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HOUSE BILL NO. 2032

Offered January 9, 2013

Prefiled January 9, 2013

A *BILL to amend and reenact §§ 2.2-3708 and 2.2-3708.1 of the Code of Virginia, relating to the Freedom of Information Act; electronic meetings.*

Patrons—May and Minchew

Referred to Committee on Science and Technology

Be it enacted by the General Assembly of Virginia:

**1. That §§ 2.2-3708 and 2.2-3708.1 of the Code of Virginia are amended and reenacted as follows:
§ 2.2-3708. Electronic communication meetings; applicability; physical quorum required; notice; report.**

A. Except as expressly provided in subsection 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 and regional public bodies 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 and regional 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 may meet by electronic communication means without a quorum of the
70 public body physically assembled at one location when the Governor has declared a state of emergency
71 in accordance with § 44-146.17, provided (i) the catastrophic nature of the declared emergency makes it
72 impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is
73 to address the emergency. The local public body convening a meeting in accordance with this subsection
74 shall (a) give public notice using the best available method given the nature of the emergency, which
75 notice shall be given contemporaneously with the notice provided members of the local public body
76 conducting the meeting; (b) make arrangements for public access to such meeting; and (c) otherwise
77 comply with the provisions of this section. The nature of the emergency and the fact that the meeting
78 was held by electronic communication means shall be stated in the minutes.

79 **§ 2.2-3708.1. Participation in meetings in event of emergency; certain disabilities; distance from**
80 **meeting location for certain public bodies.**

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

84 1. If, on the day of a meeting, a member of the public body holding the meeting notifies the chair of
85 the public body that such member is unable to attend the meeting due to an emergency and identifies
86 with specificity the nature of the emergency, and the public body holding the meeting (a) approves such
87 member's participation by a majority vote of the members present and (b) records in its minutes the
88 specific nature of the emergency and the remote location from which the member participated.

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

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

95 ~~3. If, on the day of a meeting, a member of a regional public body notifies the chair of the public~~
96 ~~body that such member's principal residence is more than 60 miles from the meeting location identified~~
97 ~~in the required notice for such meeting and the public body holding the meeting (a) approves such~~
98 ~~member's participation by a majority vote of the members present and (b) records in its minutes the~~
99 ~~remote location from which the member participated.~~

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

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

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