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## Virginia Freedom of Information Advisory Council

### Electronic Meetings Subcommittee

November 18, 2020, at 2:00 p.m.

Electronic Meeting

[foiacouncil.dls.virginia.gov](http://foiacouncil.dls.virginia.gov)

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The Electronic Meetings Subcommittee (the Subcommittee) of the Virginia Freedom of Information Advisory Council (the Council) met electronically.<sup>1</sup> The meeting began with introductions and opening remarks. Materials presented at the meeting, as well as all written public comments, are accessible through the [Council's website](#).

### Public Comment and Discussion: Draft Bills for Consideration

Delegate Mark H. Levine presented HB 321 (2020) to the Subcommittee as he did at its last meeting and noted that he had seen public comments since asking that the electronic meetings provisions in the Virginia Freedom of Information Act (FOIA) be expanded further. During the period for public comment, staff noted that multiple written comments had been submitted via email. Written public comments are available on the [Council's website](#).

The Subcommittee heard extensive public comments from 10 members of the public, including citizens and local elected officials, in support of expanding electronic meeting participation provisions.<sup>2</sup> Aimee Perron Siebert with the Commonwealth Strategy Group discussed further amendments to current electronic meetings provisions and presented a draft bill that was agreed upon by the Virginia Municipal League (VML), Virginia Association of Counties (VACo), Virginia Coalition for Open Government (VCOG), and Virginia Press Association (VPA), as well as other local and regional public bodies. The draft bill addresses electronic participation of a public body, or any joint meeting thereof, during a state of emergency declared by the Governor or a locality. Megan Rhyne, Executive Director of VCOG, said she is not in favor of both expanding provisions to allow for electronic participation when caring for a family member with a serious medical condition and expanding the number of meetings that may be participated in electronically. Mark Hickman, representing VPA, stated VPA's opposition to changing the number of meetings a member of a public body may participate in electronically.

Staff provided an overview of the draft bill prepared at the direction of the Subcommittee at the last meeting. Staff also presented alternative language for the bill that would make the bill clearer

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<sup>1</sup> **Members Present:** Cullen Seltzer (chair), Billy Coleburn, Matthew Conrad, Bruce Potter, Sterling Rives, and Amigo Wade

**Members Absent:** None

<sup>2</sup> Those who spoke in support included Ricardo Alfaro (citizen), Elizabeth Bennett-Parker (Vice Mayor, Alexandria), Marybeth Connelly (Vice Mayor, Falls Church), Katie Cristol (Arlington County Board of Supervisors), Dr. Lorita Daniels (Spotsylvania County School Board), Libby Garvey (Arlington County Board of Supervisors Chair), Letty Hardi (Falls Church City Council), Yvette Jiang (citizen), Lisa Sales (Fairfax County Commission for Women), and Katherine Seifu (City of Alexandria Commission For Women).

and more cohesive. The Subcommittee voted by unanimous voice vote to change the language in the bill to the alternative language proposed by staff.

The Subcommittee then discussed the provision in the bill that expands the number of meetings a member of a public body may participate in electronically. Sterling Rives suggested the percentage of meetings that a member may participate in electronically be increased to 25 percent. Bruce Potter noted that removing the cap would mark a huge shift from the Council's long-standing policy and that a more comprehensive study should be done in 2021 when the removal of the cap can be discussed in further detail. Matt Conrad expressed his approval of removing the cap. Billy Coleburn expressed his agreement with Mr. Potter's comments regarding the Council's long-standing policy position. Amigo Wade expressed his support for a more middle-of-the-road approach by setting the cap at 25 percent instead of removing the cap altogether. Mr. Conrad made a motion to change the cap from 10 percent to 25 percent. The motion was properly seconded and passed with a vote of 4-2.

The Subcommittee then discussed the draft bill offered by VCOG, VML, VACo, VPA, and other local and regional public bodies, specifically the provision stating that the state of emergency must continue or be projected to continue for 30 calendar days or longer. Members expressed that the language does not give clear direction on what business a public body may or may not undertake under the provision. Mr. Rives proposed removing language that states that the purpose of the electronic meeting must be to address the state of emergency. Cullen Seltzer made a motion to amend the draft language to delete (i) the language stating that the public body may only meet electronically to address the state of emergency and (ii) the provision related to why a public body may meet electronically if a declaration of an emergency continues or is projected to continue for 30 calendar days or longer. That motion was properly seconded and passed unanimously<sup>3</sup>.

The Subcommittee directed staff to prepare two separate drafts based on the discussion to present at the next Council meeting.

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For more information, see the [Council's website](#) or contact the Division of Legislative Services staff:

Alan Gernhardt, Executive Director, Virginia Freedom of Information Advisory Council, DLS  
agernhardt@dls.virginia.gov  
804-698-1877

Ashley Binns, Attorney, Virginia Freedom of Information Advisory Council, DLS  
abinns@dls.virginia.gov  
804-698-1812

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<sup>3</sup> The motion passed with a vote of 5-0. Billy Coleburn left the meeting early and was not present for the vote.

