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**HOUSE BILL NO. 2758**

House Amendments in [ ] - January 30, 2007

*A BILL to amend and reenact §§ 2.2-3707, 2.2-3707.1 and 2.2-4031 of the Code of Virginia, relating to the Freedom of Information Act; posting of meeting notices and minutes.*

Patron Prior to Engrossment—Delegate Hurt

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3707, 2.2-3707.1 and 2.2-4031 of the Code of Virginia are amended and reenacted as follows:**

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

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

B. No meeting shall be conducted through telephonic, video, electronic or other communication means where the members are not physically assembled to discuss or transact public business, except as provided in § 2.2-3708, 2.2-3709 or as may be specifically provided in Title 54.1 for the summary suspension of professional licenses.

C. Every public body shall give notice of the date, time, and location of its meetings by placing the notice in a prominent public location at which notices are regularly posted and in the office of the clerk of the public body, or in the case of a public body that has no clerk, in the office of the chief administrator. All state public bodies subject to the provisions of this chapter shall also post notice of their meetings ~~on the Internet~~ *on their websites and on the electronic calendar maintained by the Virginia Information Technologies Agency commonly known as the Commonwealth Calendar*. Publication of meeting notices by electronic means by other public bodies shall be encouraged. The notice shall be posted at least three working days prior to the meeting. Notices for meetings of state public bodies on which there is at least one member appointed by the Governor shall state whether or not public comment will be received at the meeting and, if so, the approximate point during the meeting when public comment will be received.

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

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

F. At least one copy of all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body.

G. Nothing in this chapter shall be construed to prohibit the gathering or attendance of two or more members of a public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body or (ii) at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting. The notice provisions of this chapter shall not apply to informal meetings or gatherings of the members of the General Assembly.

H. Any person may photograph, film, record or otherwise reproduce any portion of a meeting required to be open. The public body conducting the meeting may adopt rules governing the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting to prevent interference with the proceedings.

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

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

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

70 § 2.2-3707.1. Posting of minutes for state boards and commissions.

71 All boards, commissions, councils, and other public bodies created in the executive branch of state  
72 government and subject to the provisions of this chapter shall post minutes of their meetings on such  
73 body's website, if any, and on the ~~Virginia Regulatory Town Hall~~ *electronic calendar maintained by the*  
74 *Virginia Information Technologies Agency commonly known as the Commonwealth Calendar*. Draft  
75 minutes of meetings shall be posted as soon as possible but no later than ten working days after the  
76 conclusion of the meeting. Final approved meeting minutes shall be posted within three working days of  
77 final approval of the minutes.

78 § 2.2-4031. Publication of Virginia Register of Regulations; exceptions; notice of public hearings of  
79 proposed regulations.

80 A. The Registrar shall publish every two weeks a Virginia Register of Regulations that shall include  
81 (i) proposed and final regulations; (ii) emergency regulations; (iii) executive orders; (iv) notices of all  
82 public meetings and public hearings of state agencies, legislative committees and study subcommittees  
83 on [ *proposed* ] regulations; (v) petitions for rulemaking made in accordance with subsection A of  
84 § 2.2-4007; and (vi) tax bulletins. The entire proposed regulation shall be published in the Register;  
85 however, if an existing regulation has been previously published in the Virginia Administrative Code,  
86 then only those sections of regulations to be amended need to be published in the Register. If the length  
87 of the regulation falls within the guidelines established by the Registrar for the publication of a  
88 summary in lieu of the full text of the regulation, then, after consultation with the promulgating agency,  
89 the Registrar may publish only the summary of the regulation. In this event, the full text of the  
90 regulation shall be available for public inspection at the office of the Registrar and the promulgating  
91 agency.

92 If a proposed regulation is adopted as published or, in the sole discretion of the Registrar of  
93 Regulations, the only changes that have been made are those that can be clearly and concisely  
94 explained, the adopted regulation need not be published at length. Instead, the Register shall contain a  
95 notation that the proposed regulation has been adopted as published as a proposed regulation without  
96 change or stating the changes made. The proposed regulation shall be clearly identified with a citation to  
97 the issue and page numbers where published.

98 A copy of all reporting forms the promulgating agency anticipates will be incorporated into or be  
99 used in administering the regulation shall be published with the proposed and final regulation in the  
100 Register.

101 B. Each regulation shall be prefaced with a summary explaining that regulation in plain and clear  
102 language. Summaries shall be prepared by the promulgating agency and approved by the Registrar prior  
103 to their publication in the Register. The notice required by § 2.2-4007 shall include (i) a statement of the  
104 date, time and place of the hearing at which the regulation is to be considered; (ii) a brief statement as  
105 to the regulation under consideration; (iii) reference to the legal authority of the agency to act; and (iv)  
106 the name, address and telephone number of an individual to contact for further information about that  
107 regulation. Agencies shall present their proposed regulations in a standardized format developed by the  
108 Virginia Code Commission in accordance with subdivision 1 of § 2.2-4104 of the Virginia Register Act  
109 (§ 2.2-4100 et seq.). Notwithstanding the exemptions allowed under §§ 2.2-4002, 2.2-4006 or § 2.2-4011,  
110 the proposed and final regulations of all agencies shall be published in the Register. However, proposed  
111 regulations of the Marine Resources Commission and regulations exempted by subject from the  
112 provisions of this chapter by subsection B of § 2.2-4002 shall be exempt from this section.

113 C. Notwithstanding the definition of "agency," notices for all meetings of state agencies required to  
114 be open pursuant to the Virginia Freedom of Information Act (~~§ 2.2-3700 et seq.~~), except for legislative  
115 meetings held during regular and special sessions, shall be published in the Register. Each notice shall  
116 include (i) the date, time and place of the meeting; (ii) a brief general description of the nature of the  
117 meeting and the business to be conducted; and (iii) the name, address and telephone number of an  
118 individual who may be contacted for additional information about the meeting. Failure to publish in the  
119 Register the notice for such a meeting or any inadequacies in the information contained in the notice  
120 shall not affect the legality of actions taken at that meeting.

**121**     ~~D.~~ The Virginia Register of Regulations shall be published by posting the Register on the Virginia  
**122** Code Commission's website. The Virginia Code Commission may arrange for the printing of the  
**123** Virginia Register as provided in § 30-146.

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