



Virginia Code Commission

May 6, 2019, at 10:00 a.m.

Pocahontas Building, Speaker's Conference Room

codecommission.dls.virginia.gov/

The Virginia Code Commission (the Commission) met in Richmond with Senator John Edwards, chair, presiding.¹ The meeting began with introductions and opening remarks followed by presentations and discussion. Senator Edwards welcomed former Senator and Judge Malfourd W. Trumbo to the Commission. He announced that Mr. Miller's appointment will end June 30, 2019, and thanked him for his service to the Commission, both as Executive Director of the Division of Legislative Services and as a member. Mr. Miller thanked Senator Edwards and expressed his gratitude to the Commission and staff and stated that he had thoroughly enjoyed working with the Commission. Materials presented at the meeting are accessible through the [Commission's website](#).

Approval of Minutes

The minutes of the October 15, 2018, meeting of the Commission, as printed and distributed to the members, were approved without objection.

Reappoint Members of the Administrative Law Advisory Committee (ALAC) *Thomas Lisk, Chairman, ALAC*

At the request of Mr. Lisk, the Commission reappointed two members of ALAC whose terms were set to expire in May 2019: Michael Quinan, an attorney with Christian & Barton, L.L.P., and Paul Kugelman, a Senior Assistant Attorney General of the Commonwealth.

Mr. Lisk presented ALAC's work plan to continue the examination of the executive branch review of regulatory actions and guidance documents. The Commission approved the work plan.

Recodification of Title 45.1, Mines and Mining

Scott Meacham, Senior Attorney, and David Barry, Attorney, Division of Legislative Services

Mr. Meacham and Mr. Barry presented a draft work plan and the proposed organization of the new Title 45.2 (a recodification of the existing Title 45.1) and a timeline for the project. The draft work plan provides for review of approximately half of the sections in Title 45.1 this year and completion of the recodification in 2020, with submission of a bill in the 2021 Session of the General Assembly. The new title will be divided into five subtitles: Administration, Coal Mines, Mineral Mines, Oil and Gas, and Other Forms of Energy. The Commission approved the work plan and proposed organization.

¹ Members Present: Senator John S. Edwards, chair; Senator Ryan T. McDougle; Delegate James A. Leftwich, Jr., vice-chair; Rita Davis; Leslie L. Lilley; E.M. Miller, Jr.; Christopher R. Nolen; Thomas M. Moncure, Jr.; Charles S. Sharp; Malfourd W. Trumbo; Mark Vucci
Members Absent: Samuel T. Towell

Renewal of Contract for Publication of the Code of Virginia Update

Mark Vucci, Director, Division of Legislative Services

At its October 15, 2018, meeting, the Commission authorized staff to prepare a contract with LexisNexis for publication of the Code of Virginia beginning in November 2020, upon expiration of the current contract. Mr. Vucci reported that the new contract is complete and will be sent to LexisNexis and Senator Edwards for signature.

Renewal of Contract for Publication of the Virginia Administrative Code

Karen W. Perrine, Registrar of Regulations, Division of Legislative Services

Ms. Perrine stated that the current contract with Thomson Reuters West for publication of the Virginia Administrative Code expires April 30, 2020. The contract provides for renewal of the contract for a period of four years, and staff recommends renewal on the same terms as the current contract. The Commission approved renewal of the contract until April 30, 2024.

Status of Code Commission Bills for the 2019 Session

Karen W. Perrine, Registrar of Regulations, Division of Legislative Services

Ms. Perrine reported that all three bills recommended by the Commission for the 2019 Session were enacted into law by the General Assembly. The bills were: Recodification of Title 55 (SB 1080, Chapter 712), Title 15.2 "not set out" provisions with locality descriptions replaced with locality names (HB 2305, Chapter 632), and employment of the Registrar clarification (SB 1377, Chapter 362). Ms. Perrine said that all Title 15.2 (Counties, Cities and Towns) sections that are currently not set out will be set out in the July 2019 update of the Code of Virginia as previously approved by the Commission.

2019 Work Plan

Karen W. Perrine, Registrar of Regulations, Division of Legislative Services

The Commission approved the 2019 draft work plan as reviewed and presented by Ms. Perrine. The proposed plan included the Title 45.1 recodification, continued review of "not set out" sections in the Code of Virginia, and review of other sections of the Code that may benefit from restructuring.

Other Business

- At the request of Ms. Davis, Mr. Vucci reviewed criteria for a statute to be considered obsolete, such as a statute that has been deemed unconstitutional by the Virginia Supreme Court or the United States Supreme Court or a statute that has an expiration date that has passed. During the recodification or review of "not set out" or other Code sections, a section may be identified as obsolete and recommended for repeal pursuant to § 30-151 of the Code.

- Ms. Perrine reviewed the chart of Section 1 bills and enactment clauses from the 2019 Session that were assigned a section number or placed in an existing section by the Executive Committee. The patron of each bill was notified of the codification. Staff explained the basis for codifying cc. 91, 97, and 294, which expressly mandated that the State Board of Social Services adopt into regulation certain specific requirements regarding assisted living facilities. Placing grants of regulatory authority into the Code of Virginia adds transparency and clarity to the agency's regulatory process and removes any doubt about whether the regulation remains within the parameters of its authority. Codification of acts that grant agencies the authority to adopt particular regulations also occurred in 2017 and 2018.



- Mr. Vucci introduced Stephanie Kerns, Administrative and Training Coordinator, DLS, who will be attending Commission meetings as the liaison between the Commission and DLS.

Public Comment and Next Meeting

No public comment was received.

The next meeting is June 17, 2019, at 10:00 a.m.

For more information, see the [*Commission's website*](#) or contact the Division of Legislative Services staff:

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