

MEMORANDUM

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TO: Chair Phyllis J. Randall and Members  
Northern Virginia Transportation Authority

FROM: Monica Backmon, Chief Executive Officer  
Tracy Baynard, McGuireWoods Consulting LLC

DATE: October 7, 2021

RE: Updated Items for the Draft 2022 Legislative  
Program

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Staff has completed further updates to the Legislative Program based on the comments at the September meeting.

**Transportation Technology Strategic Plan and Electric Vehicles**

Revised the TTSP section to focus on the overall description.

- The detailed 2022 focus will be on electric vehicle related initiatives such as funding the Virginia Electric Vehicle Rebate Program and a possible funding or policy discussion regarding EV charging infrastructure.
- See materials related to the Virginia Electric Vehicle Rebate Program
  - Provides rebate for purchase or lease of new or used vehicles
  - An additional \$2,000 rebate provided for households make at or less than 300% of the federal poverty level.
  - \$40 million funding request to implement the program

**Revised Washington Metropolitan Area Transit Authority Section**

State and Federal sections revised to expand on request for great federal participation in funding WMATA capital and operation expenses.

**Studies that May Produce 2022 General Assembly Proposals (Bills or Funding Requests)**

Updated to reflect Authority member interest in specific elements related to implementation of any study recommendations.

- Interim update of the Virginia Energy Plan – Report due October 2021
  - To include analysis of Virginia's current EV charging infrastructure and what's needed to support 2045 net-zero carbon target
  - Ensure any funding and strategy includes specific goals for building EV charging infrastructure in low-income communities
- Office of Intermodal Planning and Investment Multi-Use Trail Study – Report due October 2021

- Prioritization process to identify new trails, a master planning process and funding needs assessment
- Ensure any project prioritization process recognizes the unique needs and opportunities in Northern Virginia, i.e. participation in the National Capital Trail Coalition or the Fairfax County Walk to School initiative
- Joint Legislative Audit and Review Commission Transportation Funding Study – Report due November 2021
- Department of Rail and Public Transportation Transit Modernization and Equity Study– Interim report due December 2021
- Department of Rail and Public Transportation Springfield to Quantico Enhanced Transit Study – report due December 2021
- Virginia Department of Transportation measurement of transportation sector greenhouse gas emission levels in the Commonwealth – December 2021

### **Authority Funding Status – Ongoing Research**

The overview describing current state of funding has not changed. The Governance and Personnel Committee asked staff to research what options there might be to make it harder to divert the Authority's funding sources.

The most frequently used “barrier” to a legislative action is to require a super majority or two-thirds vote to approve an action. From 2010 – 2013 there were multiple resolutions and bills each year to protect the Transportation Trust Fund by requiring a two-thirds vote of each body to “borrow” transportation funds for a non-transportation use. Most of the initiatives also mandated paying back the Trust Fund within 3-4 years with interest. None of these bills were adopted by the General Assembly and the public never got a chance to vote on the constitutional amendment.

Staff continues to look for other examples in the Virginia Code that create barriers to a specific action such as diversion of funding sources.

## Transportation Technology Strategic Plan (TTSP) – New Section

The Authority Transportation Technology Strategic Plan (TTSP) was developed as a tool for establishing a proactive approach to innovation, which keeps congestion reduction top of mind. The full TTSP is maintained as a living document, to reflect the continued evolution of transportation technologies and to allow Authority staff the flexibility to update and refine it as necessary. It is comprised of an Action Plan and **eight strategies that address congestion reduction, accessibility, cybersecurity/privacy, autonomous vehicles (especially zero-occupancy passenger vehicles), pricing mechanisms, communications infrastructure, regional interoperability, and electric vehicle infrastructure.**

TTSP activity will be grounded in the Authority's vision and core values including equity, sustainability and safety.

### Electric Vehicles and Electric Vehicle Infrastructure

The Authority supports expanding electric vehicle (EV) use and look forward to identifying multiple funding sources to insure electrification of all modes of transportation.

There has recently been significant movement towards and interest in Electric Vehicle (EV) technology at both the Commonwealth ([EV Readiness Study](#) and unfunded legislation to provide [rebates for purchases of personal EVs](#), and [grants for purchase of EV school buses](#)) and Federal ([Biden administration's commitment to 500,000 EV chargers](#)) levels. Several Authority member jurisdictions have adopted goals to reduce carbon emissions including conversion of transit and agency fleets to EVs. It is critical to ensure equitable access to EVs as early in adoption as possible to avoid the need for retroactive efforts.

- 2022 EV Subtopics
  - Provide \$40 million to fund and implement the Virginia Electric Vehicle Rebate Program adopted during the 2021 General Assembly session. Ensure sufficient funding is provided to the additional rebate provided to households with income at or below 300 percent of the Federal poverty level.
  - Advocate use of any new state and federal funding to help local governments transition transit system vehicles to electric motor vehicles.
  - Ensure any use of public funds to expand Virginia's electric vehicle charging infrastructure contains specific goals for low-income communities to help advance EV use.

## Virginia Electric Vehicle Rebate Program

Passed House of Delegates 54-45

Passed State Senate 21-18

Effective January 1, 2022 – January 1, 2027

Unfunded

2022 Funding Request - \$40 million

**Purpose:** Establish an Electric Vehicle Rebate Program (Program) to help increase purchases or leasing of new or used electric motor vehicles via an incentive to the buyer.

### Eligibility for the Rebate:

- Resident of the Commonwealth as of January 1, 2022
- Purchase or lease of a new vehicle with manufacturer base price of not more than \$55,000
- Purchase or lease of a used vehicle with a sale price of \$25,000 or less and 2-7 years old

### Rebate Provided:

- \$2,500 for purchase or lease of a new or used vehicle
- Additional rebate provided to a “Qualified Resident”
  - Additional \$2,000 rebate for purchase or lease of a new vehicle
  - Additional \$2,000 rebate for purchase or lease of a used vehicle

**Definition of Qualified Resident** – Resident with an annual household income that is 300% or less of the current poverty guidelines

- 2021 federal poverty level for a household of 4 = \$26,500
- 300% of the 2021 poverty household level = \$79,500

### Other matters:

- Program managed by the Department of Mines, Minerals and Energy (DMME)
- Requires DMME to establish a website for administration of the Program
- Establishes an Electric Vehicle Rebate Program Advisory Council
  - Monitor implementation of the Program and advise DMME
  - Legislative and citizen membership
- Starting July 1, 2024 25% of any unused funds at the end of the fiscal year will be used to fund EV charging infrastructure.
- DMME issues an annual report regarding implementation

# VIRGINIA'S ELECTRIC VEHICLE REBATE BILL — HB 1979 (REID)

**\$2,500  
REBATE**

Rebate received by general residents on a new vehicle

**\$2,500  
REBATE**

Rebate received by general residents on a used vehicle, not exceeding \$25,000

**\$4,500  
REBATE**

Rebate received by qualified residents on a new vehicle

**\$4,500  
REBATE**

Rebate received by qualified residents on a used vehicle, not exceeding \$25,000

Qualified residents are individuals whose annual income does not exceed 300% of the federal poverty level:

Persons in Household	100% of Poverty Level: Annual Income	300% of Poverty Level: Annual Income
1	\$12,880	\$38,640
2	\$17,420	\$52,260
3	\$21,960	\$65,880
4	\$26,500	\$79,500

## ELECTRIC VEHICLES ON THE MARKET

(Representative sample; Legislation capped at \$55,000)

Base Price – New  
\$27,000 – \$30,000

Base Price – New  
\$30,000 – \$40,000

Base Price – New  
\$40,000 – \$50,000

Base Price – New  
\$55,000+

Excluded



Nissan Leaf S



Mini Cooper SE



Chevrolet Bolt



Hyundai Kona



Kia Niro EV



Ford Mustang  
Mach-E



Volkswagen  
ID.4 AWD Pro S



Mercedes-Benz  
EQA



Jaguar I-Pace  
HSE



Hyundai Ioniq



Mazda MX-30



Volkswagen  
ID.4 Pro



Volkswagen  
ID.4 AWD Pro



Volkswagen  
ID.4 Pro S



BMW iX3



Tesla Model S  
Plaid

# VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

## CHAPTER 493

*An Act to amend the Code of Virginia by adding in Title 67 a chapter numbered 18, consisting of sections numbered 67-1800 through 67-1806, relating to electric vehicle rebate program; creation and funding; report.*

[H 1979]

Approved March 31, 2021

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 67 a chapter numbered 18, consisting of sections numbered 67-1800 through 67-1806, as follows:**

### **CHAPTER 18.**

#### **ELECTRIC VEHICLE REBATE PROGRAM.**

##### **§ 67-1800. Definitions.**

*As used in this chapter, unless the context requires a different meaning:*

*"Advisory Council" means the Electric Vehicle Rebate Program Advisory Council.*

*"Base price" means the manufacturer's base price for the lowest price trim level of the model and shall not include charges for optional equipment, taxes, title, or registration fees.*

*"Dealer" means a motor vehicle dealer licensed pursuant to Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2.*

*"Department" means the Department of Mines, Minerals and Energy.*

*"Electric motor vehicle" means a two-axle motor vehicle with a base price of not more than \$55,000 that uses electricity as its only source of motive power. "Electric motor vehicle" includes fuel cell electric vehicles.*

*"EPA" means the federal Environmental Protection Agency.*

*"Fund" means the Electric Vehicle Rebate Program Fund.*

*"Participating dealer" means a dealer who is participating in the Program.*

*"Program" means the Electric Vehicle Rebate Program established pursuant to this chapter.*

*"Purchase" means the purchase or lease of a new or used electric motor vehicle.*

*"Qualified resident of the Commonwealth" means a resident of the Commonwealth whose annual household income does not exceed 300 percent of the current poverty guidelines.*

*"Used electric motor vehicle" means a previously owned or leased electric motor vehicle that is more than two years old and not more than seven years old.*

##### **§ 67-1801. Electric Vehicle Rebate Program.**

*There is hereby established an Electric Vehicle Rebate Program for the purchase of new and used electric motor vehicles to provide an incentive to increase electric vehicle awareness and adoption in the Commonwealth. The Program shall be administered by the Department. The Department shall determine the best method to administer the Program, which may include contracting with a third-party administrator. As provided in § 58.1-2420, the Commissioner of the Department of Motor Vehicles may examine all records, books, papers, or other documents of any dealer in motor vehicles to verify the truth and accuracy of any statement or any other information relating to rebates claimed by the dealer.*

##### **§ 67-1802. Eligibility for rebate; amount of rebate.**

*A. Beginning January 1, 2022, a resident of the Commonwealth who purchases a new electric motor vehicle from a participating dealer shall be eligible for a rebate of \$2,500. A qualified resident of the Commonwealth who purchases such vehicle shall also be eligible for an additional \$2,000 enhanced rebate.*

*B. Beginning January 1, 2022, a resident of the Commonwealth who purchases a used electric motor vehicle from a participating dealer with a sale price as provided by § 58.1-2401 of not more than \$25,000 shall be eligible for a rebate of \$2,500. A qualified resident of the Commonwealth who purchases such vehicle shall also be eligible for an additional \$2,000 enhanced rebate.*

*C. Any rebate provided under this chapter shall be applied toward payment for the purchase. The participating dealer shall be reimbursed by the Department from the Fund for each eligible rebate.*

*D. Rebates available pursuant to this chapter are subject to availability of funds in the Fund.*

*E. The amount of the rebates provided under this chapter may be increased or decreased annually by the Department in an amount not to exceed the recommendation of the Advisory Council pursuant to subsection A of § 67-1804.*

##### **§ 67-1803. Program website.**

*The Department shall establish a website for the administration of the Program. The website shall include general information for the public, including details about the Program and performance metrics*

regarding the Program. The website shall also provide (i) data updated weekly regarding the availability of funds in the Fund at the time of the purchase and (ii) instructions for the dealer as to how to process a reimbursement for the rebate provided pursuant to this chapter.

**§ 67-1804. Electric Vehicle Rebate Program Advisory Council.**

A. The Electric Vehicle Rebate Program Advisory Council is established to monitor the implementation and operation of the Program and to make recommendations to the Department regarding suggested changes to the Program, including regular assessment to determine the effect of the rebate on increasing electric vehicle sales, whether the Fund allocations pursuant to subsection B of § 67-1805 should be adjusted, and whether an income cap should be established to determine the eligibility of purchasers for a rebate pursuant to this chapter. The Advisory Council shall consider the goal of increasing electric vehicle awareness and adoption in developing and making its recommendations. The Advisory Council shall annually evaluate and recommend an increase or decrease in the amount of the rebates provided under this chapter to reflect the rate of inflation, as defined by the Federal Bureau of Labor Statistics, and the relative price of electric motor vehicles compared with the price of traditional motor vehicles.

B. The Advisory Council shall consist of three legislative members and 13 nonlegislative members as follows: (i) two members of the House of Delegates, to be appointed by the Speaker of the House of Delegates; (ii) one member of the Senate, to be appointed by the Senate Committee on Rules; (iii) three nonlegislative citizen members to be appointed by the Secretary of Transportation, two of whom shall be licensed new motor vehicle dealers and one of whom shall represent a new vehicle dealer association to which a majority of new motor vehicle dealers in the Commonwealth belong; (iv) seven nonlegislative citizen members to be appointed by the Secretary of Natural Resources, two of whom shall represent environmental justice organizations, two of whom shall represent environmental advocacy organizations, one of whom shall represent a vehicle manufacturer association to which a majority of vehicle manufacturers belong, and two of whom shall represent vehicle original equipment manufacturers; (v) the Director of the Department, or his designee, who shall serve *ex officio* with voting privileges; (vi) the Director of the Department of Environmental Quality, or his designee, who shall serve *ex officio* with voting privileges; and (vii) the Executive Director of the Motor Vehicle Dealer Board, who shall serve *ex officio* with voting privileges.

After an initial staggering of terms, legislative and nonlegislative members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. Vacancies shall be filled in the same manner as the original appointments.

C. The Advisory Council shall elect a chairman and vice-chairman annually from among the members. The meetings of the Advisory Council shall be at the call of the chairman, the Director of the Department, or whenever a majority of the members so request.

D. Nonlegislative citizen members shall receive compensation and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties, as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department.

E. The Department shall serve as staff to the Advisory Council.

**§ 67-1805. Electric Vehicle Rebate Program Fund.**

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Electric Vehicle Rebate Program Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this chapter, including expenses related to the administration of the Program by the Department. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department.

B. All funds shall be allocated for the payment of rebates and enhanced rebates in this chapter. Beginning July 1, 2024, 25 percent of any unused funds remaining in the Fund at the end of the fiscal year shall be reallocated to fund electric vehicle charging infrastructure as approved by the General Assembly.

**§ 67-1806. Report.**

The Director of the Department shall report annually on or before December 1 to the Governor and the General Assembly regarding the implementation and administration of the Program and any recommendations of the Department or the Advisory Council. Each report shall include an assessment of the rebate and enhanced rebate, a recommendation on whether the Fund allocation set forth in subsection B of § 67-1805 should be adjusted, and a recommendation on whether an income cap should be established to determine the eligibility of purchasers for a rebate pursuant to this chapter.

**2. That the initial terms of the Electric Vehicle Rebate Program Advisory Council shall be**

staggered as follows: (i) of the members of the House of Delegates appointed by the Speaker, one shall be appointed for a term of two years and one shall be appointed for a term of four years; (ii) the member of the Senate appointed by the Senate Committee on Rules shall be appointed for a term of four years; (iii) of the nonlegislative citizen members appointed by the Secretary of Transportation, one shall be appointed for a term of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years; and (iv) of the nonlegislative citizen members appointed by the Secretary of Natural Resources, one shall be appointed for a term of one year, two shall be appointed for a term of two years, two shall be appointed for a term of three years, and two shall be appointed for a term of four years.

3. That the Department of Mines, Minerals and Energy, in consultation with the Electric Vehicle Rebate Program Advisory Council, as created by this act, shall develop and implement a process for verifying eligible purchasers and shall ensure that such process (i) is capable of being administered at the point of sale or lease of a vehicle, (ii) allows for the immediate determination of purchaser eligibility and the total amount of the rebate to which the purchaser is entitled, and (iii) confirms the rebate to the participating dealer.

4. That the provisions of this act shall expire on January 1, 2027.



**STATE - WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**

**(WMATA)** WMATA bus and rail services continue to support job and population growth in the Commonwealth of Virginia and Northern Virginia. The Authority, in addition to WMATA's Virginia jurisdictional partners, are on track to enhance the system through significant investments, e.g. Silver Line completion, new Potomac Yard Metro station and numerous park and ride lots along I-66. WMATA, its funding partners, stakeholders and users are at a critical crossroads as we collectively try to determine the future of this important transportation infrastructure and also protect the cumulative billions of dollars already invested by local, state and federal government, by this Authority and by the private sector.

Metrorail in particular is a significant driver of the Commonwealth's and Northern Virginia's economy. The transit system station locations are the focus of some \$25 billion in residential and commercial development and economic activity around rail facilities generates \$600 million a year in state tax revenues.

- a) **State of Good Repair:** The Authority supports legislation and funding necessary to sustain investments in transit and keep transit systems in a state of good repair, including maintaining dedicated funding for Metro.
  - i. The Authority opposes any legislation that would shift the Commonwealth's responsibility for transit funding to localities or regions.
- b) **Safety:** The Authority supports adequate funding for and oversight of WMATA as it enhances the safety and security of the system and its riders. The Commonwealth is a valuable partner in ensuring that WMATA continues to move ahead with important safety and infrastructure capital improvements in its system, and must work with the Federal Government to ensure that it, too, provides sufficient resources.
- c) **Sustainable Funding Reforms:** The Authority supports federal action to extend the annual \$150 million federal capital appropriation known as the Passenger Rail Investment and Improvement Act (PRIIA) thru 2030. *(revised position)*
  - i. Extending the \$300 million annually provided by the federal government, the Commonwealth, Maryland, and the District of Columbia, as provided in Passenger Rail Investment and Improvement Act of 2008 (PRIIA) beyond 2019 is critical. This funding addresses urgent capital needs and is especially important as WMATA works with the federal government and its state and local jurisdictions to improve safety and state of good repair issues throughout its system.

- ii. Capital and operating funding agreements among all Metro stakeholders is essential to ensuring sustainable funding for maintenance and enhancements.
- d) **Maximize Metrorail's Existing Infrastructure:** The Authority supports continued local, regional, state and federal investment in Metro that helps accommodate additional passenger growth in Northern Virginia, which is important for the entire Commonwealth and serves federal facilities in the National Capital Region.
  - i. While focusing on safety and state of good repair, the region must also work to address WMATA capacity needs that serve Northern Virginia residents and businesses and federal facilities. The region is projected to continue to grow over the coming decades, placing more pressure on a Metro system that is already nearing capacity.
  - ii. Improvements to the system's core capacity are needed to attract and accommodate additional riders. Capital and operating resources and efficiencies are critical to ensuring that these needs are addressed. (*Reaffirms previous position*)

**FEDERAL -- WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (WMATA) FUNDING:**

- a) **Reauthorizing the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) Funding and Safety:** The Authority supports WMATA's efforts to enhance the safety and security of the system and its riders, through adequate funding and oversight.
  - i. The federal government is a valuable partner in ensuring that WMATA continues to move ahead with important safety and infrastructure capital improvements in its system. The Authority calls for the federal government to approve the proposed extension of PRIIA funding at \$150 million through 2030.
  - ii. The Authority calls on the Commonwealth, Maryland and the District of Columbia to continue matching PRIIA funds up to a total of \$150 million as proposed in legislation before the U.S. Congress.
  - iii. This authorization, which must continue to be accompanied by annual appropriations, is especially important as WMATA works with the federal government and its state and local jurisdictions to improve safety and state of good repair issues throughout its system. (*Reaffirms previous position*)
- b) **Maximize Metrorail's Existing Infrastructure:** The Authority supports continued local, regional, state and federal investment in Metro that helps accommodate additional passenger growth in

**Northern Virginia, which is important for the entire Commonwealth and serves federal facilities in the National Capital Region.**

- i. While focusing on safety and state of good repair, the region must also work to address WMATA capacity needs that serve Northern Virginia residents and businesses and federal facilities. The region is projected to continue to grow over the coming decades, placing more pressure on a Metro system that is already nearing capacity.
- ii. Improvements to the system's core capacity are needed to attract and accommodate additional riders. Capital and operating resources and efficiencies are critical to ensuring that these needs are addressed.  
*(Reaffirms previous position)*

## MEMORANDUM

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TO: Chair Phyllis J. Randall and Members  
Northern Virginia Transportation Authority

FROM: Monica Backmon, Chief Executive Officer  
Tracy Baynard, McGuireWoods Consulting LLC

DATE: October 12, 2021

RE: Proposed Changes in Virginia's Open Meeting Law

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In 2021 the Northern Virginia Transportation Authority (Authority) supported additional flexibility for public bodies to hold meetings virtually. Below is the 2021 position:

### **SUPPORT ADDITIONAL FLEXIBILITY FOR VIRTUAL MEETINGS FOR PUBLIC BODIES**

Budget language that allows public bodies to hold meetings virtually has enabled the Authority to approve funding appropriations that kept transportation improvements moving forward. We support permanent flexibility to hold meetings electronically that are accessible to the public when health and safety concerns are present and examination of additional flexibility outside of states of emergencies

In 2021 the General Assembly adopted two changes to the electronic meeting statute:

- Made meeting flexibility during a state of emergency (state or local) permanent
- Added ability of a member of a public body to attend a meeting electronically if they are taking care of a member of their family.

The Virginia Freedom of Information Act Council (FOIA Council) continues to explore options for expanding flexibility for public bodies to meet virtually. On October 5, 2021 the Meetings Issues Subcommittee reached consensus on additional changes regarding electronic meetings. The changes would:

- Define three types of electronic meetings: remote participation, all-virtual public meeting and hybrid public meeting.
- List criteria for holding an all-virtual public meeting and restricts use of the all-virtual meeting to two meetings or 25% of the meetings in a calendar year, whichever is greater.
- Requires a public body to adopt a resolution or ordinance prior to allowing remote participation or holding an all-virtual meeting.

A conceptual draft of these changes is attached.

Below is our existing language on electronic meetings with suggested amendments.

**Proposed 2022 Authority language:**

The Authority supports efforts to maximize flexibilities for regional governments to conduct electronic meetings, allowing greater access to the public and opportunities for members to participate remotely outside of a declared state of emergency.

1 **§ 2.2-3701. Definitions**


2  
3 ...

adds a preference for  
in-person meetings to  
the definition section



4  
5 "Open meeting" or "public meeting" means a meeting at which the public may be  
6 present. Except as provided in 2.2-3708.2, **open meetings or public meetings are**  
7 **presumed to be in person and physically accessible by members of the public.**

ordinary, non-emergency  
meetings for ALL public  
bodies, including advisory  
and regional bodies



8  
9  
10 **§ 2.2-3708.2. Public meetings held by any public body through electronic**  
11 **communication means**


12  
13 A. For purposes of this section:

14  
15 1. "Remote participation" means when an individual member of a public  
16 body uses electronic communication means to participate in a public meeting.

17  
18 2. "All-virtual public meeting" means when a public body uses electronic  
19 communication means to conduct a public meeting and all members are  
20 participating from remote locations.

21  
22 3. "Hybrid public meeting" means a public meeting that is accessible by the  
23 public both in person and through electronic communication means, including  
24 remote participation by one or more members of the public body.


three types of  
electronic  
meetings



25  
26 B. Nothing in this section shall be construed to prohibit the holding of hybrid public  
27 meetings, to limit the use of interactive audio or video to expand public observation  
28 of meetings or to restrict any avenue for public comment at public meetings where  
29 public comment is customarily received.

30  
31 C. Individual members of a public body may use remote participation instead of  
32 attending a public meeting in person, if, in advance of the public meeting, the public  
33 body has adopted a policy as described in subsection E and the member notifies the  
34 public body chair:

This is the call-in  
section we adjusted  
last year. Not much  
change here.



35  
36 1. That the member has a temporary or permanent disability or other  
37 medical condition that prevents the member's physical attendance,

38  
39 2. That the medical condition of the member's family requires the member to  
40 provide care that prevents the member's physical attendance; or

41  
42 3. That the member is unable to attend the meeting due to a personal matter  
43 and identifies with specificity the nature of the personal matter. However, the  
44 member may not rely on this section more than two meetings or 25 percent of the  
45 meetings held per calendar year rounded up to the next whole number, whichever is  
46 greater.

47  
48 D. Any public body and the entities it creates may hold all-virtual public meetings,  
49 provided that the public body follows the same requirements for meetingshas  
50 adopted a policy as described in subsection E and:

51  
52 1. Has followed the requirements for meeting notice, including the fact that  
53 the meeting will be an all-virtual public meeting, in 2.2-3707.

54  
55 2. The all-virtual public meeting is simultaneously broadcast on the internet.

56  
57 3. All members of the public body participating in the all-virtual public  
58 meeting can be seen on video and can be heard on audio.

59  
60 4. A phone number is provided to alert the public body if the video feed fails.  
61 The public meeting should recess until the public access is restored.

62  
63 5. Agendas, agenda materials, handouts and presentations are made available  
64 to the public in electronic format for use in the meeting.

65  
66 6. The public is afforded the opportunity to comment through electronic  
67 means at those public meetings when public comment is customarily received. An  
68 opportunity to submit written comment shall be created for all all-virtual public  
69 meetings.

70  
71 7. No more than two members of the public body are together in any one  
72 remote location unless that remote location is open for the public to physically  
73 access it.

74  
75 8. Any closed session held pursuant to 2.2-3712 provides a means for the  
76 public to rejoin the all-virtual public meeting before the body votes to certify the  
77 closed session under 2.2-3712(D).

78  
79 9. The public body does not convene an all-virtual public meeting more than  
80 two times or 25 percent of the meetings held per calendar year rounded up to the  
81 next whole number, whichever is greater.

82  
83 E. Any public body that uses all-virtual public meetings as described in subsection D  
84 or allows members to use remote participation in subsection C, must first adopt a  
85 policy by ordinance or resolution that shall be applied strictly and uniformly,  
86 without exception, to the entire membership and without regard to the identity of  
87 the member requesting remote participation or the matters that will be considered  
88 or voted on at the meeting. The policy shall:

89  
90 1. Describe the circumstances under which remote participation will be  
91 allowed and the process the public body will use for requesting, approving or  
92 denying requests to use remote participation;

93  
94 2. Fix the number of times remote participation for personal matters or all-  
95 virtual public meetings can be used per calendar year; and

96  
97 3. Specify whether and how it applies to entities created by the public body  
98 and if so, which ones.

99  
100 **2.2-3708.3. Meetings held through electronic communication means during**  
101 **declared emergencies. (*note: this is existing language that I've moved into its***  
102 ***own section to separate it from e-meetings during NON-emergency times*)**  
103

104 A. Any public body, or any joint meetings thereof, may meet by electronic  
105 communication means without a quorum of the public body physically assembled at  
106 one location when the Governor has declared a state of emergency in accordance  
107 with § [44-146.17](#) or the locality in which the public body is located has declared a  
108 local state of emergency pursuant to § [44-146.21](#), provided that (i) the catastrophic  
109 nature of the declared emergency makes it impracticable or unsafe to assemble a  
110 quorum in a single location and (ii) the purpose of the meeting is to provide for the  
111 continuity of operations of the public body or the discharge of its lawful purposes,  
112 duties, and responsibilities. The public body convening a meeting in accordance  
113 with this subdivision shall:

114  
115 1. Give public notice using the best available method given the nature of the  
116 emergency, which notice shall be given contemporaneously with the notice  
117 provided to members of the public body conducting the meeting;

118  
119 2. Make arrangements for public access to such meeting through electronic  
120 communication means, including videoconferencing if already used by the public  
121 body;

122  
123 3. Provide the public with the opportunity to comment at those meetings of the  
124 public body when public comment is customarily received; and

125  
126 4. Otherwise comply with the provisions of this chapter.

127  
128 B. The nature of the emergency, the fact that the meeting was held by electronic  
129 communication means, and the type of electronic communication means by which  
130 the meeting was held shall be stated in the minutes.

131  
132 5. The provisions of this subdivision 3 shall be applicable only for the duration of the  
133 emergency declared pursuant to § [44-146.17](#) or [44-146.21](#).