

**VIRGINIA CODE COMMISSION**

*Wednesday, September 9, 2015 - 10 a.m.*

*General Assembly Building, 6th Floor*

*Speaker's Conference Room*

*Richmond, Virginia 23219*

1 **MEMBERS PRESENT:** John S. Edwards; James M. LeMunyon; Gregory D. Habeeb; Pamela S.  
2 Baskervill (by telephone); Thomas M. Moncure, Jr.; Robert L. Calhoun, Jr.; Christopher R. Nolen;  
3 G. Timothy Oksman; Carlos L. Hopkins; Robert L. Tavenner

4 **MEMBERS ABSENT:** Ryan T. McDougle; Charles S. Sharp; E.M. Miller, Jr.

5 **STAFF PRESENT:** Jane Chaffin, Karen Perrine, Lilli Hausenfluck, Nicole Brenner, Ryan  
6 Brimmer, Tom Stevens, Division of Legislative Services (DLS)

7 **OTHERS PRESENT:** Brian Kennedy, Director, Government Content, LexisNexis

8 **Call to order:** Senator Edwards, Chair, called the meeting to order at 10:10 a.m.

9 **Remote member participant:** Judge Baskervill called in to participate in the meeting remotely  
10 pursuant to § 2.2-3708.1 of the Code of Virginia and the Commission's policy on remote  
11 participation. Judge Baskervill reported her remote location as Sutherland, Virginia, and the nature  
12 of the personal matter as recovering from a virus.

13 **Approval of minutes:** Hearing no objection, Senator Edwards stated that the minutes of the August  
14 19, 2015, meeting of the Commission stand approved as printed and distributed to the members.  
15 Delegate LeMunyon abstained as he did not attend the August 19, 2015, meeting.

16 **2016 Code of Virginia pricing and replacement volume proposal:** Brian Kennedy, Director,  
17 Government Content, LexisNexis, explained that LexisNexis determines the volumes of the Code of  
18 Virginia to recommend to the Code Commission for replacement based on age and size of  
19 supplement. Historically, LexisNexis recommends four to six volumes for replacement each year,  
20 and the more volumes replaced, the lower the cost of the supplement. This year, the  
21 recommendation is to replace the following six volumes: Volumes 1A, 1B, 3, 4B, 5, and 5A. A  
22 proposed price increase of 5.0% is based on the Producer Price Index for Book Publishing.

23 During a brief discussion, the Commission agreed that the replacement of Volume 5, which  
24 contains Title 23, should be contingent on the passage of Title 23.1 at the 2016 session of the  
25 General Assembly. On motion of Mr. Tavenner, seconded by Mr. Oksman, the Code Commission  
26 approved (i) the replacement of Volumes 1A (Title 3.2), 1B (Titles 4.1-6.2), 3 (Titles 11-13.1), 4B  
27 (Titles 20-21), 5 (Titles 22.1-23), and 5A (Titles 24.2-28.2) in 2016 and (ii) a proposed price  
28 increase of 5.0% as shown in the following table. Mr. Nolen abstained from voting as LexisNexis is  
29 a client of his law firm.

	<b>2016 Prices with Six Replacement Volumes</b>	
	<b>State</b>	<b>Private</b>
Cumulative Supplements	174.80	226.00
Index	88.50	93.50
Replacement Volumes 1A, 1B, 3, 4B, 5, and 5A	285.00 (\$47.50 each)	355.50 (\$59.25 each)
Volume 11	36.00	47.50
Volume 11 Supplement	12.00	12.00
Advanced Code Service	N/A	72.00
<b>TOTAL</b>	<b>596.30</b>	<b>806.50</b>

30 **Compacts:** At its November 18, 2014, meeting, the Commission decided to set out the full text of  
31 all compacts in the Code of Virginia. Nicole Brenner reported on the status of the implementation of  
32 this decision at the April 6, 2015, and the May 4, 2015, meetings. She is reporting today on the  
33 three remaining compacts: the Southeastern Interstate Forest Fire Protection Compact, the Middle  
34 Atlantic Interstate Forest Fire Protection Compact, and the Nonresident Violator Compact of 1977.  
35 Ms. Brenner noted that effective July 1, 2016, the compacts volume will no longer be published. All  
36 compacts will be in the Code of Virginia and on the Virginia Law Portal.

37 At its May 4, 2015, meeting, the Commission agreed to proceed with a bill to amend the existing  
38 sections in Title 10.1 that incorporate by reference the two forest fire compacts by striking the  
39 existing language and setting out the full text of the compacts in the Code of Virginia. Ms. Brenner  
40 presented the requested bill and noted that the bill includes technical changes and a more  
41 substantive change regarding gubernatorial appointments. After discussion of the changes regarding  
42 appointments, the matter was deferred to the next meeting of the Commission to obtain input from  
43 the Governor's office.

44 Regarding the Nonresident Violator Compact of 1977, which is the only remaining uncodified  
45 compact, Ms. Brenner explained that the Department of Motor Vehicles (DMV) is looking into  
46 withdrawing from the 1977 compact and entering into the new compact; therefore, Ms. Brenner  
47 requested the Commission's approval to defer further action on the compact until next year. The  
48 Commission approved the request.

49 Senator Edwards indicated he needed to leave the meeting temporarily and turned the meeting over  
50 to Delegate LeMunyon to chair the meeting during his absence.

51 **Recodification of Title 23, Educational Institutions:** Mr. Brimmer advised that staff had planned  
52 to have 14 chapters for review on the day of the meeting, but the work group was not able to  
53 complete its review of Chapters 5, 6, and 10 regarding tuition eligibility and financial assistance.  
54 Those chapters and Chapter 7 will be presented at the Commission's October 5, 2015, meeting, at  
55 which time the Commission will have reviewed all chapters of Title 23.

56 **Proposed Subtitle II--Students and Campus: Chapter 4 (General Provisions).** Mr. Brimmer stated  
57 that most of the changes to Chapter 4 are technical. He noted that in § 23.1-405 (line 55) the  
58 references to correspondence schools and proprietary career schools are being removed, as these  
59 terms are not defined in § 23-276.1 (proposed § 23.1-213) and are not used otherwise.

60 **Previously reviewed chapters.** Mr. Brimmer reviewed proposed Chapters 14 (Christopher Newport  
61 University), 15 (George Mason University), 16 (James Madison University), 17 (Longwood  
62 University), 31 (Educational Authorities, Centers, Institutes, and Partnerships), and 32 (Museums  
63 and Other Cultural Entities), which were previously reviewed by the Commission. Chapters with  
64 new changes are discussed below:

- 65 • Chapter 14, Christopher Newport University (line 272) - The only new change is to repeal § 23-  
66 49.33 regarding sharing faculty and facilities with The College of William and Mary. Mr.  
67 Brimmer stated that both Christopher Newport University and The College of William and  
68 Mary concur with this repeal.
- 69 • Chapter 16, James Madison University (line 544) - The only new change is to repeal § 23-  
70 164.10 regarding easements. Mr. Brimmer noted that this section is unique to James Madison  
71 University, and the university agrees that this section can be repealed in light of the general

72 provision in § 23-1301. Delegate LeMunyon suggested contacting affected local governments,  
73 Rockingham Memorial Hospital, and other entities noted in the statute.

74 • Chapter 31, Educational Authorities, Centers, Institutes, and Partnerships - As requested by the  
75 Commission, the name of the entity is restored to "A.L. Philpott Manufacturing Extension  
76 Partnership," and the phrase "doing business as Genedge Alliance" is added. Regarding the new  
77 provision on lines 770-771 setting a quorum of the 24-member board at eight members, the  
78 Commission expressed concerns. Staff noted that there are other boards that have quorums  
79 specified in the Code that are less than half of the membership. For example, the Science  
80 Museum of Virginia has 15 members and a 7-member quorum, and the Virginia Museum of  
81 Fine Arts has 25-30 members with a 15-member quorum. After further discussion, the  
82 Commission retained the proposed language, leaving the provision for consideration by the  
83 General Assembly. The final report will highlight the quorum language as a substantive change.

84 • Chapter 32, Museums and Other Cultural Entities - Mr. Brimmer noted that the only new  
85 changes were in Articles 4, 5, 6, and 7 as follows.

86 ○ Article 4, Jamestown-Yorktown Foundation (line 1806): The text authorizing the chairman  
87 to appoint the executive committee has been restored. The proposed change authorized the  
88 board to appoint the executive committee, but the Jamestown-Yorktown Foundation  
89 preferred to have the chairman retain this power. Mr. Calhoun pointed out an inconsistency  
90 between line 1637 and line 1812 regarding reimbursement of nonresident members. After  
91 discussion, the Commission made no additional changes.

92 ○ Article 5, Science Museum of Virginia (lines 1978-1992): § 23.1-3212 has been restored  
93 according to the Commission's directive at a prior meeting.

94 ○ Article 6, Virginia Museum of Fine Arts (lines 2083-2121): § 23.1-3218 has been restored  
95 according to the Commission's directive at a prior meeting. On line 2088, a reference to  
96 employment of a director who is the chief executive officer was added. A substantive  
97 change was made to clarify that certain employees identified as requiring specialized and  
98 professional training are exempt from the provisions of the Virginia Personnel Act.

99 ○ Article 7: Virginia Commission for the Arts and Virginia Arts Foundation have been moved  
100 from two separate articles in Title 2.2 and combined into a single article in proposed Title  
101 23.1 because these entities share the same board.

102 Proposed change to move existing sections into Title 22.1 (Education): Mr. Brimmer stated that  
103 staff recommends moving the following existing sections from Title 23 to Title 22.1 (Education),  
104 instead of into Title 23.1, as the subject matter is more appropriate for Title 22.1.

105 • Section 23-9.1 (line 2369): The Department of Education is checking to determine whether this  
106 section authorizing the Board of Education to grant easements across lands of certain schools is  
107 obsolete. Mr. Brimmer hopes to have an answer by the next meeting. If the section is retained, it  
108 will be moved into Title 22.1.

109 • Chapter 7, § 23-51 et seq. (lines 2366-2381): The Miller School of Albemarle is a private high  
110 school. The Commission questioned why a private high school is in the Code of Virginia and  
111 asked staff to research the matter and determine if the chapter could be repealed.

112 • Chapter 26, § 23-299 et seq. (lines 2392-2733): This chapter establishing college partnership  
113 laboratory schools was enacted in 2010 and last amended in 2012. Only technical changes were  
114 made to the text.

115 Proposed change to move existing Chapter 22 (§ 23-277 et seq.) into Title 32.1 (Health): Mr.  
116 Brimmer stated that the Commission previously reviewed this chapter, and the only new change is a  
117 clarification of board member terms on lines 2784-2790. The Commonwealth Health Research  
118 Board concurs with the changes.

119 Mr. Oksman requested an update on the status of the question regarding medical privacy issues and  
120 involuntary mental commitments raised at an earlier meeting. Mr. Stevens stated that he is meeting  
121 with Allyson Tysinger of the Office of the Attorney General and will report back to the  
122 Commission.

123 **Other business:** The Chair opened the floor for other business. No new items were presented.

124 **Public comment; adjournment:** The Chair opened the floor for public comment. As there was no  
125 public comment and no further business to discuss, the Chair adjourned the meeting at 11:35 a.m.