



Tuesday, November 26, 2013 10:00 a.m.
House Room D, General Assembly Building

The Joint Commission on Technology and Science (JCOTS) met on Tuesday, November 26, 2013 in Richmond to consider recommendations developed by its advisory committees during the 2013 Interim.¹ Copies of the bills developed by the advisory committees, as well as detailed summaries of the work of each advisory committee, are available on the JCOTS website.

The Computer Crimes Advisory Committee, chaired by Delegate Ken Plum, was referred three bills for review from the 2013 Session of the General Assembly: HB 2050/SB 1030 related to search and seizure of computers and SB 1173 related to computer trespass. The advisory committee recommended amended versions of the bills, and the membership of JCOTS voted to recommend the amended bills to the 2014 Session of the General Assembly.

The Cyber Security Advisory Committee, chaired by Delegate Tom Rust, was referred SB 830 from the 2013 Session of the General Assembly for review. The bill would allow for overseas military members to return absentee ballots electronically. The advisory committee recommended an amendments to the bill related to security measures and technology concerns. At the JCOTS meeting, one additional amendment was made to specify that if an overseas absentee ballot was returned via facsimile, it must be a secure facsimile. A majority of the members of JCOTS present at the meeting, with three dissenting votes, recommended the amended bill to the 2014 Session of the General Assembly.

The Broadband and Education Advisory Committee, chaired by Delegate Kathy Byron, was referred three bills from the 2013 Session of the General Assembly: HB 1777 related to use of open source textbooks in higher education, and HB 1915 and HB 2286, both concerning use of electronic textbooks and access to broadband by students. The committee did not make any recommendation regarding HB 1777. Delegate Eileen Filler-Corn, patron of HB 1777, thanked the advisory committee for the review of the bill and the opportunity to open discussions regarding the use of open resources.

The advisory committee did recommend an amended version of HB 2286 that would require the Department of Education and the Center for Innovative Technology to gather data about electronic device ownership and Internet access of each student at

¹ Not in attendance: Delegate Bob Purkey, Senator Mamie Locke

public schools. Delegate Byron indicated that while the goals of the bill were laudable, she did not agree with the draft. No motion was made to recommend the amended bill to the General Assembly.

The advisory committee also recommended amendments to HB 1915 that would require schools that adopt electronic textbooks to have a plan in place to ensure that all students had access to a personal computer device and Internet access in their homes. A majority of the members of JCOTS, with two dissenting votes, recommended the bill to the 2014 Session of the General Assembly. However, members voting in favor of the bill noted that some of the language might need additional work during Session.

The Intellectual Property Advisory Committee, chaired by Delegate Joe May, was referred two bills from the 2013 Session of the General Assembly for review: HB 1738 relating to invention development contracts, and HB 2064 related to the Uniform Trade Secrets Act. The advisory committee recommended amendments to HB 1738 to afford greater protections to customers entering into invention development contracts. The members of JCOTS recommended the amended bill to the 2014 Session of the General Assembly.

In reviewing HB 2064, the advisory committee decided that it was not wise for Virginia to adopt changes that would make the law un-uniform with the 47 other states that have adopted the Uniform Trade Secrets Act. However, in the course of discussion, two other issues arose. The first arose changes in federal law related to trade secret defenses that creates some ambiguity in the state law. The advisory committee recommended that JCOTS bring these issues to the attention of the Uniform Law Commission, and request that the uniform law be reviewed in light of these changes. The advisory committee also developed a proposal that would allow the holder of a trade secret to register the trade secret with the State Corporation Commission, similar to how trademarks are currently registered. The registration would serve as evidence of the existence of a trade secret in any court in Virginia. At the JCOTS meeting, several questions emerged as to how this process would actually work. Delegate May indicated that the idea had substantial merit, but needed additional work, and he recommended that the issue continue to be studied during the 2014 Interim.

The Identity Management Advisory Committee, chaired by Senator John Watkins, continued discussions begun in previous Interims regarding identity management in the Commonwealth. An advisory committee participant had proposed legislation related to the liability of private identity providers. However, the issue was very complex, and Senator Watkins indicated that the legislation needed further study and consideration to take into account the impact on the state and various sectors and industries, as well as to consider any unintended consequences.

After the completion of the advisory committee reports, Don Palmer, the Secretary of the State Board of Elections, provided JCOTS with a brief update on the need for

voting system upgrades. He indicated that many localities have outdated direct recording electronic voting systems, or DREs. Several years ago, the General Assembly prohibited the purchase of additional DREs. However, because of scarce resources, localities are waiting until the last minute to purchase upgraded equipment. The older, outdated equipment contributes to delays at polling places on election day. He indicated that planning to transition to the next generation of voting equipment is essential and needs to be now in order to prepare for the 2016 election.

At the close of the meeting, Delegate Rust called for public comment. A representative of a voting equipment voter said that he supported Secretary Palmer's comments about the need to plan for voting equipment upgrades.

Before adjourning, Delegate Rust noted that this would be the last JCOTS meeting for Delegates Joe May and Harry Purkey, and thanked them both for their service.

