



Virginia State Association of Parliamentarians

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Virginia Freedom of Information Advisory Council
201 North 9th Street, 4th Floor
c/o Alan Gernhardt, Executive Director
Richmond, VA 23219
foiacouncil@dls.virginia.gov
Sent via electronic mail

RE: Virginia Parliamentarians' Technical Comments on SB 876 (2025)

Dear Members of the Virginia Freedom of Information Advisory Council:

My name is Donald Garrett, and I am writing on behalf of the Virginia State Association of Parliamentarians (VSAP). VSAP is the state-level affiliate of the National Association of Parliamentarians (NAP) and is the largest association in Virginia dedicated to parliamentary procedure, representing 300 members across the Commonwealth. NAP is a nonprofit whose mission is to educate leaders worldwide in effective meeting management through the use of parliamentary procedure.

We write to you as experts in meetings conducted under *Robert's Rules of Order Newly Revised* (hereinafter, "RONR"), which, by our informal estimate, serves as the parliamentary authority for most public bodies in the Commonwealth of Virginia. While VSAP has not yet taken a formal position on SB 876 (2025), we believe it is important to provide technical input to the Council as the bill continues to be developed.

Background of Legislation

The discussion draft (dated 7/8/25) represents an improvement over SB 876 introduced in the 2025 Regular Session of the Virginia General Assembly. The discussion draft would amend the Virginia Freedom of Information Act to prohibit public bodies from taking final action on items that were not included in the proposed agenda posted before the meeting. Final action would *not* include actions such as directing staff to provide further information or making referrals to committees or a future meeting.

The Bill Would Enable Pocket Vetoes

Under the current edition of RONR, "Unless a precirculated [proposed] agenda is formally adopted at the session to which it applies, it is not binding as to detail or order of consideration" (§41:62). As drafted, the bill would effectively give staff or chairs of public bodies unilateral power to pocket veto items of business by omitting them from the proposed agenda—whether deliberately or inadvertently. While referral to a future meeting would be permissible, nothing guarantees that the matter will appear on a subsequent agenda, thus continuing the veto.

This risk is not theoretical. Under the current wording, if a public body published notice of a hearing in the newspaper but forgot to put it on the agenda, any final action on the hearing would be null and void.

Likewise, RONR allows a single member to give previous notice of motions to repeal or amend a previous action (§35:3), discharge a committee (§36:4), reconsider a matter (§37:15), or, in some cases, propose a bylaws amendment (§56:50). Without the ability to call up these motions at the subsequent meeting, public body members would be deprived of their parliamentary rights.

We recommend clarifying that public bodies may also consider items for which proper notice has been given, consistent with RONR's requirement that notices be entered into the minutes (§10:50) and included with the call of the meeting (§10:51). This adjustment would respect members' rights while preventing important items from being derailed by administrative oversights.

Current Discussion Draft Language	Our Suggested Improvements
No final action may be taken on items added to the agenda after the meeting commences unless they are time-sensitive or are the subject of a closed meeting properly identified in a motion in accordance with § 2.2-3711. ... Minutes shall be in writing and shall include (a) the date, time, and location of the meeting; (b) the members of the public body recorded as present and absent; and (c) a summary of the discussion on matters proposed, deliberated, or decided, and a record of any votes taken. Minutes shall be in writing and shall include (a) the date, time, and location of the meeting; (b) the members of the public body recorded as present and absent; and (c) a summary of the discussion on matters proposed, deliberated, or decided, and a record of any votes taken.	No final action may be taken on items added to the agenda after the meeting commences unless they are time-sensitive, properly noticed to be considered at the meeting, or are the subject of a closed meeting properly identified in a motion in accordance with § 2.2-3711. ... Minutes shall be in writing and shall include (a) the date, time, and location of the meeting; (b) the members of the public body recorded as present and absent; and (c) a summary of the discussion on matters proposed, deliberated, or decided, and a record of any votes taken. Minutes shall be in writing and shall include (a) the date, time, and location of the meeting; (b) the members of the public body recorded as present and absent; and (c) a summary of the discussion on matters proposed, noticed, deliberated, or decided, and a record of any votes taken.

The Bill Would Encourage Overly Broad Agendas

Another unintended consequence is that the bill could incentivize vaguer, less descriptive agendas, counter to its stated transparency goals. For example, suppose a public body is discussing an agenda item to “approve purchasing a desk for the clerk.” Under RONR, if deliberations reveal that the secretary *also* needs a new chair, it would be in order to amend the proposal to include purchasing the chair because the amendment is germane and relates to providing the clerk with necessary furniture (§12:19).

However, under the current language of the discussion draft, the public body would *not* be allowed to approve the chair purchase at that meeting because the idea about the chair arose “after the meeting commenced.” Rather than risk delay or inefficiency, we believe public bodies would instead default to catch-all agenda language, undermining transparency.

Conclusion

Thank you for the opportunity to provide these comments. VSAP remains available to provide technical advice on matters concerning public meetings. If you have any questions or would like to speak further, I can be reached at donald@lastminutemeetings.net or 703-873-7029.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Garrett", with a stylized flourish at the end.

Donald Garrett, PRP
President, Virginia State Association of Parliamentarians

cc: Senator Adam Ebbin, SB 876 Chief Patron