

SENATE BILL NO. _____ HOUSE BILL NO. _____

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A BILL to amend and reenact § 2.2-3708 of the Code of Virginia, relating to the Freedom of Information Act; electronic meetings; authority of local public bodies.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3708 of the Code of Virginia is amended and reenacted as follows:

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

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

B. Except as provided in subsection D of § 2.2-3707.01, state public bodies may conduct any meeting wherein the public business is discussed or transacted through electronic communication means, provided (i) a quorum of the public body is physically assembled at one primary or central meeting location, (ii) notice of the meeting has been given in accordance with subsection C, and (iii) the remote locations, from which additional members of the public body participate through electronic communication means, are open to the public. All persons attending the meeting at any of the meeting locations shall be afforded the same opportunity to address the public body as persons attending the primary or central location. Public bodies, however, may meet by electronic communication means

25 without a quorum of the public body physically assembled at one location when ~~(i)~~(a) the Governor has
 26 declared a state of emergency in accordance with § 44-146.17, ~~(ii)~~(b) the meeting is necessary to take
 27 action to address the emergency, and ~~(iii)~~(c) the public body otherwise complies with the provisions of
 28 this section.

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

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

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

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

51 subsection D requiring minutes of the meeting. The nature of the emergency shall be stated in the
52 minutes.

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

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

67 G. A local governing body or school board may meet by electronic communication means
68 without a quorum of the public body physically assembled at one location when the Governor has
69 declared a state of emergency in accordance with § 44-146.17, provided (i) the emergency involves
70 danger from contagion, infection, or other threats to the public health; a natural or manmade disaster; or
71 other catastrophic event and (ii) the meeting is necessary to take action to address the emergency. The
72 local governing body or school board shall (a) give public notice using the best available method given
73 the nature of the emergency, which notice shall be given contemporaneously with the notice provided
74 members of the local governing body or school board conducting the meeting; (b) make arrangements
75 for public access to such meeting; and (c) otherwise comply with the provisions of this section. The
76 nature of the emergency and the fact that the meeting was held by electronic communication means shall
77 be stated in the minutes.

