

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 2.2-3708 and 30-179 of the Code of Virginia, relating to the Virginia
 2 Freedom of Information Act; meeting by electronic communication means by committees,
 3 subcommittees, etc. of state public bodies.

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

5 **1. That §§ 2.2-3708 and 30-179 of the Code of Virginia are amended and reenacted as follows:**

6 **§ 2.2-3708. Electronic communication meetings; applicability; physical quorum required;**
 7 **exceptions; notice; report.**

8 A. Except as expressly provided in subsection G of this section or § 2.2-3708.1, no local
 9 governing body, school board, or any authority, board, bureau, commission, district or agency of local
 10 government, any committee thereof, or any entity created by a local governing body, school board, or
 11 any local authority, board, or commission shall conduct a meeting wherein the public business is
 12 discussed or transacted through telephonic, video, electronic or other communication means where the
 13 members are not physically assembled. Nothing in this section shall be construed to prohibit the use of
 14 interactive audio or video means to expand public participation.

15 B. Except as provided in subsections G or H of this section or subsection D of § 2.2-3707.01,
 16 state public bodies may conduct any meeting wherein the public business is discussed or transacted
 17 through electronic communication means, provided (i) a quorum of the public body is physically
 18 assembled at one primary or central meeting location, (ii) notice of the meeting has been given in
 19 accordance with subsection C, and (iii) the remote locations, from which additional members of the
 20 public body participate through electronic communication means, are open to the public. All persons
 21 attending the meeting at any of the meeting locations shall be afforded the same opportunity to address
 22 the public body as persons attending the primary or central location. ~~State public bodies, however, may~~
 23 ~~meet by electronic communication means without a quorum of the public body physically assembled at~~
 24 ~~one location when (a) the Governor has declared a state of emergency in accordance with § 44-146.17,~~

25 ~~(b) the meeting is necessary to take action to address the emergency, and (c) the public body otherwise~~
26 ~~complies with the provisions of this section.~~

27 If an authorized public body holds an electronic meeting pursuant to this section, it shall also
28 hold at least one meeting annually where members in attendance at the meeting are physically
29 assembled at one location and where no members participate by electronic communication means.

30 C. Notice of any meetings held pursuant to this section shall be provided at least three working
31 days in advance of the date scheduled for the meeting. The notice shall include the date, time, place, and
32 purpose for the meeting; shall identify the locations for the meeting; and shall include a telephone
33 number that may be used at remote locations to notify the primary or central meeting location of any
34 interruption in the telephonic or video broadcast of the meeting to the remote locations. Any interruption
35 in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting
36 until repairs are made and public access restored.

37 D. Agenda packets and, unless exempt, all materials that will be distributed to members of the
38 public body and that have been made available to the staff of the public body in sufficient time for
39 duplication and forwarding to all locations where public access will be provided shall be made available
40 to the public at the time of the meeting. Minutes of all meetings held by electronic communication
41 means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through
42 electronic communication means shall be recorded by name in roll-call fashion and included in the
43 minutes.

44 E. Three working days' notice shall not be required for meetings authorized under this section
45 held in accordance with subsection G or that are continued to address an emergency or to conclude the
46 agenda of the meeting for which proper notice has been given, when the date, time, place, and purpose
47 of the continued meeting are set during the meeting prior to adjournment. Public bodies conducting
48 emergency meetings through electronic communication means shall comply with the provisions of
49 subsection D requiring minutes of the meeting. The nature of the emergency shall be stated in the
50 minutes.

51 F. Any authorized public body that meets by electronic communication means shall make a
52 written report of the following to the Virginia Freedom of Information Advisory Council and the Joint
53 Commission on Technology and Science by December 15 of each year:

- 54 1. The total number of electronic communication meetings held that year;
- 55 2. The dates and purposes of the meetings;
- 56 3. A copy of the agenda for the meeting;
- 57 4. The number of sites for each meeting;
- 58 4.5. The types of electronic communication means by which the meetings were held;
- 59 5.6. The number of participants, including members of the public, at each meeting location;
- 60 6.7. The identity of the members of the public body recorded as absent and those recorded as
61 present at each meeting location;
- 62 7.8. A summary of any public comment received about the electronic communication meetings;
- 63 and
- 64 8.9. A written summary of the public body's experience using electronic communication
65 meetings, including its logistical and technical experience.

66 In addition, any authorized public body shall make available to the public at any meeting
67 conducted in accordance with this section, a public comment form prepared by the Virginia Freedom of
68 Information Advisory Council in accordance with § 30-179.

69 G. Any public body ~~local governing body, school board, or any authority, board, bureau,~~
70 ~~commission, district, or agency of local government~~ may meet by electronic communication means
71 without a quorum of the public body physically assembled at one location when the Governor has
72 declared a state of emergency in accordance with § 44-146.17, provided (i) the catastrophic nature of the
73 declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii)
74 the purpose of the meeting is to address the emergency. The ~~local~~ public body convening a meeting in
75 accordance with this subsection shall (a) give public notice using the best available method given the
76 nature of the emergency, which notice shall be given contemporaneously with the notice provided
77 members of the ~~local~~ public body conducting the meeting; (b) make arrangements for public access to

78 such meeting; and (c) otherwise comply with the provisions of this section. The nature of the emergency
79 ~~and~~, the fact that the meeting was held by electronic communication means, and the type of electronic
80 communication means by which the meeting was held shall be stated in the minutes.

81 H. An advisory public body, defined as any state public body classified as advisory pursuant to §
82 2.2-2100 or any committee, subcommittee, or other entity however named, of a state public body created
83 to advise the state public body, may meet by electronic communication means without a quorum of the
84 advisory public body being physically assembled at one location provided (i) the meeting is conducted
85 utilizing a combined audio and visual communication method; (ii) there is a primary or central meeting
86 location established and identified in the notice in accordance with subsection C; (iii) the remote
87 locations, from which additional members of the advisory public body participate through the combined
88 audio and visual communication method, are open to the public and are identified in the notice in
89 accordance with subsection C; (iv) all persons attending the meeting at any of the meeting locations
90 shall be afforded the same opportunity to address the advisory public body as persons attending the
91 primary or central location; and (v) all other provisions of this section are met. Any advisory public
92 body holding electronic communication meetings in accordance with this subsection shall make an
93 audio/visual recording of any such meeting, which recording shall be preserved by the public body for a
94 period of three years from the date of the meeting. The recording shall be available to the public for
95 inspection and copying pursuant to § 2.2-3704. Any portion of the meeting that is closed to the public in
96 accordance with this chapter may be recorded, but such recording is not required. Any audio/visual
97 recording of any closed portion of the meeting shall not be subject to mandatory public disclosure.

98 **§ 30-179. Powers and duties of the Council.**

99 The Council shall:

100 1. Furnish, upon request, advisory opinions or guidelines, and other appropriate information
101 regarding the Freedom of Information Act (§ 2.2-3700 et seq.) to any person or agency of state or local
102 government, in an expeditious manner;

103 2. Conduct training seminars and educational programs for the members and staff of public
104 bodies and other interested persons on the requirements of the Freedom of Information Act (§ 2.2-3700
105 et seq.);

106 3. Publish such educational materials as it deems appropriate on the provisions of the Freedom of
107 Information Act (§ 2.2-3700 et seq.);

108 4. Request from any agency of state or local government such assistance, services and
109 information as will enable the Council to effectively carry out its responsibilities. Information provided
110 to the Council by an agency of state or local government shall not be released to any other party unless
111 authorized by such agency;

112 5. Assist in the development and implementation of the provisions of § 2.2-3704.1; ~~and~~

113 6. Develop the public comment form for use by designated public bodies in accordance with
114 subsection H of § 2.2-3708; and

115 7. Report annually on or before December 1 of each year on its activities and findings regarding
116 the Freedom of Information Act, including recommendations for changes in the law, to the General
117 Assembly and the Governor. The annual report shall be published as a state document.

118 **2. That the provisions of subsection H of § 2.2-3708 of this act shall expire on July 1, 2014.**

119 #