



Electronic Meetings Advisory Committee
Monday, July 16, 2012 10:00 a.m.
Speaker's Conference Room, 6th Floor, General Assembly Building
Meeting Summary

The Electronic Meetings Advisory Committee of the Joint Commission on Technology and Science held its first meeting on Monday, July 16, 2012. Members of the Advisory Committee Delegate Joe T. May (chairman), Senator John Miller, and Deputy Secretary of Technology Karen Jackson were present.¹ Several members of the public also participated in the meeting. The chairman of the Freedom of Information Advisory Committee subcommittee studying electronic meetings, Craig Fifer, participated in the meeting over the phone.

Delegate May called the meeting to order. He noted that JCOTS had not looked at the issue of electronic meetings of public bodies in quite some time. Technology has improved, and he would like to study how electronic meetings conducted pursuant to the Virginia Freedom of Information Act can be improved.

Staff provided a brief overview of the existing law governing electronic meetings (§§ 2.2-3708 and 2.2-3708.1 of the Code of Virginia) and a history of electronic meeting laws in Virginia. Electronic meeting provisions were initially adopted in 1989. Staff explained that JCOTS has been involved in the development of electronic meeting laws since 1998, when it recommended a pilot program to the General Assembly that would allow for relaxed legal requirements in the conduct of electronic meetings in certain circumstances. Such pilot program has since expired, but JCOTS was actively involved in revisions to electronic meeting laws in 2005. The law was further amended in 2007, at the recommendation of the FOIA Council, to add certain exceptions to the requirements for electronic meetings in circumstances of personal emergencies and permanent or temporary disabilities of members of a public body.

Current law allows for state (but not local) public bodies to hold electronic meetings if certain requirements are met. A quorum of the public body must be present in one physical location in order for other members to meet electronically. The remote sites used for the meeting must be open to the public, and the location must be provided in the meeting notice. The meeting notice must include a phone number to be used in the event that the remote sites experience technical difficulties, and if the electronic connection is

¹ Advisory Committee member Delegate Kenneth R. Plum was not present.

lost at any point during the meeting, the entire meeting must be suspended. Roll call votes must be taken for all votes during an electronic meeting, and the minutes of the meeting must reflect the roll call vote, as well indicate the remote locations. Every public body that conducts an electronic meeting must have at least one meeting each year that is not conducted using electronic meetings, and every public body that conducts an electronic meeting must make an annual report to JCOTS and the FOIA Council.

Staff also provided a brief survey of electronic meeting laws in other states. Three other states -- Louisiana, Massachusetts, and Oklahoma do not allow for electronic meetings in any circumstances, and Texas only allows electronic meetings in emergency situations. Many states allow electronic meetings without any special requirements, so long as the electronic meeting is not used to circumvent FOIA and public access to meetings. Of the states that have additional requirements, the most common are that all of the locations of the meeting be provided in the meeting notice, that all locations be open to the public, and that roll call votes be taken. Staff indicated that a more detailed memo outlining the 50-state survey would be compiled after the meeting.

Mr. Fifer indicated that the FOIA Council had been studying bills seeking to amend electronic meetings for the past five years. He noted that the FOIA Council had adopted a policy that meetings should be held face-to-face whenever possible in order to allow the public to witness the deliberative process. He said that he did not think that the policies surrounding electronic meetings were not related to technology, and he suggested that instead of seeking to expand the law, JCOTS should encourage state agencies to use the existing law.

A question was posed as to whether a public body was required to provide public access via audio or audio/visual means upon request. It was discussed that FOIA does not prohibit the use of technology to expand public participation (and public participation is not subject to any of the requirements noted above), but FOIA does not require a public body to provide an electronic connection upon request.

Julian Phillips, Vice President of Whitlock, provided an overview of current technology and issues related to use of audiovisual technologies. Whitlock is a private corporation, headquartered in the metro Richmond area, that provides audiovisual solutions to its customers. A copy of Mr. Phillips presentation is available on the JCOTS website. His presentation began with a broad overview of how the digital world is evolving and changing. He provided an overview of a variety of types of AV technology. He indicated that AV meetings can be held in such a way that it seems as if all participants are seating around the table, even if some are joining the meeting from remote locations. However, he cautioned that to be successful, AV meetings and communications must be well planned for positive results.

After the presentation ended, the members of the Advisory Committee and members of the public engaged in a general discussion. Much of the discussion focused on ways that technology could be used to augment public participation in meetings of

public bodies. One issue that was mentioned is that if policies were adopted to provide more public access via technology solutions, marketing of the availability would be key.

Members of the Advisory Committee directed staff to put together a framework of ideas related to electronic meetings and public participation to be discussed at the next meeting. Senator Miller requested that the Advisory Committee review the policy that currently prohibits local public bodies from utilizing electronic meetings. It was also requested that staff compile a matrix showing what activities are currently allowed under current law. Finally, it was decided that staff should try to set up a teleconference for the next meeting of the Advisory Committee.

The meeting was adjourned. The next meeting of the Advisory Committee is Wednesday, September 5 at 10:00 a.m. The meeting is currently scheduled to be held in the General Assembly Building, but this is subject to change if an electronic meeting is conducted.