

**VIRGINIA CODE COMMISSION**

**Monday, June 26, 2017 - 10:00 a.m.**

*State Capitol*

*House Room 3*

*Richmond, Virginia 23219*

1 **MEMBERS PRESENT:** John S. Edwards; James M. LeMunyon; Ryan T. McDougle; Gregory D.  
2 Habeeb; Carlos L. Hopkins; Leslie L. Lilley; Chris Nolen; G. Timothy Oksman; Mark Vucci

3 **MEMBERS ABSENT:** Robert L. Calhoun, Charles S. Sharp, E.M. Miller, Jr.; Thomas M.  
4 Moncure, Jr.

5 **STAFF PRESENT:** Frank Munyan, Jane Chaffin, Karen Perrine, Lilli Hausenfluck, Division of  
6 Legislative Services (DLS)

7 **OTHERS PRESENT:** David Bailey, David Bailey Associates; Robin Lind, Virginia Electoral  
8 Board Association; Tracy Howard, Voter Registrars Association of Virginia; Clara Belle Wheeler,  
9 State Board of Elections; Kathy Weaver, Virginia Employment Commission

10 **Call to order:** Senator Edwards, chair, called the meeting to order at 10:05 a.m.

11 **Approval of minutes:** The minutes of the May 15, 2017, meeting of the Commission as printed and  
12 distributed to the members were approved without objection.

13 **Request to recodify Title 24.2, Elections:** David Bailey, representing the Voter Registrars  
14 Association of Virginia, requested that Title 24.2, Elections, be placed on the list of titles to be  
15 recodified. He stated that there are many examples in the title to support the need for recodification  
16 and introduced Tracy Howard, General Registrar for the City of Radford and President of the Voter  
17 Registrars Association of Virginia. Mr. Howard stated that Virginia general registrars, the electoral  
18 board association, the 2014 Board of Elections work group, and the Board of Elections as indicated  
19 by its vote in 2016 support recodification of Title 24.2. The last recodification of this title was in  
20 1993, and many of the reasons for the 1993 recodification are applicable today. Mr. Howard stated  
21 that many obsolete and duplicate provisions exist in the Code and provided some examples. He  
22 offered the assistance of the association in the daunting task of recodification.

23 Robin Lind and Clara Wheeler provided additional examples to support recodification. Ms. Wheeler  
24 also stressed the importance of including individuals and entities that deal with election issues and  
25 the Code on a daily basis in the process.

26 Delegate Habeeb described two categories of issues: (i) existing provisions that affect the  
27 legitimacy of elections, which should be addressed now through the regular legislative process  
28 rather than waiting for the full recodification process, and (ii) other provisions that can wait for  
29 recodification. Mark Vucci indicated that DLS recognizes the need for this recodification, but the  
30 resources that would be allocated for recodification are the same resources that are needed for  
31 redistricting, which will begin in 2019 and extend through 2021. Mr. Vucci recommended that the  
32 recodification of Title 24.2 begin in the summer of 2022.

33 Senator Edwards asked if there were discrete issues that could be addressed sooner, possibly  
34 through an obsolete laws bill. Mr. Vucci stated that it may be possible to prepare an obsolete laws  
35 bill for consideration by the Commission this fall. Mr. Howard indicated that he could organize a  
36 committee and provide information for the Commission's consideration. Senator Edwards stated  
37 that the information should address obsolete provisions and obvious technical changes and not  
38 policy changes.

39 **Identification of obsolete laws under § 30-151 of the Code of Virginia: review of § 60.2-114.1:**  
40 Frank Munyan reviewed his memorandum addressing § 60.2-114.1 of the Code of Virginia, which  
41 requires an employer, at the time of initial hiring, to request that an employee disclose the existence  
42 of an income withholding order pursuant to § 20-79.1 or § 63.2-1924 of the Code of Virginia. Dawn  
43 Flora, Finance Payroll Division, City of Virginia Beach, emailed the Code Commission last year  
44 asking it to review § 60.2-114.1 as part of its ongoing review of the Code of Virginia to identify  
45 laws that are obsolete. Ms. Flora's question is whether the section is needed, given the enactment of  
46 § 63.2-1946, and per the Personal Responsibility and Work Opportunity Reconciliation Act of 1996  
47 (42 U.S.C. § 653a), mandating employers to report all newly hired and rehired employees to a state  
48 directory within 20 days of their hire date.

49 Mr. Munyan's research of this section included reviewing the drafting file, searching for formal  
50 Attorney General opinions and reported circuit court or appellate court decisions, and  
51 communicating with the Virginia Employment Commission (VEC) and the Director of Legal  
52 Operations at the Department of Social Services' Division of Child Support Enforcement. Mr.  
53 Munyan stated that his research shows that § 63.2-1946 reflects the current treatment of these  
54 matters and appears to supersede § 60.2-114.1.

55 Senator Edwards inquired if the provision should be retained and relocated to Title 63.2 of the  
56 Code. Judge Lilley stated that the section appears to be outdated and has been replaced by § 63.2-  
57 1946. At Senator Edwards' request, Kathy Weaver, Acting Chief of Benefits at VEC, spoke to the  
58 issue. She advised that states report new hires on a nationwide system, that the process is fully  
59 automated, and that paper forms are obsolete. In response to a question, Ms. Weaver advised that  
60 VEC submitted an agency legislative proposal to the administration requesting that the section be  
61 repealed; however, the recommendation was not approved as part of VEC's legislative package.

62 At Senator Edwards' request, Mr. Hopkins and Mr. Oksman will follow up with the Governor's  
63 Office and the Attorney General's Office, respectively, to determine whether either office has  
64 concerns regarding the repeal of this section.

65 At the conclusion of the meeting, Mr. Hopkins reported that the Governor's Office has no objection  
66 to the Commission proceeding with legislation to repeal § 60.2-114.1.

67 **Recodification of Title 55, Property and Conveyances:** Amigo Wade presented three chapters of  
68 Subtitle IV (Common Interest Communities) of Title 55 for review by the Commission: Property  
69 Owners' Association Act, Virginia Condominium Act, and Virginia Real Estate Cooperative Act.  
70 Members of the work group for these acts were present for questions.

71 **Property Owners' Association Act:** Mr. Wade advised that 18 of the sections in this chapter either  
72 have technical changes or no changes. Throughout the title recodification, the bill changes "and/or"  
73 to "or" since the term is inherently ambiguous and "or" means either, both, or all. Throughout the  
74 bill, changes are also made in light of rules of construction for the Code of Virginia in §§ 1-218  
75 ("Includes" means includes, but not limited to), 1-221 ("Locality" means county, city, or town...),  
76 and 1-227 (singular includes plural and plural includes singular).

77 Regarding § 55-515.2:1, lines 1159–1160, Mr. Vucci asked whether the change is substantive, as it  
78 appears to eliminate filing a petition to reform a declaration in the circuit court of a county or city  
79 where a minority part of the development is located. Ms. Walsh replied that the current language is  
80 "wherein the development," and the work group read that to mean the entire development or the  
81 greater part. Mr. Wade advised that no substantive change was intended. Senator Edwards requested  
82 that the subwork group revisit this change in light of the discussion and concern raised.

83 Virginia Condominium Act: Mr. Wade stated that 22 of the 98 sections in the chapter either have  
84 technical changes or no changes.

85 Regarding § 55-79.73:2, lines 1646–1647, Mr. Vucci requested that the change be reviewed by the  
86 subwork group, as it raises the same question presented by the change in § 55-515.2:1 (lines 1159–  
87 1160) of the Property Owners' Association Act.

88 After a brief discussion, the Commission directed staff to delete from § 55-79.101 the added  
89 language on lines 3567–3568 that reads "which shall be accompanied by a concise and explicit  
90 statement of the underlying facts supporting the finding."

91 In response to a request from Judge Lilley, Mr. Wade stated that staff will replace "this article" with  
92 specific citations in § 55-79.97, lines 3623 and 3630.

93 Regarding § 55-79.97, line 3674, Senator Edwards noted the use of "hand delivery," and Judge  
94 Lilley suggested that a definition is needed, as courts are concerned about notice. Senator Edwards  
95 requested that staff take another look at "hand delivery," and Mr. Wade indicated it will be  
96 presented to the subwork group.

97 Virginia Real Estate Cooperative Act: Mr. Wade stated that 22 sections in the chapter either have  
98 technical changes or no changes.

99 Regarding § 55-470, line 1205, Mr. Hopkins noted that the term "hand delivery" is used in  
100 subsection B. Mr. Wade indicated that staff will review each chapter for use of this term and present  
101 a recommendation to the Commission.

102 Mr. Vucci thanked Mr. Wade, Ms. Walsh, Ms. Olwine, Ms. Hausenfluck, and the rest of the editing  
103 staff for their excellent work on this complex recodification.

104 **Other business:** None.

105 **Public comment; adjournment:** Senator Edwards opened the floor for public comment. As there  
106 was no public comment and no further business to discuss, the meeting was adjourned at 1:15 p.m.