

Electronic Meetings Subcommittee  
July 12, 2007 Meeting Summary

The Electronic Meetings Subcommittee<sup>1</sup> held its third meeting to continue its deliberations of the consensus draft suggested by the Subcommittee at its last meeting in response to HB 2553. HB 2553 would have allowed a local governing body to meet by electronic communication means when a local state of emergency has been declared provided the meeting is necessary to take action to address the emergency. As drafted, the Subcommittee's proposal was limited to Governor-declared emergencies (and not locally-declared emergencies) involving catastrophic emergencies, such as contagion, terrorism, or natural disasters. The draft required the minutes of any such meeting to reflect the nature of the emergency and the fact that the meeting was held by electronic communication means. Delegate Ebbin, patron of HB 2553, was also in attendance at the meeting and offered a technical amendment to the Subcommittee draft.

Subcommittee chair Edward pointed out that the draft was limited to local governing bodies and school boards and questioned whether the draft should authorize all public bodies at the local level (i.e. industrial development authorities, regional authorities, planning commissions, etc.) to meet by electronic means in the event of a Governor-declared emergency. The Subcommittee voted 5 to 0 to authorize all local public bodies to meet by electronic means in the event of a Governor-declared emergency.

The Subcommittee next considered the issue of whether the Subcommittee should try to articulate the types of catastrophic emergencies for which an electronic meeting was authorized. It was suggested the real issue is that the nature of the emergency inhibits the ability of members of a local public body to physically assemble in a single location. After extensive discussions, the Subcommittee voted 5 to 0 to adopt language offered by the Virginia Press Association that essentially provides that the nature of the catastrophic emergency inhibits the ability of members of the public body to physically assemble, whether by making it unsafe or impractical.

Subcommittee member Fifer inquired whether discussions by local public bodies in such instances would be limited to only the declared emergency or whether the agenda for such meetings could include other matters before the local public body. It was the consensus of the Subcommittee to limit discussions to those related to the Governor's declaration of the emergency.

The Subcommittee directed staff to revise the draft in accordance with the above decisions and to e-mail a copy of the revised draft to Subcommittee members and interested parties, in addition to posting the draft on the FOIA Council's website. The Subcommittee voted 5 to 0 to recommend the draft, revised in accordance with its discussions, to the FOIA Council for introduction to the 2008 Session of the General Assembly.

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<sup>1</sup> Messrs. Edwards, Axselle, Fifer, and Miller, and Senator Houck were present. Mr. Wiley was absent.

Subcommittee Edwards asked the Subcommittee to review a larger policy statement concerning electronic communication meetings generally that he had prepared, which reflects the consensus of the FOIA Council over the last several years. The policy statement reads as follows:

*The Freedom of Information Advisory Council has perennially reviewed numerous proposals to modify and expand the use of remote technology in public meetings. The Council's findings have led to FOIA amendments that have given public bodies greater meeting flexibility at the state, regional and local level.*

*Though the council, as evidenced by its findings in these numerous proposals, believes that technology can protect and, in some instances, even expand public monitoring of and participation in the affairs of government, it has also concluded consistently that the cause of representative government is best served when face-to-face meetings of public officials are the standard, rather than the exception.*

*The dynamics of having policy makers, staff and the general public in the same room cannot be replaced by audio devices, and are limited even where full audio / visual connections are possible. Persons who accept elected or appointed public office accept certain responsibilities which, the Council believes, include their regular participation in face-to-face public meetings. With that as a guiding principle, the FOIA Council remains convinced that local public bodies should continue to be required to hold their meetings only where they are physically assembled in one location, and that state public bodies continue to be required to have a quorum physically assembled.*

Mr. Edwards indicated that he will present his suggested policy statement to the full FOIA Council at its next meeting on September 10, 2007.