



**Joint Commission on Technology and Science  
Executive Committee**

**August 5, 2009 10:00 a.m.**

**Speaker's Conference Room, 6th Floor, General Assembly Building**

• **Call to order, roll call.**

Delegate May called the meeting to order and staff began with a series of updates for the members of the Executive Committee.

• **Staff Updates**

- **SPAM: Jaynes v. Commonwealth Appeal Denied**
- **Aerospace: Expiration of the Aerospace Advisory Council**
- **Intellectual Property: University Reporting Requirement**
- **Intellectual Property: Development of State Employee Policy**
- **Agency Reports on Electronic Meetings**

**SPAM:** Staff Attorney Patrick Cushing provided an update on the Commonwealth's appeal to the United States Supreme Court in the wake of the Virginia Supreme Court holding Virginia's SPAM law unconstitutionally overbroad under the First Amendment. During the 2009 Session Delegate Loupassi introduced HB 1796 to amend the state SPAM law and limit its application to commercial emails, which would effectively remedy the constitutional infirmity. Although HB 1796 passed the House, the bill ultimately died in the Senate as the Office of the Attorney General appealed the case to the US Supreme Court. In March of this year the US Supreme Court denied cert., leaving Virginia with an unenforceable SPAM law. The Office of the Attorney General plans to include a new SPAM law in its legislative package for the 2010 Session. Staff will maintain contact with the DAG and update the Commission at the next meeting. Delegate May would like to work with the DAG on developing the legislation and ultimately present the bill to the full Commission for approval as a JCOTS endorsed bill.

**Aerospace:** Patrick Cushing provided an update on the progress of the Governor's Aerospace Advisory Council and informed the members that the Council is set to sunset in 2010. All members

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agreed that they would like to see the Council continued but would like to see more focus on tourism and the economic benefits associated with further development of the Mid-Atlantic Regional Spaceport. Delegate May requested Delegate Cosgrove and Senator Locke to contact local tourism officials and ask for input on the role tourism generated by the spaceport could play in development throughout the Hampton Roads and Eastern Shore regions.

**Intellectual Property:** Patrick Cushing provided members with an overview of HB 134 (2006) and the new role of the Governor in approving the transfer of intellectual property (IP) from state institutions of higher education to private companies. Prior to 2006, the Governor had to approve any IP transfer where the IP was developed "wholly or significantly" with state funds. The guidelines adopted by SCHEV, which had that responsibility prior to 2006, defined "wholly or significantly" to mean that state funds over \$10,000 had been invested in the IP. In addition to other changes, HB 134 changed the IP investment threshold from "wholly or significantly" to "wholly or predominately". The bill also moved responsibility of the guidelines to the Department of Planning and Budget (DPB), required universities to submit their intellectual property policies to JCOTS, and require universities to annually report any transfers of IP to JCOTS. Thus far JCOTS has only received policies from a few universities and has not been updated on any transfers of IP.

Although HB 134 directed the DPB to work with JCOTS to develop draft intellectual property policies and guidelines, those policies were never drafted. Upon contacting the DPB, JCOTS staff was told the draft policy was being 'circulated around the office for comment and edits' and would be ready shortly.

Delegate Plum requested Josh Levi, Northern Virginia Technology Council, to comment on whether the changes in the law have helped private companies partner with state universities. Mr. Levi responded that the change in law probably did not have a significant effect. Mr. Levi explained that companies complain of not having a 'one-stop' resource when it comes to assessing Virginia universities and their associated IP policies and research capabilities.

Delegate May requested JCOTS staff to continue to monitor the DPB's progress and inform Commission members of any new developments.

**Electronic Meetings:** JCOTS Director Lisa Wallmeyer briefed the members on reports of electronic meeting submitted to JCOTS. The electronic meetings provisions of the Freedom of Information Act require public bodies that utilize electronic meetings to report annually to JCOTS

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and the Freedom of Information Advisory Council regarding the number of meetings, number of locations utilized, experiences and problems with electronic meetings, etc. In reviewing the reports received over the past several years, it appears that many agencies do not utilize electronic meetings in conducting their business. The reasons for this may be varied, but anecdotally, it appears that many agencies still find the requirements for electronic meetings to be cumbersome and difficult.

Delegate Cosgrove requested that JCOTS re-examine the law addressing the format and limits of electronic meetings of public bodies in the Commonwealth. Delegate Cosgrove suggested JCOTS form a small workgroup consisting of VITA staff, FOIA staff, and JCOTS members and staff to review possible changes to FOIA regarding electronic meetings.

- **Other Business.**

Delegate Cosgrove wanted to remind members of the Executive Committee that the General Assembly approved an appropriation of \$100,000 for a transportation modeling study to be conducted by the University of Missouri. Delegate Cosgrove requested the members present to consider the Virginia Modeling Analysis and Simulation Center (VMASC) for future modeling and simulation studies.

- **Public comment:** Members of the public are invited to express their views about the Commission and its work.

No public comment was received.

- **Adjournment.**

