

VIRGINIA CODE COMMISSION

Monday, October 21, 2019 - 10:00 a.m.
Richmond, Virginia 23219

Minutes

Approved 12-16-19

Members Present: John S. Edwards; James A. Leftwich, Jr.; Nicole S. Cheuk; Ryan T. McDougale; Thomas M. Moncure, Jr.; Christopher R. Nolen; Samuel T. Towell; Malfourd W. Trumbo; Mark Vucci

Members Absent: Rita Davis, Leslie L. Lilley, Charles S. Sharp

Staff Present: David Barry, Scott Meacham, Sarah Stanton, Karen Perrine, Anne Bloomsburg, Lilli Hausenfluck, Stephanie Kerns, Britt Olwine, Amigo Wade, Kristen Walsh, Division of Legislative Services (DLS)

Others Present: Melissa Velazquez, Department of Motor Vehicles; Michael Skiffington, Department of Mines, Minerals and Energy; Brian Kennedy, LexisNexis

Call to order: Senator Edwards, chair, called the meeting to order at 10:02 a.m.

Approval of minutes: The minutes of the September 16, 2019, meeting of the Commission, as printed and distributed to the members, were approved without objection.

Recodification of Title 55 - technical corrections bill draft: Amigo Wade reviewed the Title 55.1 draft technical corrections bill, a typical part of a recodification process. The bill corrects typographical errors and makes other technical amendments, such as to remove unintended redundancies, relating to the revision and recodification of Title 55. The changes in the bill fall into 10 different categories, and each category of change was discussed when initially encountered in the bill. On motion of Mr. Vucci, seconded by Mr. Trumbo, the Commission approved all changes in the technical corrections bill except the change on line 254 in § 55.1-1833 regarding placement of the phrase "once perfected" as the change shown in the proposed bill was grammatically incorrect.

2020 Code of Virginia Replacement Volumes and Pricing Proposal for Volumes and Supplements: Brian Kennedy presented the annual report from LexisNexis regarding the proposal for pricing and replacement volumes and supplements for 2020. The proposed volumes for replacement are 3B (Titles 16.1-17.1 Courts), 6A (Title 38.2 Insurance), 7A (Titles 47.1-53.1 Notaries - Prisons), and Constitution. LexisNexis uses the consumer price index to guide its price increase, and from September 2018 to September 2019 the index increase was 9%. Lexis proposes a price increase of 5.0% to 5.3% based on four replacement volumes, as follows:

| 2020 Prices with Four Replacement Volumes | | |
|---|------------------|----------|
| | State Government | Private |
| Supplement | \$242.00 | \$322.35 |
| Index | \$106.50 | \$112.75 |
| Volumes (each) | \$57.35 | \$71.35 |
| Volume 11 | \$43.60 | \$57.35 |
| Volume 11 supplement | \$14.70 | \$14.70 |
| Advance Code Service | N/A | \$86.65 |
| Total | \$636.20 | \$879.20 |

In response to questions from the Commission, Mr. Kennedy stated that the price reflects a discount for more supplements and only affects the print versions of the Code of Virginia. On motion of Mr. Moncure, seconded by Mr. Towell, the Commission approved replacing Volumes 3B (Titles 16.1-17.1 Courts), 6A (Title 38.2 Insurance), 7A (Titles 47.1-53.1 Notaries - Prisons), and Constitution and the proposed pricing for 2020. Chris Nolen abstained from the vote because his firm represents the parent company of LexisNexis, although he does not do any work for the parent company.

Restructuring of § 54.1-3408 of the Code of Virginia and Related Sections: Sarah Stanton briefly reviewed the proposal for reorganizing § 54.1-3408 of the Drug Control Act of the Code of Virginia, which lists the individuals who may administer controlled substances other than prescribers, that was presented at the Commission's June meeting. Since that time, Ms. Stanton met with various stakeholders and prepared a draft bill. The proposal generally received positive feedback; however, given the scope of the bill and federal requirements overlay, Ms. Stanton requested that the Commission defer consideration of this item until next year. Staff will address the changes with the health care professional boards, regulatory or advisory, in the Department of Health Professions. The Commission approved deferring this item until 2020.

Recodification of Title 45.1, Mines and Mining: The DLS recodification team, Scott Meacham and David Barry, presented this item. Mr. Meacham reviewed items raised at the September meeting:

Chapter 5 - § 45.1-161.57 B: The recommendation is to eliminate the 15-day grace period, which is also done in mineral mining. As this change is substantive, the Commission confirmed with staff that the change will be highlighted in the executive summary in the recodification report and noted for the General Assembly. In response to a question from Mr. Vucci regarding stakeholders' concerns, Mr. Meacham stated that stakeholders are already operating as if the grace period does not exist.

Chapter 6 - § 45.1-161.311:3: The phrase "at least" is replaced with "more than."

Chapter 9 - § 45.1-161.256 D: The question was whether to use "daily" or "every day," and the determination was to use "each day."

Mr. Meacham presented staff's recommended amendments to Chapter 14.3 of Title 55, which will become Chapter 7 of Title 55.1. The Commission requested additional information or review of the following items in Chapter 7:

Article 4 - § 45.1-161.109 (lines 260-261): The Commission requested that staff verify that the grandfather clause is no longer necessary and that the chief is authorized to add standards. Michael Skiffington of the Department of Mines, Minerals and Energy stated that roof control plans must be approved by the Chief of Mines, and each change to the plan must be reapproved by the chief.

Article 6 - § 45.1-161.162 (line 634): The Commission briefly discussed removal of date "July 1, 1999" regarding mine openings and requested confirmation that this provision is no longer necessary.

Article 7 - § 45.1-161.159 (line 141): The Commission expressed a concern that changing "person" to "miner" narrows the scope of the provision. Mr. Meacham was confident this change was vetted with the work group, but he will confirm.

Article 7 - § 45.1-161.161 (line 186): Senator McDougle asked whether adding "piece" to this sentence was changing the meaning and application of the provision. Mr. Meacham stated that

under the rules of construction, "piece" includes several pieces as well as one piece. The Commission discussed whether "piece" excludes other types of equipment because "piece" may be construed to be a part of listed types of hoisting equipment. Mr. Meacham explained that "piece of equipment" means a unit of equipment, not a part of a complicated mechanism. The Commission requested that staff review and assess whether there is a better way to express a unit of equipment.

Article 8 - § 45.1-161-152 (lines 465 and 471) - Regarding overhead clearance and where limits of speed begin, Mr. Towell questioned whether the new language using "more than 18 inches" in subsection B (line 471) was consistent with the reference to 18 inches in subsection A (line 465). Mr. Meacham will review the language.

Other Business: Karen Perrine reviewed the list and content of bills requested by the Commission for the 2020 Session of the General Assembly and the need for a patron for each bill. The Commission deferred this matter until its next meeting on December 16, 2019.

Public comment, adjournment: Senator Edwards opened the floor for public comment. As there was no public comment and no further business to discuss, the meeting adjourned at 11:56 a.m.

Next Meeting: The next meeting is December 16, 2019, at 10:00 a.m.