

1 **VIRGINIA CODE COMMISSION**
2 ***Wednesday, July 19, 2006 - 10 a.m.***
3 General Assembly Building, 6th Floor
4 Speakers Conference Room
5 Richmond, Virginia 23219

6 MEMBERS PRESENT: R. Steven Landes, Chairman; John S. Edwards, Vice Chairman;
7 Ryan McDougle; S. Bernard Goodwyn; James F. Almand; Robert L. Calhoun; Thomas
8 M. Moncure, Jr.; Frank S. Ferguson; E.M. Miller, Jr.

9 MEMBERS ABSENT: Robert Hurt

10 STAFF PRESENT: Patricia Davis, Ken Patterson, Norma Szakal, Mary Kate Felch, Jane
11 Chaffin

12 **CALL TO ORDER AND INTRODUCTION OF NEW MEMBERS**

13 Delegate Steve Landes called the meeting to order at 10:00 a.m.

14 Delegate Landes welcomed Judge Almand to the Commission. Judge Almand
15 previously served in the House of Delegates from 1978 until July 2003. The Governor
16 appointed Judge Almand to the Commission for a four-year term beginning July 1, 2006.

17 Upon Senator McDougle's arrival, Delegate Landes welcomed him to the Commission.
18 Senator McDougle replaces Senator Mims on the Commission.

19 **APPROVAL OF MINUTES**

20 A motion was made and seconded to approve the minutes of the April meeting as
21 presented and the motion carried.

22 **PROPOSED ADMINISTRATIVE CODE CONTRACT AMENDMENT**

23 Mr. Miller presented a suggested amendment to Section III, Paragraph G of the Virginia
24 Administrative Code contract as follows:

25 G. Beginning May 1, 2001, and as soon as practicable after the publication of
26 each final annual Producer Price Index (Industry Code 2731) for Book
27 Publishing in each year following, the annual price of printed sets and volumes
28 will be negotiated not to exceed the amount reflected by the change in the said
29 index. The effective date for any Commission approved price increase shall be
30 at the convenience of the publisher.

31 The amended language provides that the publisher may annually request an increase in
32 the price of the printed sets and volumes of the Virginia Administrative Code based on
33 the final annual Producer Price Index for Book Publishing. At issue is the fact that the
34 publisher is currently required by contract to request the price increase at a specific time
35 of year at which time only a preliminary PPI may be available on which to base the
36 request. The amendment allows the publisher to make the request after the final PPI is
37 released. An additional amendment provides that the increase will become effective at a
38 time that is convenient to the publisher. The current contract provides that the adjusted
39 price will become effective on January 1 of the year following the approved increase.
40 The amendment will provide some flexibility so that the publisher can incorporate the
41 increase into its regular billing cycle.

1 Mr. Ferguson made a motion, seconded by Senator Edwards, to adopt the proposed
2 amendment to Section III, Paragraph G of the Virginia Administrative Code contract. The
3 motion was approved.

4 **DISCUSSION OF CODE OF VIRGINIA REORGANIZATION PROJECT**

5 The Commission discussed the Code of Virginia reorganization project, which was
6 intended to renumber and reorganize the code in a logical manner, identify and repeal
7 obsolete provisions, consolidate titles, and reduce the size of the code. At the last
8 meeting, the Commission discussed the apparent demise of this project based on the
9 House Rules Committee's action to PBI the savings clause legislation. The purpose of
10 the failed legislation was to establish a savings clause that would prevent certain
11 technicalities from occurring when old code section references were used. As an
12 afterthought, the Commission decided to specify in this bill that the Commission had the
13 authority to go forward with this project. Major objections to the project were that all code
14 numbers would change and the cost to agencies to update forms, computer programs,
15 documents, etc., would be expensive. For example, the Supreme Court indicated that
16 the project would cost the courts \$3.8 million.

17 It was noted that the General Assembly appropriated a significant amount of money to
18 the Supreme Court to upgrade its computer system. The question arose as to whether
19 this appropriation would lessen the impact of the code project on the Supreme Court.
20 The consensus of the Commission was to contact the Supreme Court and ask for a cost
21 assessment on the project in light of the large appropriation of funds made by the 2006
22 General Assembly and how the impact would be lessened if the project completion date
23 was extended to 2010. Mr. Miller stated that he would meet with the circuit court clerks'
24 association and with the Executive Director of the Supreme Court to see if any
25 movement can be made to garner their support.

26 The goal is to identify all objections, formulate a plan on how to proceed, and be ready to
27 conduct open discussions about promoting the project at the October Code Commission
28 meeting

29 **PROPOSED REORGANIZATION OF TITLE 53.1**

30 Mary Felch presented the proposed reorganization of Title 53.1, Prisons and Other
31 Methods of Correction. The title is in good structural shape, but a few minor changes are
32 recommended for logical placement of sections. Senator Calhoun suggested that
33 §§ 53.1-193 through 53.1-196, which deal with good conduct allowances for persons
34 convicted prior to 1942, be reviewed to determine whether these sections currently apply
35 to anyone. Mr. Miller stated that the sections would be referred to staff conducting the
36 obsolete laws project.

37 Senator McDougle made a motion to move Article 1 (§ 53.1-203 et seq.) of Chapter 7 of
38 Title 53.1 (Crimes by Prisoners) to Title 18.2. The motion was seconded by Senator
39 Edwards and was approved. Although the Commission felt that the move could be made
40 without legislation, for purposes of notification, it was felt that a bill to implement the
41 change should be introduced next session.

42 Mr. Miller suggested that staff maintain a tickler file of all suggested sections to be
43 moved into Title 18.2. The Commission could later review the sections and decide
44 whether to include them in a bill to implement the move.

1 **PROPOSED REORGANIZATION OF TITLES 32.1 AND 35.1**

2 Norma Szakal stated that Title 32.1 (Health) has grown extensively since it was last
3 recodified in 1979. Mrs. Szakal's proposal merges Titles 32.1 and 35.1 (Hotels,
4 Restaurants, Summer Camps and Campgrounds) into a single title that is divided into
5 three subtitles as follows: Subtitle I, Public Health; Subtitle II, Medical Assistance
6 Services; and Subtitle III, Programs and Health Policy Generally.

7 Although it is not noted in the proposed reorganization document, Mrs. Szakal stated
8 that the Commission might wish to consider moving all health policy issues found
9 throughout the Code of Virginia, such as advance directives, determination of death, and
10 consent for breast cancer, to the Health Policy, Generally, subtitle.

11 Several sections in Title 32.1 may be obsolete for a variety of reasons and warrant
12 further research. The following sections will be referred to staff conducting the research
13 for the obsolete laws project:

14 1. § 32.1-1 is a grandfather provision for former Title 32. It requires references to the
15 former sections to be construed to apply to the new or renumbered provision. If the
16 section is still needed, it might be better placed in an enactment clause rather than a
17 codified section.

18 2. § 32.1-11.4 deals with worksite health promotions grants program, but has never been
19 funded.

20 3. § 32.1-122.08 provides for the continuation of regulations of the Virginia Health
21 Planning Board, which was repealed in 2002.

22 4. §§ 32.1-92.1 and 32.1-92.2 deal with funding abortions in certain circumstances;
23 however, the budget prohibits any money from going towards abortion, which conforms
24 to federal law.

25 5. § 32.1-102.13 requires a transition for eliminating the requirements for determination
26 of certificates of public need to be accomplished in accordance with a plan to be
27 developed by the Joint Commission on Health Care. This section has never been
28 implemented. Staff should check with the Joint Commission on Health Care about the
29 pertinence of the statute.

30 Chapter 3, Disease Prevention and Control

31 The Commission agreed with Senator McDougle's suggestion to move proposed Article
32 8, Miscellaneous Services, which deals with hemophilia, epilepsy and cystic fibrosis, to
33 Article 13, Voluntary Program for Control of Genetic and Metabolic Diseases. Judge
34 Goodwyn noted that Articles 11, 12 and 14 do not deal with diseases and seem out of
35 place under Chapter 3. Staff will come up with a more inclusive chapter title that more
36 appropriately classifies all articles within the chapter.

37 Mrs. Szakal stated that the proposed Article 14, Youth Suicide Prevention, might be
38 better placed in Title 37.2, Mental Health and Substance Abuse. Although the
39 Department of Health is the lead agency, given the subject matter, the Commission
40 might wish to consider moving the article to Title 37.2.

41 Chapter 5, Emergency Medical Services

42 Staff suggests moving all emergency medical services provisions into one chapter, given
43 today's focus on emergency preparedness.

1 Chapter 7, Environmental Health Services

2 Staff noted that § 32.1-164.1:1 contains provisions relating to real estate, which might be
3 better placed in Title 55.

4 The Commission removed the word, "Miscellaneous" from the title of proposed Article 7.
5 The article title now reads, "Water Purity Provisions."

6 Chapter 8, Public Facilities

7 Title 35.1 has been incorporated into Chapter 8.

8 Chapter 9, Vital Records

9 Mr. Ferguson suggested moving proposed Article 6, Amendments to Vital Records, into
10 proposed Article 1, General Provisions.

11 Chapter 20, Virginia Cord Blood Bank Initiative

12 The Commission discussed the appropriate placement of Chapter 20, Virginia Cord
13 Blood Bank Initiative. Staff will review and provide recommendations for more
14 appropriate placement.

15 **PROPOSED REORGANIZATION OF TITLE 51.5**

16 Patricia Davis presented the proposed reorganization of Title 51.5, Persons with
17 Disabilities. Mrs. Davis indicated that the title is in good shape and her only
18 recommendations involve reordering chapters.

19 **DRAFT LEGISLATION REGARDING OBSOLETE LAWS**

20 Jane Chaffin presented suggested legislation that makes technical changes to the Code
21 Commission's review and reporting requirements for the amendment or repeal of
22 obsolete provisions in the Code of Virginia and the Virginia Acts of Assembly. In
23 addition, the legislation makes technical changes to the Commission's reporting
24 requirements for recommending the repeal of certain unfunded provisions identified
25 during the title revision process. Senator Edwards made a motion, seconded by Judge
26 Almand, to add "from time to time" on line 8 and to strike "possible" on line 14. The
27 motion was approved. Senator Calhoun made a motion, seconded by Judge Almand, to
28 formally draft legislation for pre-filing. The motion was approved. The legislation will be
29 prepared for signing at the next meeting.

30 **OTHER BUSINESS AND PUBLIC COMMENT**

31 Mr. Miller advised the Commission members that the Virginia Bar Association's
32 Administrative Law Council has been working on a proposal regarding the reinstatement
33 of the Administrative Law Advisory Committee (ALAC). ALAC has been out of operation
34 for at least three years. The Commission needs to be aware that a budget amendment
35 will likely be needed if it decides to act positively on the Council's proposal. About the
36 same time that ALAC was disbanded, the Code Commission signed a contract with
37 Lexis for free codes thereby reducing costs and the Code Commission budget
38 significantly. The Code Commission previously allocated about \$26,000 of its budget to
39 ALAC. At the end of the FY06, the Code Commission budget contained \$741.05 in
40 general funds. However, the Commission has \$94,000 in special funds, which comes
41 from West and Geronimo to allow access to and participation in the forum between the
42 publishers and the Code Commission's Executive Committee while integrating the acts

1 into the Code. The Chairman requested that staff develop a plan for using these special
2 funds and to bring the recommendations to a future meeting for the Commission's review
3 and approval.

4 The Chairman noted that the next meeting will be held on August 23 in Richmond. The
5 October meeting has been changed to a two-day meeting in Charlottesville. The
6 Commission will receive a brief presentation from the Lexis editors and take a tour of the
7 manufacturing facility beginning at 1 p.m. on Wednesday, October 18. On Thursday,
8 October 19, the Commission will conduct a regular business meeting beginning at 9 a.m.
9 at the Courtyard Marriott - UVA in Charlottesville.

10 No one came forward during the designated public comment period.

11 **ADJOURNMENT**

12 There being no further business, the meeting adjourned at 12:45 p.m.

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