

Electronic Meetings  
December 15, 2006  
Meeting Summary

The Electronic Meetings Subcommittee<sup>1</sup> held its final meeting of 2006 to review the changes to their legislative proposal made at the November 8, 2006 meeting. Mr. Edwards, chair, requested the distribution of a staff-prepared summary reflecting the Subcommittee's points of consensus as well as the substantive changes in the proposed draft. The summary is set out below.

Instead of working to define a regional public body in terms of minimum number of jurisdictions and distance, the subcommittee voted 5 to 1<sup>2</sup> to revise the draft to authorize individual members of regional public bodies consisting of two or more counties or cities to participate in meetings by electronic communication means where such member lives more than 60 miles from the regular meeting location of the regional public body. In this way, there was internal consistency in the electronic meetings law by providing limited exemptions for *individual* members of public bodies. As a result of extensive deliberations, the subcommittee had previously agreed that the draft should reflect the following points of consensus:

\* First and foremost, the subcommittee's unanimous belief that persons with disabilities should be encouraged to serve on public boards and commissions, and that impediments to such public service should be reduced if not removed.

\* The exception for participation by members of a public body by electronic means that are not open to the public should address three distinct situations: (i) emergency situations (e.g. a flat tire or traffic congestion) that prevent a member of a public body from being physically present at a meeting on the day of the meeting; (ii) situations where members have a temporary or permanent disability or other medical condition that prevents such member's physical attendance at the meeting(s); and (iii) individual members of regional public bodies whose principal residence is more than 60 miles from the regular meeting location of the regional public body.

\* The following are the rules of the participation discussed above:

1. A quorum of the public body must be physically assembled at the primary or central meeting location; and
2. The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

\* Other related provisions/points of consensus:

1. In cases of emergencies and distance from meeting location (for members of regional public bodies), the member must notify the chair of the public body on a per

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<sup>1</sup> Msrs. Edwards, Bryan, and Miller, and Ms. Spencer were present. Senator Houck, Roger Wiley, and Craig Fifer were absent. (Craig Fifer arrived shortly after adjournment of the meeting).

<sup>2</sup> Mr. Fifer voted no.

meeting basis and the public body holding the meeting must approve the member's participation by a majority vote; and

2. The public body must record in its minutes (i) the nature of the specific emergency or (ii) that a member has a temporary or permanent disability or other medical condition that prevents his attendance, and (iii) in all cases, the remote location from which the member participated.

3. Participation by a member in the event of an emergency is limited each calendar year to two meetings or 25 percent of the meetings of the public body, whichever is less. However, no such limitation would apply in cases of temporary or permanent disability or other medical condition.

4. The public body should be responsible for monitoring participation by its members and the appointing authority is in the best position to address abuse of these exceptions.

The substantive provisions of the draft are as follows:

"Regional public body" is defined as a unit of government organized as provided by law within defined boundaries, as determined by the General Assembly, whose members are appointed by the participating local governing bodies, and such unit includes two or more counties or cities. (Definition found in general definitional section of FOIA, § 2.2-3701)

Provisions relating to political subdivisions, *except* units of local government (i.e. city councils, boards of supervisors, or school boards etc.) to meet by electronic means have been clarified. (§ 2.2-3708)

Notice required for electronic communication meetings has been reduced from seven to three working days. (§ 2.2-3708)

A member of a public body may participate in a meeting through electronic communication means from a remote location that is not open to the public in the event of an emergency, temporary or permanent disability or other medical condition, or when a member of a regional public body resides more than 60 miles from the primary meeting location. For a member to participate in the above described manner a quorum of the public body must be physically assembled at the primary or central meeting location and the public body must make arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location. (New § 2.2-3708.1). **NOTE:** This section applies to (i) both physically assembled meetings and electronic meetings and (ii) both state and local public bodies, except as noted for regional public bodies.

After review of the draft language, and an opportunity for comment by subcommittee members and the public in attendance, the subcommittee voted unanimously to recommend the draft to the FOIA Council for introduction in the 2007 Session.

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