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SENATE BILL NO. 161

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 27, 2014)

(Patron Prior to Substitute—Senator Favola)

A BILL to amend and reenact § 2.2-3708.1 of the Code of Virginia, relating to the Virginia Freedom of Information Act; participation in meetings in event of emergency or personal matters.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3708.1 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3708.1. Participation in meetings in event of emergency or personal matter; certain disabilities; distance from meeting location for certain public bodies.

A. A member of a public body may participate in a meeting governed by this chapter through electronic communication means from a remote location that is not open to the public only as follows and subject to the requirements of subsection B:

1. If, on or before the day of a meeting, a member of the public body holding the meeting notifies the chair of the public body that such member is unable to attend the meeting due to an emergency or personal matter and identifies with specificity the nature of the emergency or personal matter, and the public body holding the meeting (a) approves such member's participation by a majority vote of the members present at a meeting and (b) records in its minutes the specific nature of the emergency or personal matter and the remote location from which the member participated. *If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection B, such disapproval shall be recorded in the minutes with specificity.*

Such participation by the member shall be limited each calendar year to two meetings or 25 percent of the meetings of the public body, whichever is fewer;

2. If a member of a public body notifies the chair of the public body that such member is unable to attend a meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance and the public body records this fact and the remote location from which the member participated in its minutes; or

3. If, on the day of a meeting, a member of a regional public body notifies the chair of the public body that such member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting and the public body holding the meeting (a) approves such member's participation by a majority vote of the members present and (b) records in its minutes the remote location from which the member participated. *If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection B, such disapproval shall be recorded in the minutes with specificity.*

B. Participation by a member of a public body as authorized under subsection A shall be only under the following conditions:

1. *The public body has adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation, subject to the express limitations imposed by this section. Once adopted, the policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting;*

2. A quorum of the public body is physically assembled at the primary or central meeting location; and

3. The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.