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HOUSE BILL NO. 1380

Offered January 22, 2004

A BILL to amend and reenact §§ 2.2-3708, 2.2-3709, and 23-50.16:32 of the Code of Virginia, relating to the Freedom of Information Act; electronic communication meetings.

Patrons—Moran, Ebbin and Van Landingham; Senators: Saslaw and Ticer

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3708, 2.2-3709, and 23-50.16:32 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3708. Electronic communication meetings.

A. It shall be a violation of this chapter for any political subdivision or any governing body, authority, board, bureau, commission, district or agency of local government or any committee thereof to conduct a meeting wherein the public business is discussed or transacted through telephonic, video, electronic or other communication means where the members are not physically assembled. Nothing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation.

B. For purposes of this section, "public body" means any public body of the Commonwealth, but excludes any political subdivision or any governing body, authority, board, bureau, commission, district or agency of local government.

State public ~~Public~~ bodies may conduct any meeting, except closed meetings held pursuant to § 2.2-3711, wherein the public business is discussed or transacted through telephonic or video means. Where a quorum of a public body of the Commonwealth is physically assembled at one location for the purpose of conducting a meeting authorized under this section, additional members of such public body may participate in the meeting through telephonic means provided such participation is available to the public.

C. B. Notice of any meetings held pursuant to this section shall be provided at least 30 days in advance of the date scheduled for the meeting. The notice shall include the date, time, place and purpose for the meeting and shall identify the locations for the meeting. All locations for the meeting shall be made accessible to the public. All persons attending the meeting at any of the meeting locations shall be afforded the same opportunity to address the public body as persons attending the primary or central location. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access restored.

Thirty-day notice shall not be required for telephonic or video meetings continued to address an emergency as provided in subsection F E or to conclude the agenda of a telephonic or video meeting of the public body for which the proper notice has been given, when the date, time, place and purpose of the continued meeting are set during the meeting prior to adjournment.

The public body shall provide the Virginia Information Technologies Agency with notice of all public meetings held through telephonic or video means pursuant to this section.

D. C. An agenda and materials that will be distributed to members of the public body and that have been made available to the staff of the public body in sufficient time for duplication and forwarding to all locations where public access will be provided shall be made available to the public at the time of the meeting. Minutes of all meetings held by telephonic or video means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through telephonic or video means shall be recorded by name in roll-call fashion and included in the minutes. In addition, the public body shall make an audio recording of the meeting, if a telephonic medium is used, or an audio/visual recording, if the meeting is held by video means. The recording shall be preserved by the public body for a period of three years following the date of the meeting and shall be available to the public.

E. D. No more than 25 percent of all meetings held annually by a public body, including meetings of any ad hoc or standing committees, may be held by telephonic or video means. Any public body that meets by telephonic or video means shall file with the Virginia Information Technologies Agency by July 1 of each year a statement identifying the total number of meetings held during the preceding fiscal year, the dates on which the meetings were held and the number and purpose of those conducted through telephonic or video means.

F. E. Notwithstanding the limitations imposed by subsection E D, a public body may meet by telephonic or video means as often as needed if an emergency exists and the public body is unable to

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59 meet in regular session. Public bodies conducting emergency meetings through telephonic or video
60 means shall comply with the provisions of subsection ~~D~~ C requiring minutes, recordation and
61 preservation of the audio or audio/visual recording of the meeting. The nature of the emergency shall be
62 stated in the minutes.

63 § 2.2-3709. (Effective until July 1, 2005) Meetings of Board of Visitors of the University of Virginia.

64 A. Members of the Board of Visitors of the University of Virginia may participate by video,
65 telephone, or video and telephone at their meetings or meetings of their committees, including closed
66 meetings convened in accordance with the procedures of § 2.2-3712, where (i) at least a quorum of such
67 board or its committees is physically assembled at its regular, primary location or other location, (ii) any
68 such meeting is duly convened with advance public notice in accordance with § 2.2-3707, including
69 advance public notice of the location of the physically assembled quorum, and (iii) a speaker phone is
70 provided at the location where the quorum of such membership is physically present.

71 No more than 25 percent of all meetings held annually by such board or its committees, including
72 meetings of any ad hoc committees, may be held by telephonic or video means.

73 B. When the required quorum of such board or its committees is physically assembled at one
74 location for the purpose of conducting a meeting authorized under this section, additional members of
75 such board or its committees may participate in the meeting through telephonic means if the public is
76 permitted to hear such participation during any open meeting. Any interruption in the telephonic or
77 video broadcast of the meeting shall result in the suspension of action at the open meeting until repairs
78 are made and public access is restored.

79 C. Except as otherwise provided in this section, all meetings shall be conducted in accordance with
80 this chapter. Any meeting conducted pursuant to this section shall not be considered an "electronic
81 communication meeting" for purposes of § 2.2-3708; however, such board or its committees shall
82 comply with the provisions of subsection ~~D~~ C of § 2.2-3708, requiring minutes, recordation and
83 preservation of the audio or audio/visual recording of the meeting. Votes taken by those participating by
84 telephone or video shall also be publicly recorded by name in roll-call fashion and shall be included in
85 the minutes, which shall be approved by such board or its committees in public session.

86 § 23-50.16:32. Confidential and public information.

87 A. The Authority shall be subject to the provisions of the Freedom of Information Act (§ 2.2-3700 et
88 seq.), which shall include the exclusions set forth in subdivision 60 of subsection A of § 2.2-3705 and
89 subdivision 24 of subsection A of § 2.2-3711.

90 B. For purposes of the Freedom of Information Act (§ 2.2-3700 et seq.), meetings of the Board shall
91 not be considered meetings of the Board of Visitors of the University. Meetings of the Board may be
92 conducted through telephonic or video means as provided in subsections ~~C~~ B through ~~F~~ E of § 2.2-3708
93 or similar provisions of any successor law.