*
468 *of complaints related to the personal use of campaign funds pursuant to § 24.2-948.7.*

469 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
470 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

471 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
472 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings
473 of the Committee to deliberate concerning the annual maximum scholarship award, review and consider
474 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover
475 scholarship awards.

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

479 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
480 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by
481 any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan
482 acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee
483 appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

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

486 40. Discussion or consideration by the Board of Education of information relating to the denial,

487 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

488 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
 489 executive order for the purpose of studying and making recommendations regarding preventing closure or
 490 realignment of federal military and national security installations and facilities located in Virginia and
 491 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
 492 local governing body, during which there is discussion of information subject to the exclusion in subdivision
 493 8 of § 2.2-3705.2.

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

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

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

504 45. Discussion or consideration of personal and proprietary information related to the resource
 505 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection
 506 E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain
 507 information that has been certified for release by the person who is the subject of the information or
 508 transformed into a statistical or aggregate form that does not allow identification of the person who supplied,
 509 or is the subject of, the information.

510 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
 511 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of
 512 applicants for licenses and permits and of licensees and permittees.

513 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion
 514 in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.)
 515 of Chapter 22.

516 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26
 517 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity
 518 Board.

519 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team
 520 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a
 521 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases
 522 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and
 523 63.2-1605.

524 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
 525 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions
 526 of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33
 527 of § 2.2-3705.7.

528 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development
 529 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information
 530 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the
 531 Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

532 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the
 533 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of
 534 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

535 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or
 536 revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of
 537 any license or permit related to casino gaming, and discussion, consideration, or review of matters related to
 538 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

539 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding
 540 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting
 541 and any discussion, consideration, or review of matters related to investigations excluded from mandatory
 542 disclosure under subdivision 1 of § 2.2-3705.3.

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

547 C. Public officers improperly selected due to the failure of the public body to comply with the other

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

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

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

560 **§ 24.2-946. Summary of election laws; forms; instructions.**

561 A. The State Board shall summarize the provisions of the election laws relating to the Campaign Finance
562 Disclosure Act of 2006 and provide for distribution of this summary and prescribed forms to each candidate,
563 person, or committee on request or upon their first filing with the State Board pursuant to this chapter,
564 whichever occurs first.

565 B. The State Board shall designate the forms required for complying with this chapter which shall be the
566 only such forms used in complying with the provisions of this chapter.

567 C. The State Board shall provide, with the summary required by this section, instructions for persons
568 filing reports pursuant to this chapter to assist them in completing the reports. The instructions shall include
569 directions for the reporting of filing fees for any party nomination method. The instructions shall set out the
570 requirements for retaining records and materials for implementing the review provisions of § 24.2-948.5.

571 D. The State Board shall provide instructions for candidates who seek election for successive terms in the
572 same office for the filing of reports within each appropriate election cycle for the office and for the
573 aggregation of contributions within each election cycle.

574 E. The State Board, *in consultation with the Office of the Attorney General*, shall ~~provide, with the~~
575 ~~summary required by this section, to each candidate, person, or committee on request or upon their first filing~~
576 ~~with the State Board pursuant to this chapter, whichever occurs first, a copy of a written explanation prepared~~
577 ~~by the Attorney General of develop and publish guidance on~~ the provisions of the Act that prohibit the
578 personal use of campaign funds. ~~The explanation~~ *Such guidance* shall cover the provisions that prohibit the
579 personal use of campaign funds and shall delineate the differences between prohibited personal uses of
580 campaign funds and permitted uses of the funds, *and shall include examples of conduct that complies with*
581 *and that violates such provisions. The State Board shall periodically update such guidance to incorporate*
582 *advisory opinions and additional examples.*

583 **§ 24.2-948.4. Final report requirement; disbursement of surplus funds.**

584 A. A final report shall be filed by every campaign committee which sets forth (i) all receipts and
585 disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the
586 disposition of all surplus funds as provided in subsection D. The final report shall include a termination
587 statement, signed by the candidate, that all reporting for the campaign committee is complete and final. Once
588 a campaign committee's final report has been filed, no further report relating to that election shall be required.

589 B. A final report shall be required when (i) a candidate no longer seeks election to the same office in a
590 successive election, (ii) a candidate seeks election to a different office, or (iii) the candidate is deceased.

591 C. If the candidate is deceased, the final report shall be filed and signed by the treasurer. If the candidate
592 was serving as his own treasurer, his executor shall file and sign the final report. Any excess contributed
593 funds shall be disposed of pursuant to the provisions of subsection D.

594 D. Amounts received by a candidate or his campaign committee as contributions that are in excess of the
595 amount necessary to defray his campaign expenditures *or items acquired using campaign contributions* may
596 be disposed of only by one or any combination of the following: (i) transferring the excess *or items acquired*
597 *using campaign contributions* for use in a succeeding election or to retire the deficit in a preceding election;
598 (ii) returning the excess *or items acquired using campaign contributions* to a contributor in an amount not to
599 exceed the contributor's original contribution; (iii) donating the excess *or items acquired using campaign*
600 *contributions* to any organization described in § 170(c) of the Internal Revenue Code; (iv) contributing the
601 excess *or items acquired using campaign contributions* to one or more candidates or to any political
602 committee that has filed a statement of organization pursuant to this chapter; (v) contributing the excess *or*
603 *items acquired using campaign contributions* to any political party committee; and (vi) defraying any
604 ordinary, nonreimbursed expense related to his elective office. ~~It shall be unlawful for any person to convert~~
605 ~~any contributed moneys, securities, or like intangible personal property to his personal use or to the use of a~~
606 ~~member of the candidate's "immediate family" as that term is defined in § 30-101.~~

607 **§ 24.2-948.6. Use of campaign funds.**

608 A. A contribution accepted by a candidate or his campaign committee may be used for the following

609 purposes:

- 610 1. For otherwise authorized expenditures in connection with the candidate's campaign;
 611 2. For ordinary and necessary expenses incurred in connection with the duties of the individual as an
 612 office holder;
 613 3. For contributions to any organization described in § 170(c) of the Internal Revenue Code;
 614 4. For transfers to any federal, state, or local political party committee;
 615 5. For contributions to federal, state, and local candidates subject to the provisions of prevailing law;
 616 6. For child care expenses that are incurred as a direct result of the persons seeking, holding, or
 617 maintaining public office; or
 618 7. For any other lawful purpose unless prohibited by subsection B.

619 B. Contributions to a candidate or his campaign committee shall not be converted by any person to
 620 personal use. For the purpose of this subsection, a contribution shall be considered to be converted to
 621 personal use if the contribution is used to fulfill any commitment, obligation, or expense of a person that
 622 would exist irrespective of the person's seeking, holding, or maintaining public office, which includes the
 623 following:

- 624 1. A home mortgage, rent, or utility payment;
 625 2. A clothing purchase;
 626 3. A non-campaign-related automobile expense;
 627 4. A country club membership;
 628 5. A vacation or other non-campaign-related trip;
 629 6. A household food item;
 630 7. A tuition payment;
 631 8. Admission to a sporting event, a concert, a theater, or any other form of entertainment not associated
 632 with an election campaign; or
 633 9. Dues, fees, and other payments to a health club or recreational facility.

634 **§ 24.2-948.7. Violations of the ban on personal use of campaign funds; complaint; notice; hearing;**
 635 **penalty.**

636 A. A person who believes a violation of § 24.2-948.6 has occurred and (i) contributes to a candidate or
 637 his campaign committee that has allegedly committed the violation or (ii) is qualified to vote in the election
 638 for the office for which such candidate is running is qualified to file a complaint with the Department. Such
 639 complaint shall be in writing on a form provided by the Department, signed and sworn to by the person filing
 640 such complaint, notarized, and made under penalty of perjury and subject to the provisions of § 24.2-1016.
 641 The complaint shall clearly identify the complainant and the person against whom the complaint is addressed
 642 (the respondent) and contain (a) a credible allegation of a violation of § 24.2-948.6 with regard to a specific
 643 use of campaign contributions by the candidate or his campaign committee, (b) attached documentation
 644 supporting the allegation, (c) the names and contact information of any person the complainant knows to
 645 have knowledge of facts relating to the allegation, and (d) any other information required by the Department.
 646 The Department shall provide a copy of the complaint to the respondent within 24 hours of receipt. The
 647 Department shall complete its review of such complaints and, within 10 days, transmit to the State Board any
 648 credible and complete complaint from a qualified complainant and send written notice to the complainant
 649 and respondent of the Department's ultimate determination of the complaint's disposition. The State Board
 650 shall not act upon any complaint that does not meet the requirements of this subsection but shall be
 651 authorized to initiate an inquiry upon its own motion.

652 B. Upon receipt of a complaint or upon its own motion, the State Board shall conduct a preliminary
 653 investigation into the specific use of campaign contributions by the candidate. Such preliminary investigation
 654 shall be conducted in closed meetings held pursuant to § 2.2-3711. The State Board shall determine, during
 655 its preliminary investigation, whether the facts stated in the complaint or that serve as the basis of the State
 656 Board's motion taken as true are sufficient to show a violation of § 24.2-948.6. If such facts fail to give rise to
 657 such a violation, then the State Board shall dismiss the complaint. If the facts give rise to such a violation,
 658 then the State Board shall request that the complainant appear and testify under oath as to the complaint and
 659 the allegations therein. If the inquiry was initiated by the State Board's own motion, the State Board may
 660 request that witnesses appear and testify under oath as to the allegations raised by the State Board.

661 The State Board shall notify the respondent that a preliminary investigation has commenced within 24
 662 hours of initiating such investigation. Before the State Board conducts any vote on the complaint, other than
 663 a vote to dismiss, the respondent shall have 30 days to provide to the State Board documentation or other
 664 evidence that no action should be taken against the respondent on the basis of the complaint or the
 665 allegations brought by the State Board. If the respondent provides such documentation or such other
 666 evidence, the State Board shall review the response and determine whether to proceed with the inquiry.

667 After hearing testimony and reviewing any other evidence provided by the complainant, witnesses, or the
 668 respondent, the State Board shall dismiss the complaint if the State Board fails to find by a preponderance of
 669 the evidence that such violation has occurred. If the State Board finds otherwise, it shall proceed with the

670 *inquiry by calling for a public hearing.*

671 *If at any point prior to the State Board's call for a public hearing on the matter the respondent pays back*
672 *to the campaign committee from his personal funds the amount that was allegedly converted to his personal*
673 *use, the State Board shall dismiss the complaint or motion and end the inquiry into the matter.*

674 *Prior to the State Board's holding a public hearing on the matter, the complaint, the State Board's written*
675 *notice, and any related records shall not be subject to the provisions of the Virginia Freedom of Information*
676 *Act (§ 2.2-3700 et seq.) and shall not be made public, except by the respondent. However, once the State*
677 *Board has commenced a public meeting to further inquire into alleged conversion of campaign funds to*
678 *personal use, its materials, meetings, and hearings on the matter shall be open to the public.*

679 *C. If after such preliminary investigation the State Board determines to proceed with an inquiry into the*
680 *specific use of campaign contributions by the respondent, the State Board (i) shall immediately notify in*
681 *writing the complainant and the respondent as to the fact of the inquiry and the allegations against the*
682 *respondent and (ii) shall schedule one or more hearings on the matter. The respondent shall have the right to*
683 *postpone the hearing if it is scheduled within the 30 days immediately preceding an election in which the*
684 *respondent is a candidate for office. If the complaining party declines to participate in the hearing, the*
685 *complaint shall be dismissed and no further action shall be taken.*

686 *The respondent shall have the right to access all records obtained during the investigation, present*
687 *evidence, cross-examine witnesses, face and examine the accuser, and be represented by counsel at any*
688 *hearings. The State Board may grant the respondent any other rights or privileges not specifically*
689 *enumerated in this subsection.*

690 *If at any time the State Board determines that the complaint is without merit, the State Board shall dismiss*
691 *the complaint, so advise the complainant and the respondent, and take no further action.*

692 *D. A decision to dispose of a complaint under this section shall require a vote of four members of the*
693 *State Board. Failure of the State Board to dispose of a complaint within 120 days of the Department's*
694 *transmission of the signed and sworn complaint shall result in the summary dismissal of the matter, after*
695 *which no further action shall be taken.*

696 *Within 120 days of the Department's transmission of the signed and sworn complaint to the State Board*
697 *or a motion to begin an inquiry, the State Board may dispose of the matter in one of the following ways:*

698 *1. If for any reason the State Board dismisses the matter during its preliminary investigation and prior to*
699 *holding a public hearing on the matter, the State Board shall so advise the complainant and the respondent*
700 *and take no further action. In such case, the records and findings on the matter shall not be subject to the*
701 *provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) and shall not be made public*
702 *unless the respondent requests in writing that the records and findings be made public.*

703 *2. If at any time after the commencement of the initial public hearing on the matter the State Board*
704 *dismisses the matter, the State Board shall so advise the complainant and the respondent and prepare a*
705 *written judgment stating the grounds for the dismissal.*

706 *3. If after a public hearing the State Board determines by a preponderance of the evidence that the*
707 *respondent has violated the provisions of § 24.2-948.6 but that the violation was not made willfully and*
708 *knowingly, the State Board may require the respondent to repay an amount not to exceed the amount*
709 *unlawfully converted to the personal use of the respondent. Respondents who claim an inability to repay the*
710 *amount the State Board has determined is owed may be asked to provide documentation as to their financial*
711 *condition. The State Board may negotiate a payment plan that enables a respondent to repay. The procedure*
712 *to enforce repayment under this section shall be as stated in § 24.2-946.3. The State Board shall prepare a*
713 *written judgment stating its determination of the matter, its recommended remedy, and reasons therefor. A*
714 *copy of the judgment shall be sent to each party and posted on the State Board's website.*

715 *4. If the State Board determines by a preponderance of the evidence that the respondent willfully and*
716 *knowingly violated any provision of § 24.2-948.6, the State Board shall direct the respondent to repay the*
717 *amount unlawfully converted to his personal use. The State Board may also assess an additional civil*
718 *penalty, in an amount not to exceed \$1,000 per itemized expenditure found to be in violation of any provision*
719 *of § 24.2-948.6 and in no case greater than \$10,000. Respondents who claim an inability to pay an*
720 *appropriate civil penalty may be asked to provide documentation as to their financial condition. The State*
721 *Board may negotiate a payment plan that enables a respondent to pay an appropriate civil penalty. Any civil*
722 *penalty collected under this subdivision shall be payable to the State Treasurer for deposit into the general*
723 *fund. The procedure to enforce a civil penalty provided in this section shall be as stated in § 24.2-946.3. The*
724 *State Board shall prepare a written judgment stating its determination of the matter, its recommended*
725 *remedy, and reasons therefor. A copy of the judgment shall be sent to each party and posted on the State*
726 *Board's website.*

727 *E. A person found by the State Board to have violated the provisions of this section shall have a right to*
728 *the direct review of the finding by a court of competent jurisdiction as provided in the Administrative Process*
729 *Act (§ 2.2-4000 et seq.). The provisions of the Administrative Process Act shall not otherwise apply, however,*
730 *to the finding of a violation by the State Board pursuant to this section.*

731 *F. The State Board may, by a vote of four members, make a finding that a complaint is frivolous. Such a*

732 *finding shall be prima facie evidence of abuse of process by the complainant. The State Board shall prepare a*
 733 *written judgment stating its determination of the matter and reasons therefor. A copy of the judgment shall be*
 734 *sent to each party and posted on the State Board's website.*

735 **§ 24.2-948.8. Advisory opinions.**

736 *A. Any person subject to the provisions of § 24.2-948.6 may submit a complete written request for an*
 737 *advisory opinion concerning the application of that section to a specific transaction or activity on a form*
 738 *provided by the Department. The Department shall transmit any such complete written request for an*
 739 *advisory opinion to the State Board.*

740 *B. The State Board shall, upon receipt, make public any request for an advisory opinion. Before rendering*
 741 *an advisory opinion, the State Board shall accept written comments submitted by any interested party within*
 742 *the 10-day period following the date the request is made public.*

743 *C. The State Board shall issue a written advisory opinion within 60 days of receipt of the request for an*
 744 *advisory opinion. However, if an advisory opinion is requested by a candidate or his campaign committee*
 745 *during the 60-day period before any election involving the requesting party, the State Board shall render a*
 746 *written advisory opinion relating to such request no later than 20 days after the State Board receives a*
 747 *complete written request.*

748 *D. Any advisory opinion rendered by the State Board under subsection C may be relied upon by (i) any*
 749 *person involved in the specific transaction or activity with respect to which such advisory opinion is rendered*
 750 *and (ii) any person involved in any specific transaction or activity that is indistinguishable in all its material*
 751 *aspects from the transaction or activity with respect to which such advisory opinion is rendered.*

752 *E. Notwithstanding any other provision of law, any person who relies upon any provision or finding of an*
 753 *advisory opinion in accordance with the provisions of subsection D and who acts in good faith in accordance*
 754 *with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to*
 755 *any sanction provided under § 24.2-948.7.*

756 **2. That the State Board of Elections shall promulgate regulations to implement the provisions of this**
 757 **act to be effective within 280 days of its enactment.**

758 **3. That the regulations adopted pursuant to the second enactment of this act shall include regulations**
 759 **substantially similar to the regulations of the Federal Election Commission (the FEC) under 11 C.F.R.**
 760 **Part 112 with respect to advisory opinions and 11 C.F.R. Part 113 with respect to the prohibition on**
 761 **personal use of campaign funds. The regulations adopted pursuant to the second enactment of this act**
 762 **shall also include adoption of past closed matters under review and advisory opinions of the FEC on**
 763 **matters related to the prohibited personal use of campaign funds under federal law as precedent for**
 764 **any future decisions of the State Board of Elections with respect to analogous state law.**

765 **4. That the State Board of Elections shall publish an updated summary of the provisions of the**
 766 **Campaign Finance Disclosure Act of 2006 (§ 24.2-945 et seq. of the Code of Virginia, as amended by**
 767 **this act) required by subsection E of § 24.2-946 of the Code of Virginia, as amended by this act, and**
 768 **any regulations of the State Board of Elections promulgated pursuant to the second enactment of this**
 769 **act within 30 days of the promulgation of such regulations.**

770 **5. That the provisions of this act may result in a net increase in periods of imprisonment or**
 771 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
 772 **appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;**
 773 **therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal**
 774 **Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the**
 775 **estimated amount of the necessary appropriation cannot be determined for periods of commitment to**
 776 **the custody of the Department of Juvenile Justice.**

INTRODUCED

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