



Fairfax County Department of
economic
initiatives
NAVIGATING WHAT'S NEXT

VFOIA

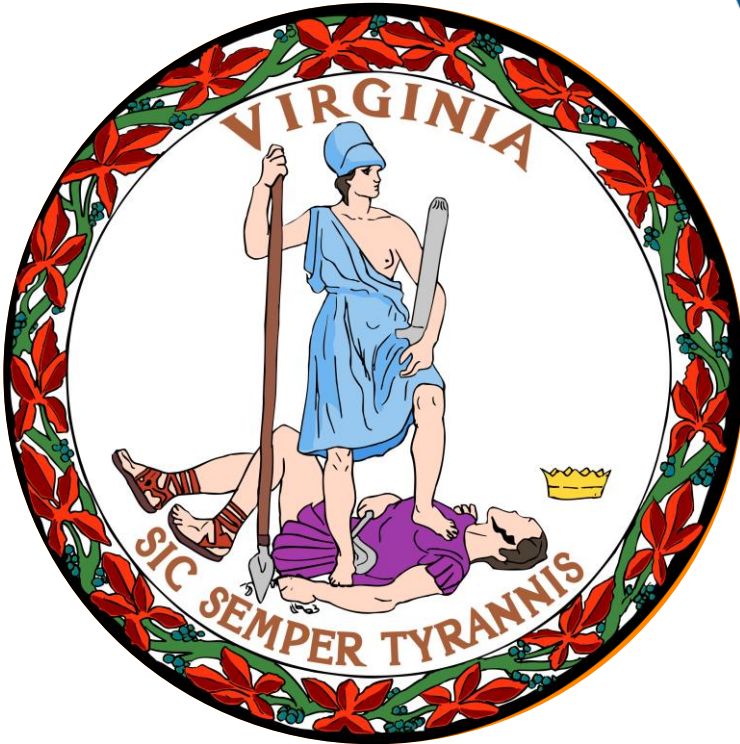
Virginia Freedom of Information Act

2022 Update



Fairfax County Department of
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NAVIGATING WHAT'S NEXT

Legislative Amendments



House Bill 444

- **§ 2.2-3708.3. Meetings held through electronic communication means; situations other than declared states of emergency.**
- **§ 2.2-3708.2. Meetings held through electronic communication means during declared states of emergency.**

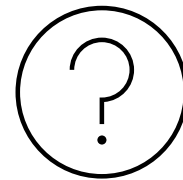
House Bill 150

- **§ 2.2-3707.2. Posting of minutes for local public bodies.**

Legislative Amendments

All Virtual Public Meetings

- Adds new “All-Virtual Public Meetings” for some Boards, Authorities and Commissions (BACs)
 - Including the Young Adults Advisory (YAA) Council
- Modifies the Remote Participation provisions
- Effective September 1, 2022
- “All-Virtual Public Meetings” are not what you think they are...



Legislative Amendments

All Virtual Public Meetings*

- Boards, Authorities, and Commissions, and their committees, may hold all-virtual public meetings **two times or 25% of meetings per calendar year, whichever is greater, and the meetings may not be held consecutively.**
- EXCEPT:
 - Local governing bodies, local school boards, planning commissions, architectural review boards, zoning appeals boards, boards with authority to deny, revoke, or suspend a professional or occupational license.
- An all-virtual meetings policy **MUST** be in place.

*** In effect until the State of Emergency is lifted**

Legislative Amendments

All Virtual Public Meetings: Requirements

- The meeting notice must indicate whether the meeting is in-person or all-virtual.
- The public must be provided access via electronic communication means.
- The public must be able to hear all members of the BAC, and when audio-visual technology is available, to see the members of the BAC.
- Live contact information (phone, email) must be provided to alert the BAC if the electronic transmission fails for the public, and the BAC must recess until public access is restored.
- A copy of the proposed agenda and agenda packets must be made available to the public electronically at the same time such materials are provided to the BAC.

Legislative Amendments

All-Virtual Public Meetings: Requirements

- If public comment is customarily received, the public must be allowed to comment through electronic means, including written comments.
- No more than two members of the BAC may be together in one location unless that location is open to the public.
- Minutes must indicate the type of electronic communication means by which the meeting was held.

Legislative Amendments

Remote Participation

"Remote participation" means participation by an individual member of a public body by electronic communication means in a public meeting where a quorum of the public body is otherwise physically assembled.

- Public bodies must adopt a remote participation policy that is strictly and uniformly applied to the entire membership, that
- Describes the processes for making requests for remote participation, obtaining approvals for requests, processes for denied requests, and clarifies the number of times a member may participate remotely.

Legislative Amendments

Remote Participation

Members of the body may participate remotely, if in advance of the meeting the chair is notified that:

- The member has a temporary or permanent disability, or medical condition that prevents physical attendance;
- The member is providing care for a family member with a medical condition that prevents physical attendance;
- The member's residence is more than 60 miles from the meeting location;
- Or the member is unable to attend the meeting due to a personal matter.

Legislative Amendments

Remote Participation

- The BAC's Chair will approve or disapprove the requesting member's request to participate from a remote location.
- Members may not use remote participation due to personal matters more than two meetings or 25% of the meetings held per the calendar year.
- No more than two members of the public body can participate from any one remote location unless the location is open and accessible to the public.
- Quorum is determined only by the number of members that are physically assembled at the meeting location.

▶ Legislative Amendments

Meetings held through electronic communication means during declared states of emergency

Public bodies may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency, or an emergency has been declared in the locality where the public body is located.

- The nature of the emergency must make it impracticable or unsafe to meet,
- or the meeting must be necessary to continue operations.

▶ Legislative Amendments

...declared states of emergency

Prior to convening a meeting by electronic means, the public body must:

- give public notice using the best available method given the nature of the emergency;
- arrange for public access through electronic communication means, including videoconferencing if already used by the public body;
- provide the public with the opportunity to comment at those meetings of the public body when public comment is customarily received.

Legislative Amendments

Meeting Minutes

Meeting minutes are to be posted to the official government public site, within seven business days of approval, at a prominent public location in which meeting notices are regularly posted, at the office of the clerk of the public body, or in the case of a public body that has no clerk, at the office of the chief administrator (Effective July 1, 2022).

- In the event of a state of emergency, minutes must note that the meeting was held by electronic communication means, and state the electronic communication means by which the meeting was held.

Legislative Amendments

Meeting Minutes

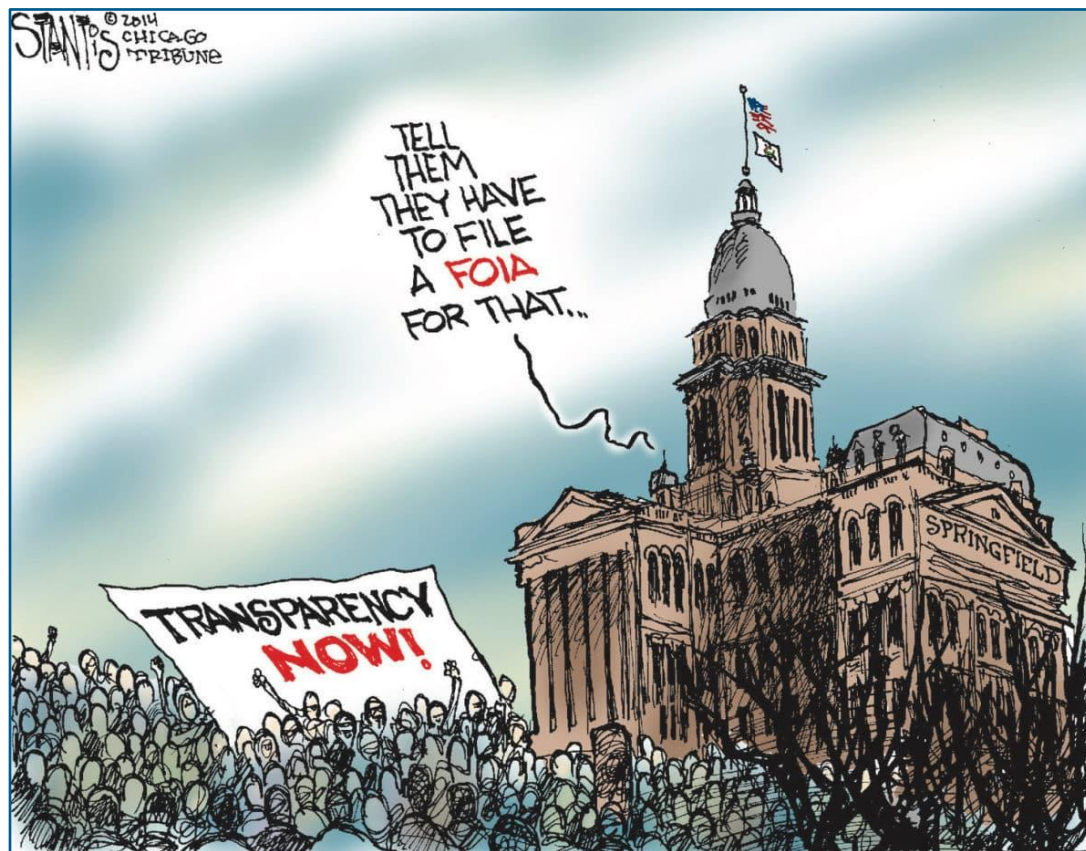
Meeting minutes must also now include:

- the identity of the members of the public body who participated in the meeting through electronic communication means;
- the identity of the members of the public body who were physically assembled at one physical location;
- and the identity of the members of the public body who were not present at the location identified who monitored such meeting through electronic communication means.

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Resources

- [VA House Bill 444](#)
- [VA House Bill 150](#)
- [Updated BACs Membership Site](#)



Questions? Comments?



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