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HOUSE BILL NO. 698

Offered January 13, 2016

Prefiled January 11, 2016

A BILL to amend and reenact §§ 2.2-3707 and 23-2.02 of the Code of Virginia, relating to the Virginia Freedom of Information Act; right to speak at open meetings.

Patron—Kory

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 2.2-3707 and 23-2.02 of the Code of Virginia are amended and reenacted as follows:****§ 2.2-3707. Meetings to be public; notice of meetings; recordings; minutes.**

A. All meetings of public bodies shall be open, except as provided in §§ 2.2-3707.01 and 2.2-3711.

B. No meeting shall be conducted through telephonic, video, electronic or other communication means where the members are not physically assembled to discuss or transact public business, except as provided in § 2.2-3708, 2.2-3708.1 or as may be specifically provided in Title 54.1 for the summary suspension of professional licenses.

C. Every public body shall give notice of the date, time, and location of its meetings by placing the notice in a prominent public location at which notices are regularly posted and in the office of the clerk of the public body, or in the case of a public body that has no clerk, in the office of the chief administrator. All state public bodies subject to the provisions of this chapter shall also post notice of their meetings on their websites and on the electronic calendar maintained by the Virginia Information Technologies Agency commonly known as the Commonwealth Calendar. Publication of meeting notices by electronic means by other public bodies shall be encouraged. The notice shall be posted at least three working days prior to the meeting. ~~Notices for meetings of state public bodies on which there is at least one member appointed by the Governor shall state whether or not public comment will be received at the meeting and, if so, the approximate point during the meeting when public comment will be received.~~

D. Notice, reasonable under the circumstance, of special or emergency meetings shall be given contemporaneously with the notice provided members of the public body conducting the meeting.

E. Any person may annually file a written request for notification with a public body. The request shall include the requester's name, address, zip code, daytime telephone number, electronic mail address, if available, and organization, if any. The public body receiving such request shall provide notice of all meetings directly to each such person. Without objection by the person, the public body may provide electronic notice of all meetings in response to such requests.

F. At least one copy of all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body.

G. The notice provisions of this chapter shall not apply to informal meetings or gatherings of the members of the General Assembly.

H. *Every public body shall afford an opportunity for public comment during any open meeting. A public body may adopt reasonable rules governing the public comment portion of the meeting, including imposing reasonable restrictions on the time, place, and manner of public comment.*

I. Any person may photograph, film, record or otherwise reproduce any portion of a meeting required to be open. The public body conducting the meeting may adopt rules governing the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting to prevent interference with the proceedings, but shall not prohibit or otherwise prevent any person from photographing, filming, recording, or otherwise reproducing any portion of a meeting required to be open. No public body shall conduct a meeting required to be open in any building or facility where such recording devices are prohibited.

J. Minutes shall be recorded at all open meetings. However, minutes shall not be required to be taken at deliberations of (i) standing and other committees of the General Assembly; (ii) legislative interim study commissions and committees, including the Virginia Code Commission; (iii) study committees or commissions appointed by the Governor; or (iv) study commissions or study committees, or any other committees or subcommittees appointed by the governing bodies or school boards of counties, cities and towns, except where the membership of any such commission, committee or subcommittee includes a majority of the governing body of the county, city or town or school board.

Minutes, including draft minutes, and all other records of open meetings, including audio or audio/visual records shall be deemed public records and subject to the provisions of this chapter.

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59 Minutes shall be in writing and shall include (i) the date, time, and location of the meeting; (ii) the
60 members of the public body recorded as present and absent; and (iii) a summary of the discussion on
61 matters proposed, deliberated or decided, and a record of any votes taken. In addition, for electronic
62 communication meetings conducted in accordance with § 2.2-3708, minutes of state public bodies shall
63 include (a) the identity of the members of the public body at each remote location identified in the
64 notice who participated in the meeting through electronic communications means, (b) the identity of the
65 members of the public body who were physically assembled at the primary or central meeting location,
66 and (c) the identity of the members of the public body who were not present at the locations identified
67 in clauses (a) and (b), but who monitored such meeting through electronic communications means.

68 **§ 23-2.02. Boards of visitors; bylaws.**

69 The board of visitors of each public institution of higher education and the State Board for
70 Community Colleges shall adopt bylaws for its own governance. This document shall be posted
71 conspicuously on the board's website and shall include provisions that:

72 1. Establish the requirement of transparency, to the extent required by law, in all board actions;
73 2. Describe the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et
74 seq.), as set forth in § 23-2.01, including the requirements that:

75 a. The board shall record minutes of each open meeting and post the minutes on the board's website,
76 in accordance with subsection I J of § 2.2-3707 and § 2.2-3707.1;

77 b. Discussions and actions on any topic not specifically exempted by § 2.2-3711 shall be held in an
78 open meeting;

79 c. The board shall give public notice of all meetings, in accordance with subsection C of § 2.2-3707;
80 and

81 d. Any official action taken in a closed meeting shall be approved in an open meeting before it can
82 have any force or effect, in accordance with subsection B of § 2.2-3711; and

83 3. Require that the board notify and invite the Attorney General's appointee or representative to all
84 meetings of the board, executive committee, and board committees.