

From: **Ken Reid** <reidkd@verizon.net>
Date: Mon, Jun 30, 2025 at 10:21 AM
Subject: Proposed alternative language for SB 876 (Ebbin bill)
To: FOIA Council <foiacouncil@dls.virginia.gov>
Cc: Alan Gernhardt <agernhardt@dls.virginia.gov>

Dear Alan and FOIA Council members

I believe we were asked to submit any proposed language for SB 876 by today, so here goes:

A bit of explanation

First, as you all know, I am not an attorney, but merely spent 10 years serving on elected bodies and 25 years total on various public bodies in Virginia.

So, what I did here was limit 2.2-3707 to "governing" or "adjudicative bodies." I don't know if there is such thing as an "adjudicative body" vs. "public body," which would include the boards of visitors, boards, commissions, etc, but believe the problem the Ebbin bill is trying to address is for "governing bodies." I don't recall if Virginia law considers Planning Commissions, Boards of Architectural Review, Boards of Zoning Adjustment, "governing" So, "adjudicative" is an option for language.

The paragraph I provided called "Additions to G" is to require agendas for all public bodies to be made on a web site or to a person who requests it within 48 hours of the meeting. I think this addresses Sen. Ebbin's comments from the subcommittee meeting where he noted there is apparently no legal requirement for this in Virginia.

I think there should be.

So, here goes:

current language of SB 876

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

The agenda and any subsequent revisions shall be posted on the public body's official public government website, if any, and made available to the public prior to the meeting. Any items added to the agenda after the meeting commences may be considered and discussed at the meeting, but final action shall not be taken on such an item unless the matter is time-sensitive.

Proposed language (Reid)

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

G. Any item added to the agenda of a *governing body/adjudicative body*, after the meeting commences, that is of a time-sensitive nature or subject of a closed session properly identified in a motion in accordance with § 2.2-3711, may be considered and decided at that meeting, but only upon a unanimous vote of the *governing body/adjudicative body's* members in attendance. If there is no unanimous consent, a *governing body/adjudicative body* can consider and act upon the item(s) at a subsequent special meeting pursuant to § 15.2-1418 or at a future regularly scheduled business meeting.

Note: I don't recall if all public bodies can hold special meetings like elected governing bodies, so I limited it to governing/adjudicative body.

Additional language to G.

At least one copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body[, and shall be posted on the public body's official public government site or provided to any member of the public upon request within 48 hours of the start of the meeting].

Finally, I really think the abuses the Ebbin bill is designed to address are due to laxity with CLOSED SESSIONS, and that's really where the language needs to be tweaked better to prevent major actions by governing/adjudicative bodies that were not on the published agenda.

But that seems to be outside our charge.

Thanks for reviewing and I would appreciate any input before the subcommittee and main meeting July 7

Thanks !

Ken Reid