

VIRGINIA CODE COMMISSION

Monday, August 3, 2020 - 1:30 p.m.

Electronic Meeting

Meeting Minutes

Approved 10-6-2020

Members Present: John S. Edwards; Ward L. Armstrong; Nicole S. Cheuk; Rita Davis; Leslie L. Lilley; Jennifer L. McClellan; Christopher R. Nolen; Don L. Scott, Jr.; Charles S. Sharp; Marcus B. Simon; Samuel T. Towell; Malfourd W. Trumbo

Members Absent: None

Staff Present: Maryann Horch, Senate Technology; Amigo Wade, David Barry, Scott Meacham, Emma Buck, Anne Bloomsburg, Nikki Clemons, Stephanie Kerns, Karen Perrine, Division of Legislative Services (DLS)

Others Present: Michael Skiffington, Director of Policy and Planning, Department of Mines, Minerals and Energy

Call to order: Senator Edwards, chair, called the meeting to order at 1:33 p.m. Pursuant to Item 4-0.01 of Chapter 1289 of the 2020 Acts of Assembly and due to the COVID-19 pandemic state of emergency, the meeting was held electronically over Zoom. Senator Edwards explained the procedures for voting for the meeting.

Approval of minutes: The minutes of the July 7, 2020, meeting of the Commission, as printed and distributed to the members, were approved without objection.

Review of § 5.1-178 currently shown as "Not Set Out" in the Code of Virginia: Emma Buck informed the Commission that § 5.1-178 was the only section to review during the meeting. Ms. Buck suggested the section be repealed, as the provisions of the section have been accomplished pursuant to 49 U.S.C. § 49101 et seq. Therefore, this section is no longer needed because the act has been made effective and the initial Authority members were appointed many years ago. Delegate Simon moved that the Commission sponsor a bill to repeal the section. Judge Sharp seconded the motion, and the motion passed unanimously.

Recodification of Title 45.1, Mines and Mining: Scott Meacham proposed the Commission amend the title name for 45.1 by changing it to "Mines, Minerals, and Energy." Delegate Scott moved to adopt the new title name, and Mr. Towell seconded the motion. The motion passed unanimously.

Mr. Meacham began with reviewing what the Commission previously had discussed regarding Chapter 11 of Title 45.1 about maps that were required to be submitted to the Department of Mines, Minerals and Energy as found in current subsection B of 45.1-161.292:37 (line 844 on page 31 in Chapter 11 Follow up of the meeting materials). Mr. Meacham stated the recodification workgroup found an existing section in another part of the Code of Virginia that requires every map be turned into the department, regardless of circumstance, which is the department's current practice. Therefore, Mr. Meacham suggested striking the first sentence of current subsection B to erase any conflict with existing practices and other Code sections.

Mr. Meacham presented changes to proposed Chapter 16 of Subtitle IV and Chapters 17, 18, and 19 of Subtitle V of Title 45.2. References are to current sections numbers as new Title 45.2 numbers have not been assigned.

Section 45.1-10 (line 428, page 16 of 63): Mr. Meacham recommended deleting "do so in duplicate." The provision, which required certain leases to be executed in duplicate, likely dated from an earlier era and is no longer necessary as the provision also states that the lessee will receive a copy of the executed lease.

Section 45.1-361.19 (lines 598-599, page 23 of 63): Mr. Meacham discussed striking "that are widely circulated" in the phrase "newspapers of general circulation that are widely circulated" as the phrase was redundant.

Section 45.1-361.21:1 (line 749, page 28 of 63): Mr. Meacham proposed entering the enactment date of April 13, 2010, as the enactment date is normally included in titles during codification, but was overlooked in this title when originally promulgated.

Section 45.1-361.32 (line 1275, page 48 of 63): Mr. Meacham noted that the language refers to the "end of the biennium" versus the more modern and commonly used "end of the fiscal year," and asked the Commission for insight on why "biennium" would be used in this section. Senator Edwards shared that there was a biennial budget, but it was usually revised yearly. Mr. Meacham said the language would be amended to read "end of the fiscal year" for clarity.

Mr. Meacham stated that language from Title 62.1 of the Code of Virginia would be added to as new Article 4, Drilling for Gas or Oil in the Chesapeake Bay or Tidewater Virginia, in Chapter 16, as it deals with gas and oil drilling.

Mr. Meacham covered Chapter 17 of Title 45.2, dealing with other sources of energy, and directed the Commission to Article 2, Energy and Operational Efficiency Performance-Based Contracting Act, (pages 4-10 of 58) where a number of sections from Title 11 of the Code of Virginia have been placed. Mr. Meacham said these types of amendments were typical for recodification.

Section 67-100 (line 263, page 10 of 58): Mr. Meacham pointed out this section on legislative findings, which is often not printed into the Code. He explained how the first three subdivisions were modified and subdivisions 4 and 5 were added during the 2020 legislative session. The proposal is to retain this section, although other sections on legislative findings may be recommended for repeal.

Section 67-1601 (line 703, page 26 of 58): Mr. Meacham stated that the Southwest Virginia Energy Research and Development Authority was created by the General Assembly as a "body corporate." However, the term "body corporate" is no longer standard drafting practice. Mr. Meacham recommended removing the term, which would not affect the content of the section.

Other amendments in the chapter included importing sections from Title 67 as new subsections, fixing spelling errors, and reorganizing for clarity.

Mr. Meacham said there would be one more Code Commission meeting before the workgroup would begin submitting the report on recodification.

Other business: Mr. Armstrong had two items. The first was a difference in terminology between the statute appointing a guardian for the estate of an adult versus that for a minor. The term "conservator" is used for adults, but "guardian" is used for minors. The second was the absence of a statute regarding sentencing by a judge, as compared to the statute for sentencing by a jury. Senator Edwards said the Senate Committee on Judiciary was looking into the second item, and that he will contact Mr. Armstrong regarding both items.

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 2:19 p.m.

Next meeting: Next meeting is September 8, 2020, at 10:00 a.m. by electronic means.