

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

House Bill 2004

BY DELEGATES HOWELL, NELSON, E., COWLES,
ZATEZALO, HAMRICK, WARD, DEEM, SUMMERS, SYPOLT,
LANE, C. AND ATKINSON

[Originating in the Committee on Finance;

March 17, 2017]

1 A BILL to repeal §5A-3-49 of the Code of West Virginia, 1931, as amended; to amend and reenact
2 §5A-1-2 of said code; to amend and reenact §5A-3-52 of said code; to amend said code
3 by adding thereto a new article, designated §5A-12-1, §5A-12-2, §5A-12-3, §5A-12-4, and
4 §5A-12-5; to amend and reenact §17A-3-23 of said code; to amend said code by adding
5 thereto a new section, designated §17A-3-23a; and to amend and reenact §29B-1-4 of
6 said code, all relating to the management and continuous inventory of vehicles owned,
7 leased, operated or acquired by the state and its agencies; repealing provisions relating
8 to the central motor pool; continuing management of state owned or leased aircraft
9 through an aviation division; continuing the Fleet Management Office; providing powers
10 and duties of the Director of the Fleet Management Office; continuing special fund;
11 requiring reporting of state vehicles to Fleet Management Office; requiring reporting to and
12 inventory of vehicles by State Agency for Surplus Property; requiring reporting to and
13 inventory of vehicles by Enterprise Resource Planning Board; authorizing a rental pool;
14 requiring legislative compliance audit; requiring new title, registration and license plates
15 for state vehicles; allowing the Commissioner of the Division of Motor Vehicles to issue
16 special plates to organizations and entities; requiring agencies to apply for a new uniform
17 vehicle title and registration plate; exempting confidential information relating to certain
18 vehicles from public disclosure under the Freedom of Information Act; authorizing
19 legislative rules; and requiring annual reports to Legislature and Governor.

Be it enacted by the Legislature of West Virginia:

1 That §5A-3-49 of the Code of West Virginia, 1931, as amended, be repealed; that §5A-
2 1-2 of said code be amended and reenacted; that §5A-3-52 of said code be amended and
3 reenacted; that said code be amended by adding thereto a new article, designated §5A-12-1,
4 §5A-12-2, §5A-12-3, §5A-12-4, and §5A-12-5; that §17A-3-23 of said code be amended and
5 reenacted; that said code be amended by adding thereto a new section, designated §17A-3-
6 23a; and that §29B-1-4 of said code be amended and reenacted, all to read as follows:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 1. DEPARTMENT OF ADMINISTRATION.

§5a-1-2. Department of Administration and Office of Secretary; secretary; divisions; directors.

1 (a) The Department of Administration and the Office of Secretary of Administration are
2 continued in the executive branch of state government. The secretary is the Chief Executive
3 Officer of the department and shall be appointed by the Governor, by and with the advice and
4 consent of the Senate, for a term not exceeding the term of the Governor.

5 (b) The Department of Administration may receive federal funds.

6 (c) The secretary serves at the will and pleasure of the Governor. The annual
7 compensation of the secretary shall be as specified in section two-a, article seven, chapter six of
8 this code.

9 (d) There shall be in the Department of Administration a Finance Division, a General
10 Services Division, an Information Services and Communications Division, Division of Personnel
11 and a Purchasing Division. Each division shall be headed by a director who may also head any
12 and all sections within that division and who shall be appointed by the secretary.

13 (e) There shall also be in the Department of Administration those agencies, boards,
14 commissions and councils specified in section one, article two, chapter five-f of this code.

15 (f) The secretary may establish a ~~Fleet Management Office~~ an aviation division within the
16 Department of Administration to:

17 (1) Manage all ~~motor vehicles and~~ aircraft owned or possessed by the State of West
18 Virginia or any of its departments, divisions, agencies, bureaus, boards, commissions, offices or
19 authorities: *Provided*, That, such ~~vehicles and~~ aircraft shall not be used for personal purposes,
20 other than for de minimis personal use;

21 (2) Administer the rules, including emergency rules, promulgated under the provisions of
22 sections section forty-eight and forty-nine, article three of this chapter; and

23 (3) Perform any duties relating to ~~motor vehicles and~~ aircraft owned or possessed by the
24 State of West Virginia assigned by the secretary, which duties may include those set out in
25 sections fifty through fifty-three, article three of this chapter.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-52. ~~Special funds for travel management created~~ Aviation Fund.

1 ~~(a) The travel management special fund is terminated. All deposits currently in this special fund~~
2 ~~from aviation fees shall be transferred into the Aviation Fund created in subsection c of~~
3 ~~this section. All funds in this special fund from the monthly fee for vehicles shall be~~
4 ~~transferred into the Fleet Management Office Fund created in subsection (b) of this~~
5 ~~section.~~

6 ~~(b) There is created in the State Treasury a special revenue account, to be known as the~~
7 ~~Fleet Management Office Fund. Expenditures are authorized from collections, but are to be made~~
8 ~~only in accordance with appropriation by the Legislature and in accordance with the provisions of~~
9 ~~article three, chapter twelve of this code and upon fulfillment of the provisions of article two,~~
10 ~~chapter eleven-b of this code. Any balance remaining in the special revenue account at the end~~
11 ~~of any state fiscal year does not revert to the General Revenue Fund but remains in the special~~
12 ~~revenue account and shall be used solely in a manner consistent with this article. All costs and~~
13 ~~expenses incurred pursuant to this section, including administrative, shall be paid from those~~
14 ~~funds. Charges for operating, repairing and servicing motor vehicles made against any institution,~~
15 ~~agency or department shall be paid into the Fleet Management Office Fund by that institution,~~
16 ~~department or agency.~~

17 ~~(c) There is created in the State Treasury a The special revenue account, to be known as~~
18 ~~the Aviation Fund, is hereby continued and shall be administered by the secretary. Expenditures~~
19 ~~from this fund are authorized from collections but are to be made only in accordance with~~

20 appropriation by the Legislature and in accordance with the ~~provisions of~~ article three, chapter
21 twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this
22 code. Any balance remaining in the special revenue account at the end of any state fiscal year
23 does not revert to the General Revenue Fund but remains in the special revenue account and
24 shall be used solely in a manner consistent with this article. All costs and expenses incurred
25 pursuant to this section, including administrative, shall be paid from those funds. Charges for
26 operating, repairing and servicing aircraft made against any institution, agency or department
27 shall be paid into the Aviation Fund by that institution, department or agency.

ARTICLE 12. FLEET MANAGEMENT OFFICE.

§5A-12-1. Fleet Management Office; purpose; Fleet Management Office Fund.

1 (a) The Fleet Management Office, as authorized by prior enactment of section two, article
2 one of this chapter, is continued in the Department of Administration for the purpose of managing
3 the state's fleet of vehicles.

4 (b) The director shall be appointed by the Secretary, and is the executive officer of the
5 Fleet Management Office, and has the following powers and duties to:

6 (1) Provide management services, including fueling and vehicle maintenance, and any
7 other service necessary to properly manage the operation and use of state vehicles;

8 (2) Maintain a database of state vehicles assigned to all agencies that includes ownership
9 information, purchase date, vehicle identification number, and other applicable information
10 necessary to carry out the requirements contained in this article;

11 (3) Assist agencies by providing data and tools necessary to evaluate, manage and track
12 costs associated with vehicle operation;

13 (4) Preapprove and assist with purchase of new or replacement vehicles for agencies, in
14 cooperation with the Purchasing Division, including facilitating financing arrangements;

15 (5) Provide training to agency fleet coordinators of state vehicles on safe operation and
16 policies governing vehicle use;

17 (6) Evaluate usage of state vehicles based on monthly mileage data; including establishing
18 minimum monthly mileage criteria to justify an agency's necessity for a state vehicle;

19 (7) Provide a report annually to the Governor and Joint Committee on Government and
20 Finance listing all state vehicles listed by agency with operation costs; and

21 (8) Propose rules for legislative approval in accordance with the provisions of article three,
22 chapter twenty-nine-a of this code to carry out the objectives of this article.

23 (c) The special revenue account, known as the Fleet Management Office Fund, previously
24 created by section fifty-two, article three of this chapter, is hereby continued and shall be
25 administered by the secretary. Expenditures are authorized from collections, but are to be made
26 only in accordance with appropriation by the Legislature and in accordance with article three,
27 chapter twelve of this code and upon fulfillment of article two, chapter eleven-b of this code. Any
28 balance remaining in the special revenue account at the end of any state fiscal year does not
29 revert to the General Revenue Fund but remains in the special revenue account and may be used
30 solely in a manner consistent with this article. All costs and expenses incurred pursuant to this
31 article, including administrative, shall be paid from those funds. Charges for operating, repairing
32 and servicing state vehicles made against any spending unit of the state shall be paid into the
33 Fleet Management Office Fund by that spending unit.

§5A-12-2. Definitions.

1 As used in this article:

2 "Agency Fleet Coordinator" means the head of a spending unit, or his or her designee,
3 who shall be responsible for the duties as required by this article;

4 "Agency owner" means the agency listed as the owner on the vehicle title;

5 "Director" means the Director of the Fleet Management Office;

6 "Secretary" means the Secretary of the Department of Administration;

7 “State vehicle” means any state or agency-owned, leased, operated or acquired vehicle,
8 regardless of intended use, with a vehicle rating of one ton or less, but does not include all-terrain
9 vehicles (ATVs) or vehicles requiring a commercial driver’s license to operate.

**§5A-12-3. Requirement for reporting inventory of state vehicles; reports to and inventory
of vehicles by State Agency for Surplus Property.**

1 (a) Agency fleet coordinators shall provide to the Fleet Management Office data on each
2 state vehicle, including:

3 (1) Vehicle identification number;

4 (2) Make, model and year;

5 (3) Acquisitions and dispositions;

6 (4) Fuel usage;

7 (5) Mileage; and

8 (6) Maintenance events.

9 (b) The vehicle agency owner shall report by December 31, 2017, every state vehicle to
10 the centralized inventory database maintained by the Enterprise Resource Planning Board,
11 including the following information:

12 (1) Vehicle identification number;

13 (2) Agency owner of the vehicle;

14 (3) Purchase date and price; and

15 (4) Make, model and year of the vehicle.

16 (c) Acquisitions and dispositions of vehicles by agencies shall be reported to the Fleet
17 Management Office within thirty days.

18 (d) Fuel usage, maintenance events, and mileage of vehicles shall be reported by agency
19 fleet coordinators at least monthly.

20 (e) The Fleet Management Office shall conduct an annual reconciliation of vehicle records
21 with all agency fleet coordinators to ensure the accuracy of vehicle inventory maintained by the

22 agency, the Fleet Management Office and the centralized inventory database maintained by the
23 Enterprise Resource Planning Board.

24 (f) In addition to the requirements of this section regarding state vehicles, all agency fleet
25 coordinators shall report to the State Agency for Surplus Property all vehicles other than state
26 vehicles as defined in section (2) of this article that are state or agency owned, leased, operated
27 or acquired, regardless of intended use, including, but not limited to, all terrain vehicles (ATVs),
28 vehicles with a vehicle rating of more than one ton, vehicles requiring a commercial driver's
29 license to operate, trailers or any other vehicle so owned, leased, operated or acquired. Each
30 fleet coordinator shall make the initial report required under this section on or before October 1,
31 2016, and thereafter within ten days of the acquisition of each additional vehicle. Upon receipt of
32 the reports, the State Agency for Surplus Property shall inventory the vehicles and make the
33 inventory available to the Fleet Management Office upon request.

§5A-12-4. Rental pool of vehicles for agency use.

1 (a) The Fleet Management Office may maintain a pool of vehicles for short-term use by
2 any agency that wishes to use a state vehicle when ownership of a vehicle may not be justifiable.

3 (b) The Fleet Management Office is authorized to charge rental fees to agencies using the
4 rental pool vehicle. The fees shall be collected and deposited into the special revenue account
5 created in section one of this article, and may be used for costs associated with operation of the
6 rental pool, as authorized by this article.

§5A-12-5. Compliance audit.

1 On or before December 31, 2020, the Legislative Auditor, in accordance with article ten,
2 chapter four of this code, shall audit the Fleet Management Office and the State Agency for
3 Surplus Property for state spending unit compliance with the reporting requirements and
4 applicable provisions of this article, including evaluating the data collected to determine if the data
5 being provided in the spending unit reports is sufficient to evaluate the state costs of owning,
6 maintaining and leasing state vehicles and for evaluating vehicle use and expenditure trends

7 among the spending units. The Legislative Auditor may make recommendations for future
8 compliance monitoring of any spending unit that is found to be out of compliance with the reporting
9 requirements of this article, and may make such recommendations for legislation to improve
10 compliance with this article.

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,
CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF
CERTIFICATES OF TITLE.**

**§17A-3-23. Registration plates to state, county, municipal and other governmental
vehicles; use for undercover activities.**

1 (a) (1) Any motor vehicle designed to carry passengers, owned or leased by the state of
2 West Virginia, or any of its departments, bureaus, commissions or institutions, except vehicles
3 used by the Governor, Treasurer, three vehicles per elected office of the Board of Public Works,
4 vehicles operated by the State Police, not to exceed five vehicles operated by the Office of the
5 Secretary of Military Affairs and Public Safety, not to exceed five vehicles operated by the Division
6 of Homeland Security and Emergency Management, vehicles operated by natural resources
7 police officers of the Division of Natural Resources, not to exceed ten vehicles operated by the
8 arson investigators of the Office of State Fire Marshal, not to exceed two vehicles operated by
9 the Division of Protective Services, not to exceed sixteen vehicles operated by inspectors of the
10 Office of the Alcohol Beverage Control Commissioner, vehicles operated by the West Virginia
11 Wing of the Civil Air Patrol and vehicles operated by probation officers employed under the
12 Supreme Court of Appeals may not be operated or driven by any person unless it has displayed
13 and attached to the front thereof, in the same manner as regular motor vehicle registration plates
14 are attached, a plate of the same size as the regular registration plate, with white lettering on a
15 green background bearing the words "West Virginia" in one line and the words "State Car" in

16 another line and the lettering for the words "State Car" shall be of sufficient size to be plainly
17 readable from a distance of one hundred feet during daylight.

18 (2) The vehicle shall also have attached to the rear a plate bearing a number and any
19 other words and figures as the Commissioner of Motor Vehicles shall prescribe. The rear plate
20 shall also be green with the number in white. The commissioner shall have a sufficient number of
21 both front and rear plates to attach to all state vehicles.

22 (3) Before issuing a registration and plate to any vehicle as prescribed by this section, the
23 commissioner shall verify that the vehicle is a state owned or operated vehicle.

24 (4) Beginning July 1, 2018, and every four years after that, registration and plates issued
25 pursuant to this subsection shall be renewed by the agency, department, bureau, commission or
26 institution by application prescribed by the commissioner. The commissioner shall consider any
27 registration issued pursuant to this section expired if not renewed by July 1, 2018.

28 (b) Registration plates issued to vehicles owned by quasi-state entities, including those
29 community action program organizations created pursuant to section one, article thirteen of
30 chapter seven; area agencies on aging created pursuant to section five, article five-s of chapter
31 sixteen; and early education programs created pursuant to section forty-four, article five of chapter
32 eighteen of this code, shall be white on black with the words "West Virginia" on the bottom.

33 ~~(b)~~ (c) Registration plates issued to vehicles owned by counties shall be white on red with
34 the word "County" on top of the plate and the words "West Virginia" on the bottom.

35 ~~(c)~~ (d) Registration plates issued to a city or municipality shall be white on blue with the
36 word "City" on top and the words "West Virginia" on the bottom.

37 ~~(d)~~ (e) Registration plates issued to a city or municipality law-enforcement department
38 shall include blue lettering on a white background with the words "West Virginia" on top of the
39 plate and shall be further designed by the commissioner to include a law-enforcement shield
40 together with other insignia or lettering sufficient to identify the motor vehicle as a municipal
41 law-enforcement department motor vehicle. The colors may not be reversed and shall be of

42 reflectorized material. The registration plates issued to counties, municipalities and other
43 governmental agencies authorized to receive colored plates hereunder shall be affixed to both
44 the front and rear of the vehicles.

45 ~~(e)~~ (f) (1) Registration plates issued to vehicles operated by county sheriffs shall be
46 designed by the commissioner in cooperation with the sheriffs' association with the word "Sheriff"
47 on top of the plate and the words "West Virginia" on the bottom. The plate shall contain a gold
48 shield representing the sheriff's star and a number assigned to that plate by the commissioner.
49 Every county sheriff shall provide the commissioner with a list of vehicles operated by the sheriff,
50 unless otherwise provided in this section, and a fee of \$10 for each vehicle submitted by July 1,
51 2002.

52 (2) Registration plates issued to vehicles operated by the West Virginia Wing of the Civil
53 Air Patrol shall be designed by the commissioner in cooperation with the Civil Air Patrol and
54 include the words "Civil Air Patrol" on the plate. The Civil Air Patrol shall provide the commissioner
55 with a list of vehicles operated by the Civil Air Patrol, unless otherwise provided in this section,
56 and a fee of \$10 for each new vehicle for which a Civil Air Patrol license plate is requested.

57 ~~(f)~~ (g) The commissioner is authorized to designate the colors and design of any other
58 registration plates that are issued without charge to any other agency in accordance with the
59 motor vehicle laws.

60 ~~(g)~~ (h) Upon application, the commissioner is authorized to issue a maximum of five Class
61 A license plates per applicant to be used by county sheriffs and municipalities on law-enforcement
62 vehicles while engaged in undercover investigations.

63 ~~(h)~~ (i) The commissioner is authorized to issue a maximum of five Class A license plates
64 to be used on vehicles assigned to the Division of Motor Vehicles investigators for commercial
65 driver examination fraud investigation and driver's license issuance fraud detection and fraud
66 prevention.

67 ~~(j)~~ (i) The commissioner is authorized to issue an unlimited number of license plates per
68 applicant to authorized drug and violent crime task forces in the State of West Virginia when the
69 chairperson of the control group of a drug and violent crime task force signs a written affidavit
70 stating that the vehicle or vehicles for which the plates are being requested will be used only for
71 official undercover work conducted by a drug and violent crime task force.

72 ~~(j)~~ (k) The commissioner is authorized to issue twenty Class A license plates to the
73 Criminal Investigation Division of the Department of Revenue for use by its investigators.

74 ~~(k)~~ (l) The commissioner may issue a maximum of ten Class A license plates to the
75 Division of Natural Resources for use by natural resources police officers. The commissioner shall
76 designate the color and design of the registration plates to be displayed on the front and the rear
77 of all other state-owned vehicles owned by the Division of Natural Resources and operated by
78 natural resources police officers.

79 ~~(k)~~ (m) The commissioner is authorized to issue an unlimited number of Class A license
80 plates to the Commission on Special Investigations for state-owned vehicles used for official
81 undercover work conducted by the Commission on Special Investigations.

82 ~~(m)~~ (n) The commissioner is authorized to issue a maximum of two Class A plates to the
83 Division of Protective Services for state-owned vehicles used by the Division of Protective
84 Services in fulfilling its mission.

85 ~~(n)~~ (o) The commissioner is authorized to issue Class A registration plates for vehicles
86 used by the Medicaid Fraud Control Unit created by section seven, article seven, chapter nine of
87 this code.

88 ~~(n)~~ (p) The commissioner is authorized to issue Class A registration plates for vehicles
89 used by the West Virginia Insurance Fraud Unit created by section eight, article forty-one, chapter
90 thirty-three of this code.

91 ~~(p)~~ (q) No other registration plate may be issued for, or attached to, any state-owned
92 vehicle.

93 ~~(q) The Commissioner of Motor Vehicles shall have a sufficient number of both front and~~
94 ~~rear plates produced to attach to all state-owned cars. The numbered registration plates for the~~
95 ~~vehicles shall start with the number five hundred and the commissioner shall issue consecutive~~
96 ~~numbers for all state-owned cars.~~

97 (r) It is the duty of each office, department, bureau, commission or institution furnished
98 any vehicle to have plates as described herein affixed thereto prior to the operation of the vehicle
99 by any official or employee.

100 (s) The commissioner may issue special registration plates for motor vehicles titled in the
101 name of the Division of Public Transit or in the name of a public transit authority as defined in this
102 subsection and operated by a public transit authority or a public transit provider to transport
103 persons in the public interest. For purposes of this subsection, "public transit authority" means an
104 urban mass transportation authority created pursuant to the provisions of article twenty-seven,
105 chapter eight of this code or a nonprofit entity exempt from federal and state income taxes under
106 the Internal Revenue Code and whose purpose is to provide mass transportation to the public at
107 large. The special registration plate shall be designed by the commissioner and shall display the
108 words "public transit" or words or letters of similar effect to indicate the public purpose of the use
109 of the vehicle. The special registration plate shall be issued without charge.

110 (t) Any person who violates the provisions of this section is guilty of a misdemeanor and,
111 upon conviction thereof, shall be fined not less than \$50 nor more than \$100. Magistrates have
112 concurrent jurisdiction with circuit courts for the enforcement of this section.

§17A-3-23a. Application for certificate of title to state government vehicles; rulemaking.

1 (a) No later than July 1, 2018, each state government entity with special registration plates
2 as authorized by section twenty-three of this article, shall apply for a new certificate of title for
3 each vehicle on an application prescribed by the commissioner.

4 (b) The commissioner may not approve an application for a new certificate of title or issue
5 a special registration plate pursuant to subsection (a) of section twenty-three unless the vehicle

6 for which application is made has been reported in the centralized inventory database maintained
7 by the Enterprise Resource Planning Board.

8 (c) The certificate of title shall be issued to the owner of the vehicle in a standard and
9 uniform format developed by the commissioner, in cooperation with the Fleet Management Office,
10 established pursuant to article twelve of chapter five-a of this code, and the Enterprise Resource
11 Planning Board, established pursuant to article six-d, chapter twelve of this code, to ensure
12 uniformity across inventory records.

13 (d) The commissioner is authorized to propose legislative rules necessary to carry out the
14 duties required by this section.

CHAPTER 29B. FREEDOM OF INFORMATION.

ARTICLE 1. PUBLIC RECORDS.

§29B-1-4. Exemptions.

1 (a) There is a presumption of public accessibility to all public records, subject only to the
2 following categories of information which are specifically exempt from disclosure under ~~the~~
3 ~~provisions of this article:~~

4 (1) Trade secrets, as used in this section, which may include, but are not limited to, any
5 formula, plan pattern, process, tool, mechanism, compound, procedure, production data or
6 compilation of information which is not patented which is known only to certain individuals within
7 a commercial concern who are using it to fabricate, produce or compound an article or trade or a
8 service or to locate minerals or other substances, having commercial value, and which gives its
9 users an opportunity to obtain business advantage over competitors;

10 (2) Information of a personal nature such as that kept in a personal, medical or similar file,
11 if the public disclosure of the information would constitute an unreasonable invasion of privacy,
12 unless the public interest by clear and convincing evidence requires disclosure in this particular

13 instance: *Provided*, That this article does not preclude an individual from inspecting or copying
14 his or her own personal, medical or similar file;

15 (3) Test questions, scoring keys and other examination data used to administer a licensing
16 examination, examination for employment or academic examination;

17 (4) (A) Records of law-enforcement agencies that deal with the detection and investigation
18 of crime and the internal records and notations of such law-enforcement agencies which are
19 maintained for internal use in matters relating to law enforcement; and

20 (B) Records identifying motor vehicles used, and the agencies using them, for undercover
21 investigation activities conducted by state law-enforcement agencies or other agencies that are
22 authorized by this code to use undercover or unmarked vehicles;

23 (5) Information specifically exempted from disclosure by statute;

24 (6) Records, archives, documents or manuscripts describing the location of undeveloped
25 historic, prehistoric, archaeological, paleontological and battlefield sites or constituting gifts to any
26 public body upon which the donor has attached restrictions on usage or the handling of which
27 could irreparably damage the record, archive, document or manuscript;

28 (7) Information contained in or related to examination, operating or condition reports
29 prepared by, or on behalf of, or for the use of any agency responsible for the regulation or
30 supervision of financial institutions, except those reports which are by law required to be published
31 in newspapers;

32 (8) Internal memoranda or letters received or prepared by any public body;

33 (9) Records assembled, prepared or maintained to prevent, mitigate or respond to terrorist
34 acts or the threat of terrorist acts, the public disclosure of which threaten the public safety or the
35 public health;

36 (10) Those portions of records containing specific or unique vulnerability assessments or
37 specific or unique response plans, data, databases and inventories of goods or materials collected

38 or assembled to respond to terrorist acts; and communication codes or deployment plans of law-
39 enforcement or emergency response personnel;

40 (11) Specific intelligence information and specific investigative records dealing with
41 terrorist acts or the threat of a terrorist act shared by and between federal and international law-
42 enforcement agencies, state and local law-enforcement and other agencies within the Department
43 of Military Affairs and Public Safety;

44 (12) National security records classified under federal executive order and not subject to
45 public disclosure under federal law that are shared by federal agencies and other records related
46 to national security briefings to assist state and local government with domestic preparedness for
47 acts of terrorism;

48 (13) Computing, telecommunications and network security records, passwords, security
49 codes or programs used to respond to or plan against acts of terrorism which may be the subject
50 of a terrorist act;

51 (14) Security or disaster recovery plans, risk assessments, tests or the results of those
52 tests;

53 (15) Architectural or infrastructure designs, maps or other records that show the location
54 or layout of the facilities where computing, telecommunications or network infrastructure used to
55 plan against or respond to terrorism are located or planned to be located;

56 (16) Codes for facility security systems; or codes for secure applications for facilities
57 referred to in subdivision (15) of this subsection;

58 (17) Specific engineering plans and descriptions of existing public utility plants and
59 equipment;

60 (18) Customer proprietary network information of other telecommunications carriers,
61 equipment manufacturers and individual customers, consistent with 47 U.S.C. §222;

62 (19) Records of the Division of Corrections, Regional Jail and Correctional Facility
63 Authority and the Division of Juvenile Services relating to design of corrections, jail and detention

64 facilities owned or operated by the agency, and the policy directives and operational procedures
65 of personnel relating to the safe and secure management of inmates or residents, that if released,
66 could be used by an inmate or resident to escape a facility, or to cause injury to another inmate,
67 resident or to facility personnel;

68 (20) Information related to applications under section four, article seven, chapter sixty-one
69 of this code, including applications, supporting documents, permits, renewals, or any other
70 information that would identify an applicant for or holder of a concealed weapon permit: *Provided,*
71 That information in the aggregate that does not identify any permit holder other than by county or
72 municipality is not exempted: *Provided, however,* That information or other records exempted
73 under this subdivision may be disclosed to a law enforcement agency or officer: (i) to determine
74 the validity of a permit, (ii) to assist in a criminal investigation or prosecution, or (iii) for other lawful
75 law-enforcement purposes; and

76 (21) Personal information of law-enforcement officers maintained by the public body in the
77 ordinary course of the employer-employee relationship. As used in this paragraph, “personal
78 information” means a law-enforcement officer’s social security number, health information, home
79 address, personal address, personal telephone numbers and personal email addresses and those
80 of his or her spouse, parents and children as well as the names of the law-enforcement officer’s
81 spouse, parents and children.

82 (b) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the
83 term “terrorist act” means an act that is likely to result in serious bodily injury or damage to property
84 or the environment and is intended to:

- 85 (1) Intimidate or coerce the civilian population;
86 (2) Influence the policy of a branch or level of government by intimidation or coercion;
87 (3) Affect the conduct of a branch or level of government by intimidation or coercion; or
88 (4) Retaliate against a branch or level of government for a policy or conduct of the
89 government.

90 (c) The provisions of subdivisions (9) through (16), inclusive, subsection (a) of this section
91 do not make subject to the provisions of this chapter any evidence of an immediate threat to public
92 health or safety unrelated to a terrorist act or the threat of a terrorist act which comes to the
93 attention of a public entity in the course of conducting a vulnerability assessment response or
94 similar activity.