

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

1 A BILL to amend and reenact § 2.2-3708 of the Code of Virginia and to amend the Code of Virginia by  
2 adding a section number 2.2-3708.1, relating to the Virginia Freedom of Information Act;  
3 electronic communication meetings; participation in meetings in event of emergency; persons  
4 with disabilities.

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

6 **1. That § 2.2-3708 of the Code of Virginia is amended and reenacted and that Code of Virginia is**  
7 **amended by adding a section number 2.2-3708.1 as follows:**

8 § 2.2-3708. Electronic communication meetings; applicability; definitions; physical quorum  
9 required; notice; report.

10 A. Except as otherwise provided in this section, it shall be a violation of this chapter for any  
11 political subdivision or any governing body, authority, board, bureau, commission, district or agency of  
12 local government or any committee thereof to conduct a meeting wherein the public business is  
13 discussed or transacted through telephonic, video, electronic or other communication means where the  
14 members are not physically assembled. Nothing in this section shall be construed to prohibit the use of  
15 interactive audio or video means to expand public participation.

16 B. For purposes of this section:

17 "Electronic communication means" means any audio or combined audio and visual  
18 communication method.

19 "Public body" means any public body of the Commonwealth and any regional public body, or  
20 any committee thereof, but excludes any political subdivision or any other governing body, authority,  
21 board, bureau, commission, district or agency of local government.

22 "Regional public body" means a unit of government organized as provided by law within defined  
23 boundaries, as determined by the General Assembly, whose members are appointed by the participating  
24 local governing bodies and (i) such unit includes four or more counties or cities or (ii) where the

25 geographical territory within the jurisdiction of the regional public body is sufficient in size to include a  
26 straight line drawn between two points that is 100 miles or more in length.

27 C. Except as provided in subsection D of § 2.2-3707.01, ~~state~~-public bodies may conduct any  
28 meeting wherein the public business is discussed or transacted through electronic communication  
29 means. ~~Where provided (i) a quorum of a the public body of the Commonwealth is physically assembled~~  
30 ~~at one primary or central meeting location for the purpose of conducting a meeting authorized under this~~  
31 ~~section, additional members of such public body may participate in the meeting through electronic~~  
32 ~~communication means provided such participation is available to the public, (ii) notice of the meeting~~  
33 ~~has been given in accordance with subsection D, and (iii) participation through electronic~~  
34 ~~communication means by additional members of the public body at remote locations is available to the~~  
35 ~~public. All persons attending the meeting at any of the meeting locations shall be afforded the same~~  
36 ~~opportunity to address the public body as persons attending the primary or central location.~~

37 If a public body holds an electronic meeting pursuant to this section, the public body shall also  
38 hold at least one meeting annually where members in attendance at the meeting are physically  
39 assembled at one location and where no members participate by electronic communication means.

40 ~~C-D.~~ Notice of any meetings held pursuant to this section shall be provided at least ~~seven~~ three  
41 working days in advance of the date scheduled for the meeting. The notice shall include the date, time,  
42 place, and purpose for the meeting; shall identify the locations for the meeting; and shall include a  
43 telephone number that may be used at remote locations to notify the primary or central meeting location  
44 of any interruption in the telephonic or video broadcast of the meeting to the remote locations. ~~All~~  
45 ~~locations for the meeting shall be made accessible to the public. All persons attending the meeting at any~~  
46 ~~of the meeting locations shall be afforded the same opportunity to address the public body as persons~~  
47 ~~attending the primary or central location.~~ Any interruption in the telephonic or video broadcast of the  
48 meeting shall result in the suspension of action at the meeting until repairs are made and public access  
49 restored.

50 ~~Seven working days' notice shall not be required for meetings authorized under this section~~  
51 ~~continued to address an emergency as provided in subsection F or to conclude the agenda of a meeting~~

~~authorized under this section for which the proper notice has been given, when the date, time, place, and purpose of the continued meeting are set during the meeting prior to adjournment.~~

~~D.E.~~ An agenda and materials that will be distributed to members of the public body and that have been made available to the staff of the public body in sufficient time for duplication and forwarding to all locations where public access will be provided shall be made available to the public at the time of the meeting. Minutes of all meetings held by electronic communication means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through electronic communication means shall be recorded by name in roll-call fashion and included in the minutes.

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

- ~~1. The total number of electronic communication meetings held during the preceding year;~~
- ~~2. The dates and purposes of the meetings;~~
- ~~3. The number of sites for each meeting;~~
- ~~4. The types of electronic communication means by which the meetings were held;~~
- ~~5. The number of participants, including members of the public, at each meeting location;~~
- ~~6. The identity of the members of the public body recorded as absent, and those recorded as present at each meeting location;~~
- ~~7. A summary of any public comment received about the electronic communication meetings;~~
- ~~8. A written summary of the public body's experience using electronic communication meetings, including its logistical and technical experience.~~

~~F. A public body may meet by electronic communication means as often as needed if an emergency exists and the public body is unable to meet in regular session. Three working days' notice shall not be required for meetings authorized under this section continued to address an emergency or to conclude the agenda of a meeting authorized under this section for which the proper notice has been given, when the date, time, place, and purpose of the continued meeting are set during the meeting prior~~

79 to adjournment. Public bodies conducting emergency meetings through electronic communication  
80 means shall comply with the provisions of subsection ~~DE~~ requiring minutes of the meeting. The nature  
81 of the emergency shall be stated in the minutes.

82 G. Any public body that meets by electronic communication means shall make a written report  
83 of the following to the Virginia Freedom of Information Advisory Council and the Joint Commission on  
84 Technology and Science by December 15 of each year:

85 1. The total number of electronic communication meetings held during the preceding year;

86 2. The dates and purposes of the meetings;

87 3. The number of sites for each meeting;

88 4. The types of electronic communication means by which the meetings were held;

89 5. The number of participants, including members of the public, at each meeting location;

90 6. The identity of the members of the public body recorded as absent, and those recorded as  
91 present at each meeting location;

92 7. A summary of any public comment received about the electronic communication meetings;

93 and

94 8. A written summary of the public body's experience using electronic communication meetings,  
95 including its logistical and technical experience.

96 § 2.2-3808.1. Participation in meetings in event of emergency; persons with disabilities.

97 A. If, on the day of a meeting conducted pursuant to the provisions of this chapter, a member of  
98 the public body holding the meeting notifies the chair of the public body that such member is unable to  
99 attend the meeting due to an emergency and identifies with specificity the nature of the emergency, such  
100 member may participate in the meeting through electronic communication means from a location that is  
101 not available to the public only under the following conditions:

102 1. A quorum of the public body is physically assembled at the primary or central meeting  
103 location;

104 2. The public body makes arrangements for the voice of the remote participant to be heard  
105 clearly by all persons at the primary or central meeting location;

106 3. The public body holding the meeting approves such member's participation by a majority vote;  
107 and

108 4. The public body records in its minutes the specific nature of the emergency and the location  
109 from which the remote member participated.

110 Participation by a member as authorized by this subsection shall be limited each calendar year to  
111 two meetings or 25 percent of the meetings of the public body, whichever is less.

112 B. Any member of a public body who is a person with a physical disability as defined in § 2.2-  
113 1159 may participate by electronic communication means in an unlimited number of meetings, subject  
114 to the requirement that (i) the member appear at the annual meeting of the public body at which all  
115 members must physically assemble as required by subsection C of § 2.2-3708 and (ii) the voice of such  
116 member is heard clearly by all persons at the primary or central meeting location.

117 C. For the purposes of this section, "electronic communication means" means the same as that  
118 term is defined in § 2.2-3708.

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