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SENATE BILL NO. 1271

Offered January 10, 2007

Prefiled January 10, 2007

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

Patron—Whipple

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3708 of the Code of Virginia is 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:

"Electronic communication means" means any audio or combined audio and visual communication method.

"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.

Except as provided in subsection D of § 2.2-3707.01, state public bodies may conduct any meeting wherein the public business is discussed or transacted through electronic communication means. Where ~~a quorum~~ *at least two members* of a public body ~~of the Commonwealth is~~ *are* physically assembled at one *primary or central* location for the purpose of conducting a meeting authorized under this section, additional members of such public body may participate in the meeting through electronic communication means provided ~~such participation is available~~ *the locations where the members are participating through electronic communication means are accessible* to the public.

If a public body holds an electronic meeting pursuant to this section, the public body shall also hold at least one meeting annually where members in attendance at the meeting are physically assembled at one location and where no members participate by electronic communication means.

C. Notice of any meetings held pursuant to this section shall be provided at least seven working days in advance of the date scheduled for the meeting. The notice shall include the date, time, place, and purpose for the meeting; shall identify the locations for the meeting; and shall include a telephone number that may be used at remote locations to notify the primary or central meeting location of any interruption in the telephonic or video broadcast of the meeting to the remote locations. 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.

Seven working days' notice shall not be required for meetings authorized under this section continued to address an emergency as provided in subsection F or to conclude the agenda of a meeting authorized under this section 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.

D. 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 electronic communication means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through electronic communication means shall be recorded by name in roll-call fashion and included in the minutes.

E. Any public body that meets by electronic communication means shall make a written report of the following to the Virginia Freedom of Information Advisory Council and the Joint Commission on Technology and Science by December 15 of each year:

1. The total number of electronic communication meetings held during the preceding year;

2. The dates and purposes of the meetings;

3. The number of sites for each meeting;

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4. The types of electronic communication means by which the meetings were held;

5. The number of participants, including members of the public, at each meeting location;

6. The identity of the members of the public body recorded as absent, and those recorded as present at each meeting location;

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

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

F. A public body may meet by electronic communication means as often as needed if an emergency exists and the public body is unable to meet in regular session. Public bodies conducting emergency meetings through electronic communication means shall comply with the provisions of subsection D requiring minutes of the meeting. The nature of the emergency shall be stated in the minutes.