



Wednesday, August 19, 2015 1:00 p.m.
House Room D, General Assembly Building

The Joint Commission on Technology and Science held its second meeting of the 2015 interim on Wednesday, August 19. After Delegate Tom Rust, chair of JCOTS, called the meeting to order, he welcomed to the meeting Nelson Moe, the new Chief Information Officer of the Commonwealth. Mr. Moe introduced himself, noted that he was in his eleventh week on the job, and said that he looked forward to working with JCOTS and the General Assembly.

Delegate David Bulova presented HB 2037, which was referred to JCOTS for study by the 2015 Session of the General Assembly. The bill would prohibit motor carriers from using or disclosing a customer's trip data or other personal information, for any purpose other than to provide the requested service. The prohibition would not apply to the use of aggregated data that cannot be linked to any personal information. The bill would apply to all motor carriers, including taxis and limo drivers, but was developed in response to the use of data by transportation network companies (TNCs) such as Uber and Lyft. Delegate Bulova said that while laws enacted by the 2015 Session of the General Assembly regarding TNCs prevent the disclosure of personal information, there are exceptions—the laws do not prohibit the release of personal information if such release is part of the terms of service agreed to by the customer in downloading and using the TNC app, nor do the laws apply to trip data, which does not fall under the definition of personal information.

Representatives of Uber and Lyft said that there are many valid internal uses of the information collected by TNC apps and TNC partners, and how that information is used, including a means to opt out, is clearly disclosed. HB 2037 would prohibit this use, because the bill prohibits not only disclosure but also use of the data. The representatives argued that HB 2037 singles out for prohibition the use of data by one particular industry but ignores the use of customer location information by many apps in other areas (music, weather, etc.).

Senator John Watkins asked if other motor carriers were consulted about HB 2037. He asked staff to follow up with motor carriers to assess the impact of the bill on those industries. Members expressed an interest in limiting the scope of the bill to disclosure, instead of use and disclosure, and Delegate Bulova indicated that such a narrowing was acceptable. Delegate Rust asked staff to review the definition of personal information in the Government Data Collection and Dissemination Practices Act and see if that might be amended to address Delegate Bulova's concerns in lieu of the approach set forth in HB 2037. Discussion of the bill was continued to the October 20 meeting.

Senator Bryce Reeves presented SB 1420, which, along with the identical HB 2336 (Peace), was referred to JCOTS for study by the 2015 Session of the General Assembly. The bills would limit the liability provisions in a solicitation for IT procurement to no more than twice the value of the contract. Senator Reeves said that the purpose of the bills is to establish liability provisions that balance protecting the Commonwealth's interests and encouraging competition and innovation. He said that often the terms and conditions contained in a solicitation require unlimited liability, which makes it impossible for some smaller businesses to bid on the project.

Andrew Lamar, speaking on behalf of the Greater Richmond Technology Council, spoke in favor of SB 1420 and HB 2336. He said that the current liability practices lead to less innovation and higher costs. In order to bid on a contract, a company must accept the terms and conditions in whole (including the liability provisions), or even if a bidder is not required to accept the terms, willingness to accept unlimited liability is considered in scoring of the bids. He said that the National Association of State Chief Information Officers found in a recent study that 30 states place limits on liability. Tennessee, for example, limits liability to twice the value of the contract, but has in place a few reasonable exceptions for criminal activity and intentional torts.

Senator Watkins suggested that a blanket approach to liability would not work because metrics and risk profiles would need to be considered for each project. He said that he would like VITA to be involved in the discussion. Senator Reeves said that he would like JCOTS to help in getting the right people together to discuss the issues and figure out the various tiers of risk that would need to be considered. JCOTS directed staff to put together a work group to discuss these issues and report back at a later meeting.

Staff provided an update on HB 2352 (Marshall, D., 2015) related to broadband and conduit. At the direction of JCOTS at the April meeting, staff convened a work group of interested parties to discuss the bill. While all of the parties applauded the goal of the bill to increase cooperation, communication, and efficiency in facilitating broadband deployment—especially in underserved areas—they were concerned that the bill raised a number of policy, legal, and safety issues. These concerns are outlined in a report submitted to JCOTS. At the recommendation of the work group, JCOTS voted to request that the Broadband Advisory Council, chaired by Delegate Kathy Byron, continue discussions as to how to improve coordination and communication among state and local government and private industry to efficiently deploy broadband capabilities in underserved areas.

The meeting was adjourned.
