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SENATE BILL NO. 889

Offered January 9, 2013

Prefiled January 4, 2013

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

 Patron—Black

 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; applicability; physical quorum required; notice; report.**

A. Except as expressly provided in ~~subsection~~ *subsections B and G* of this section or § 2.2-3708.1, no local governing body, ~~school board~~, or any authority, board, bureau, commission, district or agency of local government, any committee thereof, or any entity created by a local governing body, ~~school board~~, or any local authority, board, or commission shall 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. Except as provided in subsection D of § 2.2-3707.01, state public bodies *and local school boards* may conduct any meeting wherein the public business is discussed or transacted through electronic communication means, provided (i) a quorum of the public body is physically assembled at one primary or central meeting location, (ii) notice of the meeting has been given in accordance with subsection C, and (iii) the remote locations, from which additional members of the public body participate through electronic communication means, are open 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. ~~State public bodies, however, may meet by electronic communication means without a quorum of the public body physically assembled at one location when (a) the Governor has declared a state of emergency in accordance with § 44-146.17, (b) the meeting is necessary to take action to address the emergency, and (c) the public body otherwise complies with the provisions of this section.~~

If an authorized public body holds an electronic meeting pursuant to this section, it 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 three 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. 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.

D. Agenda packets and, unless exempt, all 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. Three working days' notice shall not be required for meetings authorized under this section held in accordance with subsection G or that are continued to address an emergency or to conclude the agenda of the meeting for which proper notice has been given, when the date, time, place, and purpose of the continued meeting are set during the meeting prior to adjournment. 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.

F. Any authorized 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 that year;

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- 59 2. The dates and purposes of the meetings;
60 3. The number of sites for each meeting;
61 4. The types of electronic communication means by which the meetings were held;
62 5. The number of participants, including members of the public, at each meeting location;
63 6. The identity of the members of the public body recorded as absent and those recorded as present
64 at each meeting location;
65 7. A summary of any public comment received about the electronic communication meetings; and
66 8. A written summary of the public body's experience using electronic communication meetings,
67 including its logistical and technical experience.
68 G. Any ~~local governing body, school board, or any authority, board, bureau, commission, district, or~~
69 ~~agency of local government~~ *public body* may meet by electronic communication means without a
70 quorum of the public body physically assembled at one location when the Governor has declared a state
71 of emergency in accordance with § 44-146.17, provided (i) the catastrophic nature of the declared
72 emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the
73 purpose of the meeting is to address the emergency. The ~~local~~ public body convening a meeting in
74 accordance with this subsection shall (a) give public notice using the best available method given the
75 nature of the emergency, which notice shall be given contemporaneously with the notice provided
76 members of the ~~local~~ public body conducting the meeting; (b) make arrangements for public access to
77 such meeting; and (c) otherwise comply with the provisions of this section. The nature of the emergency
78 and the fact that the meeting was held by electronic communication means shall be stated in the
79 minutes.