

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 2.2-3701 of the Code of Virginia, relating to ~~the~~ Virginia Freedom of
2 Information Act; definition of "meeting."

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

4 **1. That § 2.2-3701 of the Code of Virginia is amended and reenacted as follows:**

5 **§ 2.2-3701. Definitions.**

6 As used in this chapter, unless the context requires a different meaning:

7 "All-virtual public meeting" means a public meeting (i) conducted by a public body, other than
8 those excepted pursuant to subsection C of § 2.2-3708.3, using electronic communication means, (ii)
9 during which all members of the public body who participate do so remotely rather than being assembled
10 in one physical location, and (iii) to which public access is provided through electronic communication
11 means.

12 "Closed meeting" means a meeting from which the public is excluded.

13 "Electronic communication" means the use of technology having electrical, digital, magnetic,
14 wireless, optical, electromagnetic, or similar capabilities to transmit or receive information.

15 "Emergency" means an unforeseen circumstance rendering the notice required by this chapter
16 impossible or impracticable and which circumstance requires immediate action.

17 "Information," as used in the exclusions established by §§ 2.2-3705.1 through 2.2-3705.7, means
18 the content within a public record that references a specifically identified subject matter, and shall not be
19 interpreted to require the production of information that is not embodied in a public record.

20 "Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or
21 through electronic communication means pursuant to § 2.2-3708.2 or 2.2-3708.3, as a body or entity, or
22 as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the
23 constituent membership, wherever held, with or without minutes being taken, whether or not votes are
24 cast, of any public body. Neither the gathering of employees of a public body nor the gathering or
25 attendance of two or more members of a public body (a) at any place or function where no part of the

26 purpose of such gathering or attendance is the discussion or transaction of any public business by the
27 members of the public body, and such gathering or attendance was not called or prearranged with any
28 purpose of discussing or transacting any business of the public body by the members of the public body,
29 or (b) at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate
30 and not for the members of the public body to transact public business or to hold discussions relating to
31 the transaction of public business, even though the performance of the members individually or
32 collectively in the conduct of public business may be a topic of discussion or debate at such public
33 meeting, shall be deemed a "meeting" subject to the provisions of this chapter. A gathering of two or more
34 members of a public body where there is no discussion or transaction of any public business by the
35 members of the public body is not a "meeting" subject to the requirements of this chapter.

36 "Official public government website" means any Internet site controlled by a public body and used,
37 among any other purposes, to post required notices and other content pursuant to this chapter on behalf of
38 the public body.

39 "Open meeting" or "public meeting" means a meeting at which the public may be present.

40 "Public body" means any legislative body, authority, board, bureau, commission, district, or
41 agency of the Commonwealth or of any political subdivision of the Commonwealth, including counties,
42 cities, and towns, municipal councils, governing bodies of counties, school boards, and planning
43 commissions; governing boards of public institutions of higher education; and other organizations,
44 corporations, or agencies in the Commonwealth supported wholly or principally by public funds. It shall
45 include (i) the Virginia Birth-Related Neurological Injury Compensation Program and its board of
46 directors established pursuant to Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 and (ii) any committee,
47 subcommittee, or other entity however designated of the public body created to perform delegated
48 functions of the public body or to advise the public body. It shall not exclude any such committee,
49 subcommittee, or entity because it has private sector or citizen members. Corporations organized by the
50 Virginia Retirement System are "public bodies" for purposes of this chapter.

51 For the purposes of the provisions of this chapter applicable to access to public records,
52 constitutional officers and private police departments as defined in § 9.1-101 shall be considered public

53 bodies and, except as otherwise expressly provided by law, shall have the same obligations to disclose
54 public records as other custodians of public records.

55 "Public records" means all writings and recordings that consist of letters, words, or numbers, or
56 their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic
57 impulse, optical or magneto-optical form, mechanical or electronic recording, or other form of data
58 compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or
59 in the possession of a public body or its officers, employees, or agents in the transaction of public business.

60 "Regional public body" means a unit of government organized as provided by law within defined
61 boundaries, as determined by the General Assembly, which unit includes two or more localities.

62 "Remote participation" means participation by an individual member of a public body by
63 electronic communication means in a public meeting where a quorum of the public body is otherwise
64 physically assembled.

65 "Scholastic records" means those records containing information directly related to a student or an
66 applicant for admission and maintained by a public body that is an educational agency or institution or by
67 a person acting for such agency or institution.

68 "Trade secret" means the same as that term is defined in the Uniform Trade Secrets Act (§ 59.1-
69 336 et seq.).

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