

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 2.2-3708 of the Code of Virginia and to amend the Code of Virginia by
2 adding a section number 2.2-3708.1, relating to the Virginia Freedom of Information Act;
3 electronic communication meetings; participation in meetings in event of unforeseen
4 circumstances.

5 **Be it enacted by the General Assembly of Virginia:**

6 **1. That § 2.2-3708 of the Code of Virginia is amended and reenacted and that Code of Virginia is**
7 **amended by adding a section number 2.2-3708.1 as follows:**

8 § 2.2-3708. Electronic communication meetings; applicability; definitions; physical quorum
9 required; notice; report.

10 A. Except as otherwise provided in this section, it shall be a violation of this chapter for any
11 political subdivision or any governing body, authority, board, bureau, commission, district or agency of
12 local government or any committee thereof to conduct a meeting wherein the public business is
13 discussed or transacted through telephonic, video, electronic or other communication means where the
14 members are not physically assembled. Nothing in this section shall be construed to prohibit the use of
15 interactive audio or video means to expand public participation.

16 B. For purposes of this section:

17 "Electronic communication means" means any audio or combined audio and visual
18 communication method.

19 "Public body" means any public body of the Commonwealth and any regional public body, but
20 excludes any political subdivision or any governing body, authority, board, bureau, commission, district
21 or agency of local government.

22 "Regional public body" means a unit of government organized as provided by law within defined
23 boundaries, as determined by the General Assembly, which unit includes three or more localities and
24 whose members are appointed by the participating local governing bodies.

25 C. Except as provided in subsection D of § 2.2-3707.01, ~~state~~ public bodies may conduct any
 26 meeting wherein the public business is discussed or transacted through electronic communication
 27 means. ~~Where provided (i) a quorum of a the public body of the Commonwealth is physically assembled~~
 28 ~~at one primary or central location for the purpose of conducting a meeting authorized under this section,~~
 29 ~~additional members of such public body may participate in the meeting through electronic~~
 30 ~~communication means provided such participation is available to the public, (ii) notice is given in~~
 31 ~~accordance with subsection D, and (iii) the remote locations where additional members of the public~~
 32 ~~body are participating in the meeting are accessible to the public. All persons attending the meeting at~~
 33 ~~any of the meeting locations shall be afforded the same opportunity to address the public body as~~
 34 ~~persons attending the primary or central location.~~

35 If a public body holds an electronic meeting pursuant to this section, the public body shall also
 36 hold at least one meeting annually where members in attendance at the meeting are physically
 37 assembled at one location and where no members participate by electronic communication means.

38 ~~C-D.~~ Notice of any meetings held pursuant to this section shall be provided at least ~~seven~~ three
 39 working days in advance of the date scheduled for the meeting. The notice shall include the date, time,
 40 place, and purpose for the meeting; shall identify the locations for the meeting; and shall include a
 41 telephone number that may be used at remote locations to notify the primary or central meeting location
 42 of any interruption in the telephonic or video broadcast of the meeting to the remote locations. ~~All~~
 43 ~~locations for the meeting shall be made accessible to the public. All persons attending the meeting at any~~
 44 ~~of the meeting locations shall be afforded the same opportunity to address the public body as persons~~
 45 ~~attending the primary or central location.~~ Any interruption in the telephonic or video broadcast of the
 46 meeting shall result in the suspension of action at the meeting until repairs are made and public access
 47 restored.

48 ~~Seven working days' notice shall not be required for meetings authorized under this section~~
 49 ~~continued to address an emergency as provided in subsection F or to conclude the agenda of a meeting~~
 50 ~~authorized under this section for which the proper notice has been given, when the date, time, place, and~~
 51 ~~purpose of the continued meeting are set during the meeting prior to adjournment.~~

52 ~~D-E.~~ An agenda and materials that will be distributed to members of the public body and that
 53 have been made available to the staff of the public body in sufficient time for duplication and
 54 forwarding to all locations where public access will be provided shall be made available to the public at
 55 the time of the meeting. Minutes of all meetings held by electronic communication means shall be
 56 recorded as required by § 2.2-3707. Votes taken during any meeting conducted through electronic
 57 communication means shall be recorded by name in roll-call fashion and included in the minutes.

58 ~~E. Any public body that meets by electronic communication means shall make a written report of~~
 59 ~~the following to the Virginia Freedom of Information Advisory Council and the Joint Commission on~~
 60 ~~Technology and Science by December 15 of each year:~~

- 61 ~~1. The total number of electronic communication meetings held during the preceding year;~~
- 62 ~~2. The dates and purposes of the meetings;~~
- 63 ~~3. The number of sites for each meeting;~~
- 64 ~~4. The types of electronic communication means by which the meetings were held;~~
- 65 ~~5. The number of participants, including members of the public, at each meeting location;~~
- 66 ~~6. The identity of the members of the public body recorded as absent, and those recorded as~~
 67 ~~present at each meeting location;~~
- 68 ~~7. A summary of any public comment received about the electronic communication meetings;~~
- 69 ~~and~~
- 70 ~~8. A written summary of the public body's experience using electronic communication meetings,~~
 71 ~~including its logistical and technical experience.~~

72 F. A public body may meet by electronic communication means as often as needed if an
 73 emergency exists and the public body is unable to meet in regular session. Three working days' notice
 74 shall not be required for meetings authorized under this section continued to address an emergency or to
 75 conclude the agenda of a meeting authorized under this section for which the proper notice has been
 76 given, when the date, time, place, and purpose of the continued meeting are set during the meeting prior
 77 to adjournment. Public bodies conducting emergency meetings through electronic communication

78 means shall comply with the provisions of subsection ~~D~~E requiring minutes of the meeting. The nature
79 of the emergency shall be stated in the minutes.

80 G. Any public body that meets by electronic communication means shall make a written report
81 of the following to the Virginia Freedom of Information Advisory Council and the Joint Commission on
82 Technology and Science by December 15 of each year:

83 1. The total number of electronic communication meetings held during the preceding year;

84 2. The dates and purposes of the meetings;

85 3. The number of sites for each meeting;

86 4. The types of electronic communication means by which the meetings were held;

87 5. The number of participants, including members of the public, at each meeting location;

88 6. The identity of the members of the public body recorded as absent, and those recorded as
89 present at each meeting location;

90 7. A summary of any public comment received about the electronic communication meetings;

91 and

92 8. A written summary of the public body's experience using electronic communication meetings,
93 including its logistical and technical experience.

94 § 2.2-3808.1. Participation in meetings in event of unforeseen circumstances.

95 If, on the day of a meeting conducted pursuant to the provisions of this chapter, a member of the
96 public body holding the meeting notifies the chair of the public body that such member is unable to
97 attend the meeting due to personal emergency or other unforeseen circumstance, such member may
98 participate in the meeting through electronic communication means that is not accessible to the public
99 only under the following conditions:

100 1. A quorum of the public body is physically assembled at the primary or central location for the
101 meeting; and

102 2. The public body holding the meeting approves such member's participation by a majority vote.

103 Participation by a member as authorized by this section shall be limited to two meetings of the
104 public body per calendar year.

105

For the purposes of this section, "electronic communication means" means the same as that term

106

is defined in § 2.2-3708.

107

#