

## E-Meetings Subcommittee

May 20, 2013

### Meeting summary

The Electronic Communications (E-Meetings) Subcommittee held its first meeting on May 20, 2013 in the Fifth Floor East Conference Room of the General Assembly Building. Staff provided the Subcommittee with an overview of 2013 legislation that was enacted by the General Assembly concerning the conduct of e-meetings, specifically, SB 1263 (c.694), a recommendation of the FOIA Council<sup>1</sup>. The Subcommittee also discussed SB 889 (Black) and HB 2032 (May) that were referred to the Subcommittee for further study<sup>2</sup>. Delegate May was present at the meeting and stated that the objective of HB 2032 was the use of technology in the conduct of government meetings and not so much to impact the Freedom of Information Act. Delegate May noted that there are many regional bodies in northern Virginia that could benefit from being treated the same as state public bodies.

The Subcommittee called for public comment on HB 2032. A representative of the Thomas Jefferson Regional Planning Commission indicated that the Commission supported the bill. A representative of the Virginia Coalition for Open Government indicated that the Coalition opposed the bill. Delegate May informed the Subcommittee that the Joint Commission of Technology and Science usually has two to four advisory committees and meeting without a quorum physically present would assist them in their deliberations.

The Subcommittee next discussed SB 889 and again asked for public comment, noting that in recommending SB 1263, the FOIA Council had already recommended against allowing local public bodies to conduct e-meetings. Public comment on SB 889 indicated that there was little support for treating local school boards differently.

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<sup>1</sup> SB1263--Virginia Freedom of Information Act; meeting by electronic communication means by certain committees, subcommittees, etc., of state public bodies; personal matters. Authorizes an advisory public body, defined as any state public body classified as advisory pursuant to § 2.2-2100 or any committee, subcommittee, or other entity, however designated, of a state public body created to advise the state public body, to meet by electronic communication means without a quorum of the advisory public body being physically assembled at one location, provided, among other requirements, the meeting is conducted utilizing a combined audio and visual communication method. The bill requires any advisory public body holding this kind of electronic communication meeting to make an audiovisual recording of the meeting, which recording shall be preserved by the advisory public body for a period of three years from the date of the meeting. The bill also enhances the annual reporting requirements for any public body authorized to conduct electronic communication meetings and requires the FOIA Council to develop a form that an authorized public body must make available to the public at any such meeting for public comment. The above-described provisions of the bill by its terms will expire on July 1, 2014. Finally, the bill allows a member of any public body to participate in a meeting by electronic communication means due to personal matters under certain circumstances. Currently, such remote participation is allowed only for emergency, medical condition, or distance from the meeting location of more than 60 miles. The bill is a recommendation of the Virginia Freedom of Information Advisory Council.

<sup>2</sup> SB 889-- Virginia Freedom of Information Act; electronic communication meetings; school boards. Allows local school boards to hold electronic communication meetings to the same extent allowed currently for state public bodies. The bill contains technical amendments.

HB 2032--Freedom of Information Act; electronic meetings. Allows regional public bodies to conduct electronic meetings in the same manner as state public bodies. The bill also removes the requirement that a public body hold one meeting each year at which no member participates using electronic means. This bill is a recommendation of the Joint Commission on Technology and Science.

Subcommittee member George Whitehurst indicated that given the extent of deliberations in 2012 by the Subcommittee that resulted in the enactment of SB 1263, there was no need in moving SB 889 forward. Subcommittee members Kathleen Dooley, Stephanie Hamlett and John Selph agreed with Mr. Whitehurst that SB 889 not be recommended for further action by a vote of 4 to 0.

Turning their attention to HB 2032 (allowing regional public bodies to hold e-meetings), the Subcommittee felt that there was less need for HB 2032 given the passage of HB 1263 and the flexibility it afforded. The Subcommittee noted that regional public bodies are created in a variety of ways including, special acts of the General Assembly and legislation authorizing localities to create regional bodies. It was also noted that the authority, powers and duties of regional public bodies varied greatly depending on the method of their creation. Essentially, it was unclear how to define a regional public body given the myriad ways they are created. The Subcommittee asked staff to research regional public bodies, their method of creation, powers and duties for consideration at the next meeting of the Subcommittee. Having no further business, the meeting was adjourned.