

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 A BILL to amend and reenact §§ 2.2-3707 and 2.2-3708 of the Code of Virginia, relating to  
2 electronic notice of meetings and electronic meetings under the Virginia Freedom of  
3 Information Act.

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

5 **1. That §§ 2.2-3707 and 2.2-3708 of the Code of Virginia are amended and reenacted as**  
6 **follows:**

7 § 2.2-3707. Meetings to be public; notice of meetings; recordings; minutes.

8 A. All meetings of public bodies shall be open, except as provided in §§ 2.2-3707.01  
9 and 2.2-3711.

10 B. No meeting shall be conducted through telephonic, video, electronic or other  
11 communication means where the members are not physically assembled to discuss or transact  
12 public business, except as provided in §§ 2.2-3708, 2.2-3709 or as may be specifically  
13 provided in Title 54.1 for the summary suspension of professional licenses.

14 C. Every public body shall give notice of the date, time, and location of its meetings by  
15 placing the notice in a prominent public location at which notices are regularly posted and in  
16 the office of the clerk of the public body, or in the case of a public body that has no clerk, in the  
17 office of the chief administrator. All state public bodies in the executive branch of government  
18 and subject to the provisions of this chapter shall also post notice of meetings on the Internet.

19 Publication of meeting notices by electronic means by other public bodies shall be  
20 encouraged. The notice shall be posted at least three working days prior to the meeting.  
21 Notices for meetings of state public bodies on which there is at least one member appointed by  
22 the Governor shall state whether or not public comment will be received at the meeting and, if  
23 so, the approximate point during the meeting when public comment will be received.

24 D. Notice, reasonable under the circumstance, of special or emergency meetings shall  
25 be given contemporaneously with the notice provided members of the public body conducting  
26 the meeting.

27 E. Any person may annually file a written request for notification with a public body. The  
28 request shall include the requester's name, address, zip code, daytime telephone number,  
29 electronic mail address, if available, and organization, if any. The public body receiving such  
30 request shall provide notice of all meetings directly to each such person. Without objection by  
31 the person, the public body may provide electronic notice of all meetings in response to such  
32 requests.

33 F. At least one copy of all agenda packets and, unless exempt, all materials furnished to  
34 members of a public body for a meeting shall be made available for public inspection at the  
35 same time such documents are furnished to the members of the public body.

36 G. Nothing in this chapter shall be construed to prohibit the gathering or attendance of  
37 two or more members of a public body (i) at any place or function where no part of the purpose  
38 of such gathering or attendance is the discussion or transaction of any public business, and  
39 such gathering or attendance was not called or prearranged with any purpose of discussing or  
40 transacting any business of the public body or (ii) at a public forum, candidate appearance, or  
41 debate, the purpose of which is to inform the electorate and not to transact public business or  
42 to hold discussions relating to the transaction of public business, even though the performance  
43 of the members individually or collectively in the conduct of public business may be a topic of  
44 discussion or debate at such public meeting. The notice provisions of this chapter shall not  
45 apply to informal meetings or gatherings of the members of the General Assembly.

46 H. Any person may photograph, film, record or otherwise reproduce any portion of a  
47 meeting required to be open. The public body conducting the meeting may adopt rules  
48 governing the placement and use of equipment necessary for broadcasting, photographing,  
49 filming or recording a meeting to prevent interference with the proceedings.

50 I. Minutes shall be recorded at all open meetings. However, minutes shall not be  
51 required to be taken at deliberations of (i) standing and other committees of the General  
52 Assembly, (ii) legislative interim study commissions and committees, including the Virginia  
53 Code Commission, (iii) study committees or commissions appointed by the Governor, or (iv)  
54 study commissions or study committees, or any other committees or subcommittees appointed  
55 by the governing bodies or school boards of counties, cities and towns, except where the  
56 membership of any such commission, committee or subcommittee includes a majority of the  
57 governing body of the county, city or town or school board.

58 Minutes, including draft minutes, and all other records of open meetings, including audio  
59 or audio/visual records shall be deemed public records and subject to the provisions of this  
60 chapter.

61 Minutes shall include, but are not limited to, (i) the date, time and location of the  
62 meeting, (ii) the members of the public body recorded as present and absent, and (iii) a  
63 summary of the discussion on matters proposed, deliberated or decided, and a record of any  
64 votes taken.

65 § 2.2-3708. Electronic communication meetings.

66 A. It shall be a violation of this chapter for any political subdivision or any governing  
67 body, authority, board, bureau, commission, district or agency of local government or any  
68 committee thereof to conduct a meeting wherein the public business is discussed or transacted  
69 through telephonic, video, electronic or other communication means where the members are  
70 not physically assembled. Nothing in this section shall be construed to prohibit the use of  
71 interactive audio or video means to expand public participation.

72 B. For purposes of this section, "public body" means any public body of the  
73 Commonwealth, but excludes any political subdivision or any governing body, authority, board,  
74 bureau, commission, district or agency of local government.

75 State public bodies may conduct any meeting, except closed meetings held pursuant to  
76 § 2.2-3711, wherein the public business is discussed or transacted through telephonic or video

77 means. Where a quorum of a public body of the Commonwealth is physically assembled at  
78 one location for the purpose of conducting a meeting authorized under this section, additional  
79 members of such public body may participate in the meeting through telephonic means  
80 provided such participation is available to the public.

81 C. Notice of any meetings held pursuant to this section shall be provided at least ~~30~~  
82 seven days in advance of the date scheduled for the meeting. The notice shall include the  
83 date, time, place and purpose for the meeting ~~and~~, shall identify the locations for the meeting,  
84 and shall include a phone number that may be contacted during the meeting by participants  
85 attending the meeting at remote locations to notify the primary or central meeting location of  
86 any interruption in the telephonic or video broadcast of the meeting to the remote locations. All  
87 locations for the meeting shall be made accessible to the public. All persons attending the  
88 meeting at any of the meeting locations shall be afforded the same opportunity to address the  
89 public body as persons attending the primary or central location. Any interruption in the  
90 telephonic or video broadcast of the meeting shall result in the suspension of action at the  
91 meeting until repairs are made and public access restored.

92 ~~Thirty-day~~ Seven-day notice shall not be required for telephonic or video meetings  
93 continued to address an emergency as provided in subsection F or to conclude the agenda of  
94 a telephonic or video meeting of the public body for which the proper notice has been given,  
95 when the date, time, place and purpose of the continued meeting are set during the meeting  
96 prior to adjournment.

97 The public body shall provide the Virginia Information Technologies Agency with notice  
98 of all public meetings held through telephonic or video means pursuant to this section.

99 D. An agenda and materials that will be distributed to members of the public body and  
100 that have been made available to the staff of the public body in sufficient time for duplication  
101 and forwarding to all locations where public access will be provided shall be made available to  
102 the public at the time of the meeting. Minutes of all meetings held by telephonic or video  
103 means shall be recorded as required by § 2.2-3707. Votes taken during any meeting

104 conducted through telephonic or video means shall be recorded by name in roll-call fashion  
105 and included in the minutes. In addition, the public body shall make an audio recording of the  
106 meeting, if a telephonic medium is used, or an audio/visual recording, if the meeting is held by  
107 video means. The recording shall be preserved by the public body for a period of three years  
108 following the date of the meeting and shall be available to the public.

109 E. ~~No more than 25 percent of all meetings held annually by a public body, including~~  
110 ~~meetings of any ad hoc or standing committees, may be held by telephonic or video means.~~

111 Any public body that meets by telephonic or video means shall file with the Virginia Information  
112 Technologies Agency by July 1 of each year a statement identifying the total number of  
113 meetings held during the preceding fiscal year, the dates on which the meetings were held and  
114 the number and purpose of those conducted through telephonic or video means.

115 F. ~~Notwithstanding the limitations imposed by subsection E, a public body may meet by~~  
116 ~~telephonic or video means as often as needed if an emergency exists and the public body is~~  
117 ~~unable to meet in regular session.~~ Public bodies conducting emergency meetings through  
118 telephonic or video means shall comply with the provisions of subsection D requiring minutes,  
119 recordation and preservation of the audio or audio/visual recording of the meeting. The nature  
120 of the emergency shall be stated in the minutes.

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