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HOUSE BILL NO. 120

Offered January 10, 1996

A BILL to amend and reenact § 2.1-344.1 of the Code of Virginia, relating to the Freedom of Information Act; minutes during executive session.

Patrons—Mims, Callahan, Hamilton, Howell, Landes and Wilkins; Senator: Schrock

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-344.1 of the Code of Virginia is amended and reenacted as follows:

§ 2.1-344.1. Call of closed or executive meetings; certification of proceedings.

A. No meeting shall become an executive or closed meeting unless the public body proposing to convene such meeting shall have taken an affirmative recorded vote in open session to that effect, by motion stating specifically the purpose or purposes which are to be the subject of the meeting, and reasonably identifying the substance of the matters to be discussed. A statement shall be included in the minutes of the open meeting which shall make specific reference to the applicable exemption or exemptions from open meeting requirements provided in subsection A of § 2.1-344 or in § 2.1-345, and the matters contained in such motion shall be set forth in those minutes. A general reference to the provisions of this chapter or authorized exemptions from open meeting requirements shall not be sufficient to satisfy the requirements for an executive or closed meeting.

B. The notice provisions of this chapter shall not apply to executive or closed meetings of any public body held solely for the purpose of interviewing candidates for the position of chief administrative officer. Prior to any such executive or closed meeting for the purpose of interviewing candidates the public body shall announce in an open meeting that such executive or closed meeting shall be held at a disclosed or undisclosed location within fifteen days thereafter.

C. The public body holding an executive or closed meeting shall restrict its consideration of matters during the closed portions only to those purposes specifically exempted from the provisions of this chapter.

D. At the conclusion of any executive or closed meeting convened hereunder, the public body holding such meeting shall reconvene in open session immediately thereafter and shall take a roll call or other recorded vote to be included in the minutes of that body, certifying that to the best of the member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter; and (ii) only such public business matters as were identified in the motion by which the executive or closed meeting was convened were heard, discussed or considered in the meeting by the public body. Any member of the public body who believes that there was a departure from the requirements of subdivisions (i) and (ii) above, shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place. The statement shall be recorded in the minutes of the public body.

E. Failure of the certification required by subsection D, above, to receive the affirmative vote of a majority of the members of the public body present during a closed or executive session shall not affect the validity or confidentiality of such meeting with respect to matters considered therein in compliance with the provisions of this chapter. The recorded vote and any statement made in connection therewith, shall upon proper authentication, constitute evidence in any proceeding brought to enforce this chapter.

F. A public body may permit nonmembers to attend an executive or closed meeting if such persons are deemed necessary or if their presence will reasonably aid the public body in its consideration of a topic which is a subject of the meeting.

G. Except as specifically authorized by law, in no event may any public body take action on matters discussed in any executive or closed meeting, except at a public meeting for which notice was given as required by § 2.1-343.

H. Minutes ~~may~~ *shall* be taken during executive or closed sessions of a public body; ~~but shall not be required.~~ Such minutes shall not be subject to mandatory public disclosure.

INTRODUCED

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