

**Virginia Code Commission  
Meeting Materials  
November 18, 2024**

# VIRGINIA CODE COMMISSION

*Wednesday, August 28, 2024 - 10:00 a.m.*

*Senate Committee Room C, Room 206 - General Assembly Building*

**DRAFT**

## Meeting Minutes

**Members Present:** Katrina E Callsen, Nicole Cheuk, Richard Gardiner, Michael Mullin, Christopher R. Nolen, Marcus Simon, Malfourd W. Trumbo

**Members Absent:** Steven G. Popps, Russet Perry, Charles S. Sharp, Amigo R. Wade

**Staff Present:** Holly Trice, Nikki Clemons, Erin Comerford, Meg Lamb, Keelin Cronin; Division of Legislative Services

**Others Present (Virtually):** Ryan McDougle

**Call to order:** Delegate Simon, chair, called the meeting to order at 10:06 a.m. A quorum of the commission was present in person.

Holly Trice instructed members of the public on how to submit public comments via email.

**Review of Proposed Electronic Meeting Policy under § 2.2-3708.3:** Holly Trice with DLS explained that the electronic meeting policy must be adopted at least annually. The new policy has one change, which allows 50% of the meetings in a calendar year to be virtual. Members may also appear electronically with approval and may request of the chair that a meeting to be entirely virtual.

Chair Simon clarified that there cannot be two back-to-back electronic meetings per the policy.

Chair Simon asked if there were any questions about this policy. Chair Simon asked for a motion. The motion was made, properly seconded, and a roll call vote was conducted. The motion passed.

<b>Motion to Adopt Electronic Meeting Policy pursuant to § 2.2-3708.3.</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
Katrina Callsen				1
Nicole Cheuk	1			
Richard Gardiner	1			
Meg Lamb			1	
Michael Mullin	1			
Ryan McDougle				1
Christopher R. Nolen	1			
Russet Perry				1
Steven Popps				1

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Charles S. Sharp				1
Marcus Simon	1			
Malfourd W. Trumbo	1			
Amigo R. Wade				1
Total	6		1	6

**Review and Approval of May 6, 2024, Meeting Minutes:** Chair Edwards asked for a motion to approve the draft May 2024 meeting minutes. A motion was made, properly seconded, and a voice vote was conducted. The motion carried.

At this point, Delegate Callsen arrived.

**Recodification of Title 30:** Meg Lamb of DLS introduced Keelin Cronin, who discussed the details of the recodification of Title 30. The first changes introduced included the codification of JLARC, the use of "shall" instead of "may" in language regarding the appointment of staff to legislative boards, and the expansion of a common three-year sunset for executive branch boards to include legislative collegial bodies to create parallel construction of these bodies. Ms. Lamb asked Chair Simon if the commission will vote to approve of these three changes first. Delegate Gardiner voiced concern over mandating the hiring of staff to legislative boards. Ms. Lamb responded that this change would provide clarity around HR, funding, and permanency issues. Mr. Mullin and Mr. Trumbo agreed that the nature of legislative bodies necessitated having directors appointed consistently.

Chair Simon asked if there were any objections to codifying JLARC. There were no objections. Chair Simon asked if there were any objections to changing "may" to "shall." Judge Gardiner reiterated his concern. Chair Simon asked if there were any objections to incorporating a sunset clause, noting that he would consider making the language even stronger. There were no objections.

Ms. Lamb moved on to discuss more budget items that the group suggests codifying in Title 30, including language around who makes appointments to legislative committees and balancing the number of nonlegislative and legislative members on legislative committees. Chair Simon, Judge Gardiner, and Mr. Mullin all voiced hesitation around reducing the number of nonlegislative members on committees, but agreed that making legislative members "supermembers," committee leaders, and reducing the voting privileges to a smaller number of nonlegislative members were all potential solutions to the imbalance.

Next, Ms. Lamb directed the commission to review a list of legislative committees that have memberships that can vary in size, and suggested that the recodification choose a number from that range. Chair Simon suggested leaving the Virginia American Revolution 250 Commission alone. There were no objections. Ms. Lamb then discussed the Virginia-Israel Advisory Board, which does not have a minimum number of legislators required for membership. Senator McDougle suggested leaving the Virginia-Israel Advisory Board alone as it only recently became a legislative committee after previously being an executive agency.

Ms. Cronin then walked the commission through three legislative commissions that were flagged as being obsolete: the Intercollegiate Athletics Review Commission, the Medicaid Innovation and

Reform Commission (MIRC), and the Commission on Wellness and Opportunity. Chair Simons asked about any objections to removing these three commissions; there were no objections.

Ms. Cronin then discussed opportunities to consolidate commissions, including rolling the Autism Advisory Council into the Disability Commission or redesignating the Autism Advisory Council to the executive branch; and rolling the Medicaid Innovation and Reform Commission into the Health Insurance Reform Commission. Chair Simon voiced concern over making changes to the Autism Advisory Council given its recency and the distinct nature of intellectual disabilities. The group agreed upon making no changes to the Autism Advisory Council and noted that if MIRC was removed, there was no need to consolidate it.

Finally, Ms. Lamb walked the group through the proposed new Title 30. Judge Gardiner requested that the language be broken down into more subsections, to which Ms. Lamb consented. The commission agreed that there should be another meeting before November's meeting to further discuss some of the changes.

**Proposed Law Portal Maintenance for §§ 20.03-20.10 of the Virginia Beach Charter:** Ms.

Trice clarified that the DLS was not recommending that the Code Commission repeal anything, but simply clean up the website, which includes charters as a public courtesy. Ms. Trice stated that she was contacted by multiple citizens regarding a discrepancy between a private website that displays local charters and the Virginia Beach charter that was displaying on the state's website, LIS.

Ms. Trice began walking the commission through the sections containing discrepancies due to a repealing clause, § 16.1-69.1, and the staff suggestions for how to address these on LIS.

Chair Simon clarified the issue and asked whether there were any questions. He stated that it seemed clear that at least one section of the charter was subsumed by Code, but first invited a member of the public to speak to the commission regarding the issue.

Donny Edwards, a citizen of Virginia Beach, stated that the Virginia Beach Charter was never amended lawfully because a special act cannot be amended by a general law, and that he wanted the commission to leave LIS as it is. He requested that the commission defer the matter to the next meeting. Chair Simon stated that the General Assembly has the authority through code to modify the law in a general way. Mr. Edwards stated that special acts require a supermajority, which cannot be overwritten with a simple majority, and that Virginia Beach needed to adopt changes to its charter lawfully.

Judge Trumbo questioned Mr. Edwards regarding the application of the Code of Virginia. Mr. Edwards referred to case law but did not have any and stated that he was not asking the commission to make a determination of law, but to *not* make a determination.

Judge Gardiner stated that this raised a question of constitutional law and suggested that a legislator request an Attorney General's opinion on the matter. Chair Simon had no objections. Mr. Edwards asked if the commission was going to defer, and Chair Simon explained that the commission would tell the staff not to take any action and that he would request an AG's opinion of the constitutionality of § 16.1-69.1. Mr. Edwards thanked Chair Simon for this decision.

At this point, Chair Simon noted that there was another member of the public who wished to speak.

Craig Henson, a citizen of Virginia Beach, stated that he noticed many discrepancies with the Virginia Beach charter and that Virginia Beach was obstructing his attempts to rectify the matter.

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Mr. Henson liked the suggestion to get an AG's opinion and said he felt that the law should be consistent from the state to the local level.

**Other Business:** Judge Gardiner suggested that the commission may want another meeting in the beginning of October given the substance of the meeting. Chair Simon agreed.

**Public comment:** Chair Simon asked if there were any other members of the public who desired to comment on this matter or any other matters. There were no others.

**Adjourn:** Ms. Lamb moved to adjourn the meeting. The motion was properly seconded, and a voice vote was conducted. The motion carried.

Chair Simon adjourned the meeting at 11:59 a.m.

# ***VIRGINIA CODE ANNOTATED***

	<b>2025 PRICES</b>				<b>2024 PRICES</b>			
	STATE (6 Replacement Volumes)	PRIVATE	STATE (5 Replacement Volumes)	PRIVATE	STATE (4 Replacement Volumes)	PRIVATE	STATE (5 Replacement Volumes)	PRIVATE
SUPPLEMENT	\$243.50	\$314.75	\$267.75	\$348.50	\$280.00	\$373.00	\$255.00	\$332.00
INDEX	\$128.75	\$137.00	\$128.75	\$137.00	\$128.75	\$137.00	\$122.75	\$130.50
VOLUMES (EACH)	\$66.25	\$86.50	\$66.25	\$86.50	\$66.25	\$82.50	\$55.25	\$82.50
VOLUME 11	\$52.75	\$70.00	\$52.75	\$70.00	\$52.75	\$70.00	\$50.25	\$66.25
VOLUME 11 SUPP	\$17.75	\$17.75	\$17.75	\$17.75	\$17.75	\$17.75	\$17.00	\$17.00
ADVANCE CODE		\$105.25		\$105.25		\$105.25		\$100.25
SERVICE								
<b>TOTAL</b>	<b>\$906.50</b>	<b>\$1163.75</b>	<b>\$798.25</b>	<b>\$1111.00</b>	<b>\$744.25</b>	<b>\$1011.25</b>	<b>\$776.25</b>	<b>\$1058.50</b>

(STATE GOVERNMENT PRICING FOR PURCHASES OUTSIDE OF THE CODE COMMISSION PURCHASE)

The PPI has increased 11.7 % over the past year. The proposed price increase above reflects a \_\_\_\_ increase.

VIRGINIA										
2025 Replacement Volume Analysis										
Volume	Titles	Last replaced	BV pages	Current Supp pages	Supp to BV %	Estimated RV pages				
	<b>Constitutions</b>	2020	386	34	9%	412				
<b>1</b>	<b>1, 2.2</b>	2022	1192	292	24%	1,411				
<b>1A</b>	<b>3--3.2</b>	2023	620	32	5%	644				
<b>1B</b>	<b>4.1--6.2</b>	2021	1000	170	17%	1,128				
<b>2 Part I</b>	<b>§§ 8.01-1 to 8.01-327.2</b>	2024	792	0	0%	792				
<b>2 Part II</b>	<b>§§ 8.01-328 to End</b>	2024	778	0	0%	778				
<b>2A</b>	<b>8.1A--8.13</b>	2015	1043	142	14%	1,150				
<b>2B</b>	<b>9.1, 10.1</b>	2023	776	61	8%	822				
<b>3</b>	<b>11--13.1</b>	2021	784	44	6%	817				
<b>3A Part I</b>	<b>§§ 15.2-100 to 15.2-2833</b>	2018	916	324	35%	1,159				
<b>3A Part II</b>	<b>§§ 15.2-2900 to end</b>	2018	511	146	29%	621				
<b>3B</b>	<b>16.1, 17.1</b>	2020	788	232	29%	962				
<b>4</b>	<b>18.2</b>	2021	1410	245	17%	1,594				2024 Replacements:
<b>4A</b>	<b>19.2</b>	2022	954	156	16%	1,071				2 Pt 1
<b>4B</b>	<b>20, 21</b>	2016	734	196	27%	881				2 Pt 2
<b>5</b>	<b>22.1, 23.1</b>	2021	960	297	31%	1,183				6
<b>5A</b>	<b>24.2--28.2</b>	2023	772	61	8%	818				9 Pt 1
<b>5B</b>	<b>29.1--32.1</b>	2018	939	447	48%	1,274				9 Pt 2
<b>6</b>	<b>33.2--37.2</b>	2024	1130	0	0%	1,130				
<b>6A</b>	<b>38.2</b>	2020	1360	172	13%	1,489				
<b>6B</b>	<b>40.1--45.2</b>	2021	778	74	10%	834				
<b>7</b>	<b>46.2</b>	2022	1228	192	16%	1,372				
<b>7A</b>	<b>47.1--53.1</b>	2020	818	156	19%	935				
<b>7B</b>	<b>54.1</b>	2023	980	211	22%	1,138				
<b>8</b>	<b>55.1--57</b>	2022	1382	269	19%	1,584				
<b>8A</b>	<b>58.1</b>	2022	1422	208	15%	1,578				
<b>9 Part I</b>	<b>59.1</b>	2024	730	0	0%	730				
<b>9 Part II</b>	<b>60.2--62.1</b>	2024	719	0	0%	719				
<b>9A</b>	<b>63.2--64.2</b>	2023	988	92	9%	1,057				
<b>9B</b>	<b>65.2--67</b>	2017	796	100	13%	871				
<b>10</b>	<b>Tables</b>	2015	693	122	18%	785				
<b>11</b>	<b>Rules of Virginia Supreme Court</b>	2024	1262	0	0%	1,262				
	<b>Legal Ethics Opinions 1</b>	2002	639	84	13%	702				
	<b>Legal Ethics Opinions 2</b>	2013	955	170	18%	1,083				



# GENTRY LOCKE

Attorneys



## *Noah P. Sullivan*

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**Noah Sullivan** has a diverse litigation practice, focused on high-stakes commercial, government, and regulatory litigation. Noah has deep litigation experience in federal and state courts across the nation. Prior to joining Gentry Locke, Noah cut his teeth for over nine years at the Washington, D.C. office of Gibson, Dunn & Crutcher LLP. He also previously served as Deputy Counsel and then Counsel to Governor Terry McAuliffe of Virginia. At Gentry Locke, Noah combines his commercial litigation experience and Virginia-government experience to help clients navigate their most significant litigation, regulatory, and government-facing challenges.

### Education

- Stanford Law School, J.D.
- University of Virginia, B.A. with Highest Distinction

### Representative Experience

- Represented clients in numerous cases in federal and state courts, tackling significant matters on a broad spectrum of legal and factual issues, including:
  - Obtaining dismissal of declaratory judgment action on exclusive and primary jurisdiction grounds, in a case brought by a major railroad that was represented by a renowned Washington, DC firm.
  - Litigating trademark dispute on behalf of plaintiff in the Eastern District of Virginia, leading to favorable global settlement.
  - Obtaining full defense victory for client in arbitration proceeding arising from tax dispute in a multi-billion dollar transaction.
  - Representing major insurance company in series of cases primarily pending in South Carolina state court related to novel theories of liability in asbestos exposure cases.
  - Defending large retail company in series of wage and hour litigations and arbitrations.
  - Representing Canadian lumber producer in countervailing duties dispute before the Department of Commerce and bi-national review panels.
  - Convincing Department of Health and Human Services to reverse decision to suspend a provider from Medicare program, at the very beginning of the administrative appeal process.
  - Successfully navigating a thorny and complex dispute between numerous primary care providers against a major health insurance provider regarding their participation agreements.
  - Conducting discovery and preparation for retrial in False Claims Act case brought by the United States against a major government contractor, which led to favorable settlement.
  - Representing rail carriers in significant proceedings before the Surface Transportation Board.
  - Defending multiple medical practices in dispute with insurance company regarding termination and amendment rights, involving complex federal and state legal issues.
  - Representing technology company in appeal of major trade-secrets judgment on appeal to the Virginia Court of Appeals.
  - Obtaining reversal of multi-million-dollar False Claims Act judgment in the U.S. Court of Appeals for the Seventh Circuit.
  - Representing non-profit hospital in appeal of enormous False Claims Act judgment in the U.S. Court of Appeals for the Fourth Circuit.



- Representing health care company in multi-jurisdictional health care fraud investigation.
- Conducting internal investigation on behalf of client in response to sexual misconduct scandal with top executive.
- Noah also maintains an active pro bono practice, which has included defending indigent litigants facing criminal charges in the Eastern District of Virginia and representing plaintiff in Section 1983 suit against locality in the District of Maryland.
- Served as chief legal advisor to the Governor of Virginia and Cabinet on all aspects of state government, including:
  - Overseeing review of all regulatory actions pending before executive branch agencies and took lead role in legislative efforts related to the Virginia Administrative Process Act.
  - Reviewing legislation passed by the General Assembly, as well as developing executive orders and directives to advance the Governor's priorities.
  - Developing legal framework and litigation strategy for Governor's historic restoration of rights program, which successfully restored voting rights to over 175,000 ex-felons in Virginia.
  - Advising Governor and Secretary of Public Safety and Homeland Security on issues surrounding 2017 white nationalist rally in Charlottesville, Virginia and follow-on executive orders and actions.
  - Litigating remedial plan in Congressional redistricting case on behalf of Governor McAuliffe, which resulted in Governor's advocated creation of second minority opportunity district in Virginia.

\* Some Representative matters reflect work prior to joining Gentry Locke

## Affiliations

- Member, Virginia State Bar
- Member, District of Columbia Bar
- Member, Virginia Bar Association
  - Serve on Administrative Law Section Council
- Member, Richmond Bar Association
  - Serve on Pro Bono Committee

## Awards

- Rated AV Preeminent by Martindale-Hubbell

## Publications

- Article, "The Return of Divided Government in Virginia: The State Budget as Ground Zero for the Power Struggle Over Virginia, Perhaps Headed to the Supreme Court of Virginia" - *Gentry Locke Website*, March, 2024.
- Article, "Supreme Court of Virginia's Vlaming Decision is a Legal Earthquake with Major Implications for Virginia Businesses, Organizations, and Government Entities" - *Gentry Locke Website*, February, 2024.
- Article, "Pro-Employee Whistleblower Standard Embraced by SCOTUS" – *Gentry Locke Website*, February, 2024.
- Article, "The Executive View: Virginia Regulatory Process, Appeals, and Lessons Learned from the Inside" – *Gentry Locke Website*, January 2024.
- Article, "Major Administrative Law Decisions by the Virginia Supreme Court Tightens Agency Scrutiny, Increasing Likelihood of Delays, Remands, and Further Litigation in Contested Regulatory Matters" – *Gentry Locke Website*, June, 2022.
- Virginia Administrative Law Update, University of Richmond Law Review Annual Survey (forthcoming)