

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 704

An Act to permit certain meetings via electronic communication means.

[S 1026]

Approved March 28, 1999

Be it enacted by the General Assembly of Virginia:

1. § 1. That, in addition to the provisions of § 2.1-343.1, (i) any public body, as defined in § 2.1-341, (a) in the legislative branch of state government or (b) responsible to or under the supervision, direction, or control of the Secretary of Commerce and Trade pursuant to § 2.1-51.40 or the Secretary of Technology pursuant to Executive Order Nine (1998), as amended by Executive Order Thirty-Three (1998), or (ii) the State Board for Community Colleges established in § 23-215, shall be authorized to hold meetings via electronic communication means pursuant to this act.

§ 2. "Electronic communication means" means any combined audio and visual communication method which consists of, pertains to, is based on, is operated by, or otherwise involves the control of electrons or other charge carriers to exchange, send, receive, or in any way transmit the public business in a meeting.

§ 3. "Emergency" means an unforeseen circumstance that renders the notice required by § 6 impossible or impracticable and that requires immediate action.

§ 4. "Meeting" means the meetings, including work sessions, when sitting as a body or entity or informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any entity listed in § 1. "Meeting" shall not mean any regular, special, or reconvened session of the General Assembly held pursuant to Article IV, Section 6 of the Constitution of Virginia.

§ 5. For purposes of determining the presence of three members or establishing a quorum, every location where a member of the public body or Board is physically present to discuss or transact the public business through any electronic communication means in a meeting shall be (i) in Virginia and (ii) open and accessible to the public. After the presence of three members or a quorum is established, members of the public body or Board who are not physically present (i) in Virginia or (ii) at a meeting location which is open and accessible to the public, may participate in the discussion of and vote on any matter authorizing the transaction of any public business.

§ 6. Except in an emergency, notice, including the time, date, place, and general purpose of the electronic communication meeting, shall be provided no less than seven days before the meeting in a manner reasonably calculated under the circumstances to apprise the public of the meeting information.

§ 7. In an emergency, notice, including the time, date, place, and general purpose of the meeting, shall be provided contemporaneously with the notice provided to members of the Board or of the public body conducting the meeting in a manner reasonably calculated under the circumstances to apprise the public of the meeting information.

§ 8. Notice for electronic communication meetings continued more than seven days after the meeting date shall be in the same manner as required by § 6. Notice for electronic communication meetings continued less than seven days from the meeting date to (i) address an emergency or (ii) conclude the agenda of the electronic communication meeting, shall be made during the meeting prior to adjournment and shall include the date, time, place, and general purpose of the continued meeting. The basis for the emergency shall be stated during the meeting prior to adjournment and included in the minutes of the meeting, if minutes are required by § 2.1-343.

§ 9. At the time of the meeting, the public shall be provided an agenda and copies of any materials intended for distribution to members of the public body or Board which have been made available to staff in sufficient time for duplication and forwarding to all location sites where public access will be provided. If the meeting includes an opportunity for public comment, all persons attending the meeting at any of the meeting locations where a member of the public body or Board is physically present in Virginia at a location which is open and accessible to the public shall be afforded an opportunity to address the public body or Board. Any interruption in the electronic communication of the meeting shall result in the suspension of action at the meeting until repairs are made and public access restored.

§ 10. Votes taken during any meeting conducted through electronic communication means pursuant to this act shall be recorded by name in roll-call fashion and included in the minutes of the meeting, if minutes are required by § 2.1-343.

§ 11. Any public body or the Board, when conducting an electronic communication meeting pursuant to this act, shall make an audio/visual recording of the meeting. The recording shall be preserved by the public body or the Board for a period of three years from the date of the meeting and shall be available to the public for inspection and copying pursuant to the Virginia Freedom of Information Act (§ 2.1-340

et seq.).

§ 12. *It shall be a violation of this act for any entity listed in § 1, or any members of such entities, to use the provisions of this act to violate the Virginia Freedom of Information Act (§ 2.1-340 et seq.) to discuss or act upon any matters over which such entities have supervision, control, jurisdiction, authority, or advisory powers.*

§ 13. *By October 15, 2000, public bodies in the legislative branch of state government which conduct electronic communication meetings pursuant to this act shall file with the Joint Rules Committee, as defined in § 51.1-124.3, a report on the total number of electronic communication meetings held; the dates and purposes of the meetings; the types of electronic communication means by which the meetings were held; the number of participants, including the members of the public, at the meetings; and a summary of any public comment received about the electronic communication meetings.*

§ 14. *By October 15, 2000, public bodies responsible to or under the supervision, direction, or control of the Secretary of Commerce and Trade pursuant to § 2.1-51.40 or the Secretary of Technology pursuant to Executive Order Nine (1998), as amended by Executive Order Thirty-Three (1998), which conduct electronic communication meetings pursuant to this act shall file with the Secretary of Commerce and Trade or the Secretary of Technology, respectively, a report on the total number of electronic communication meetings held; the dates and purposes of the meetings; the types of electronic communication means by which the meetings were held; the number of participants, including the members of the public, at the meetings; and a summary of any public comment received about the electronic communication meetings.*

§ 15. *By October 15, 2000, the State Board for Community Colleges established in § 23-215 shall file with the Secretary of Education a report on the total number of electronic communication meetings held; the dates and purposes of the meetings; the types of electronic communication means by which the meetings were held; the number of participants, including the members of the public, at the meetings; and a summary of any public comment received about the electronic communication meetings.*

2. That an emergency exists and this act is in force from its passage.

3. That the provisions of this act shall expire on July 1, 2000.