

**REPORT OF THE
DEPARTMENT OF
INFORMATION TECHNOLOGY ON**

Teleconferencing by Public Bodies

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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COMMONWEALTH of VIRGINIA

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January 1, 1992

MEMORANDUM

TO: The Honorable Lawrence Douglas Wilder, Governor of Virginia and
Members of the General Assembly

FROM: J. Westwood Smithers, Jr.

In 1989, the General Assembly enacted § 2.1-343.1 of the Code of Virginia to establish an experimental program which authorized public bodies of the Commonwealth to conduct electronic meetings, and that program was extended by the 1991 Session until June 30, 1992. Chapter 358 of the 1989 Acts of Assembly, as amended by Chapter 473, 1991 Acts of Assembly, requires the Director of the Department of Information Technology to report to the Governor and the 1992 Session of the General Assembly on the results of this program.

I am pleased to submit herewith the Department's report which finds that agencies participating in this program valued the opportunity to save time and money through electronic meetings, and that the conduct of those meetings did not abuse the statutory safeguards designed to ensure adequate public notice of and access to these meetings. As the report indicates, I recommend that the statutory authority enabling meetings through teleconferencing be made permanent so that more agencies and institutions in the Commonwealth can benefit from this technology and the cost savings it can offer in future years.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "J. Westwood Smithers, Jr.", written in dark ink.

J. Westwood Smithers, Jr.

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Executive Summary

Until 1989, the Virginia Freedom of Information Act (FOIA) prohibited public bodies from conducting electronic meetings. In 1988, a joint subcommittee studying the FOIA recognized that advances in technology could enable groups to “meet” in new ways, and it agreed to recommend a trial period for meetings via teleconference. Public bodies participating in the experiment would have to adhere to certain rules – giving advance notice and recording the meeting, for example, to protect the public’s right of access – but other than that were free to choose audio or video teleconferencing, or a combination of both. Originally, the trial period was to last two years, followed by a report on the results at its end; the experiment, however, was extended to three years by the 1991 General Assembly.

The results so far have been favorable. There have been no significant problems or abuses, and all users have given teleconferencing satisfactory reviews. During the first 28 months of the experimental program, 12 agencies held 17 meetings electronically, saving the state approximately \$13,555 in costs which would have been incurred in traditional face-to-face meetings. All participants reported that they would use teleconferencing again, for reasons which ranged from costs savings and convenience to expediency. No complaints were received, and the terms of the program were generally adhered to.

The recommendation of the Department of Information Technology (DIT), found on page 8, favors teleconferencing as a permanent option for meetings under the FOIA.

Background

In 1988, a joint subcommittee studying the Virginia Freedom of Information Act agreed to recommend a two-year experimental period for teleconferencing use by public bodies. Since 1984, public bodies subject to the FOIA had been prohibited from conducting electronic meetings by legislation stemming from the Virginia Supreme Court decision in Roanoke City School Board v. Times-World Corporation, et al., 226 Va 185, 307 S.E. 2d.256 (1983).

In that case, the Roanoke Times charged that it was denied access to a Roanoke City School Board meeting conducted via a telephone conference call. The court’s 4-3 decision favored the School Board, with the majority holding that it did not violate the FOIA. The court held that a telephone conference call did not constitute a “meeting” because the members were not physically

assembled. In deciding the case, the court concluded "that in its enactment of the Freedom of Information Act, it was not the intent of the General Assembly of Virginia that a telephone conference call between members of a public body be construed as a 'meeting' of the members. If the legislature decides that such calls should be within the ambit of the Act, it will be a simple matter for the statute to be amended."

As a result, a House of Delegates subcommittee studying the FOIA reconvened and recommended legislation prohibiting public meetings through telephonic, video, or other electronic communications means for the discussion or transaction of public business. The prohibition was enacted in 1984 as § 2.1-343.1 of the Code of Virginia. Nevertheless, the subcommittee did recognize the potential future value of teleconferencing as an efficient and economical tool for such administrative purposes as staff briefings and interviews.

The 1988 Subcommittee

Delegate Ralph L. Axselle, Jr., who chaired the 1983 subcommittee, again chaired a 1988 joint subcommittee studying many aspects of public access to government records and meetings under the FOIA. Recognizing that communications technology had developed rapidly in the years since the last study, the subcommittee re-opened the question of electronic meetings for public bodies. The news media, originally the strongest opponent to electronic meetings, also recognized inevitable changes in the use of electronic communications. The Virginia Press Association and the Virginia Association of Broadcasters expressed support for such meetings with certain restrictions. As a result, a compromise recommendation consisting of a two-year experimental program for the use of teleconferencing by state public bodies was enacted by the 1989 Session of the General Assembly.

The new program was limited to "public bodies of the Commonwealth" which included any state government authority, board, bureau, commission, district or agency, but excluded units of local government. Notice of a meeting held by teleconference was required to be publicized at least 30 days in advance, with all locations for the meeting made accessible to the public. The amendment limited the number of teleconference meetings held by a public body to no more than 25 percent of all meetings held per year.

The amendment also required every public body meeting by teleconference to provide notice and a summary of the meeting to DIT. It required DIT, at the end of the experimental period, to

evaluate and report on the effectiveness of the program to the Governor and the General Assembly. The original trial period extended from July 1, 1989 until June 30, 1991, with a final report due in January, 1992. This period was extended to June 30, 1992 by the 1991 General Assembly to prevent a gap in service between the end of the experiment and the final report.

Teleconferencing in Virginia Today

Because teleconferencing is a relatively new technology, many potential users are not aware of its capabilities and potential applications. One purpose of the experimental program was to demonstrate how teleconferencing can be applied within the context of state government. Despite its novelty, this technology is already established and widely used by government and businesses in Virginia and throughout the world.

A teleconference is simply an electronic meeting between two or more people, whether that meeting takes place over telephone lines or in a "full-motion" video teleconference. It is a straightforward, efficient tool which allows flexible options for communication without wasted time and expense. It is one of the best means available for dealing with time and travel restrictions and diminishing financial resources, especially at a time when the need for improved communication and productivity is more important than ever.

Audio Teleconferencing: Audio teleconferencing within state government is provided by DIT's electronic bridging devices, which can support up to 136 phone lines in 30 different, simultaneous conferences. By bringing remote locations together, users hundreds or even thousands of miles apart may hold staff meetings, teach courses, discuss critical issues, and perform training. It is as simple as being at a telephone – anywhere. The service is cost-effective because it is inexpensive (only 2 cents per minute plus any long-distance charges), and saves users the time and travel costs they would otherwise incur if they were to conduct face-to-face meetings.

Because of both convenience and low cost, audio usage has grown at a quick pace since it was first introduced in Virginia in 1982. In 1990 alone, nearly 2,000 administrative conferences were held through the state's electronic bridging system, under DIT's coordination. (See Figure 1.)

Audio teleconferencing is also used to support one of Virginia's fastest growing technologies – video teleconferencing. As the "talk-back" tool for participants in a video teleconference, audio lets users ask questions or make comments to any other participants, no matter how remote their location.

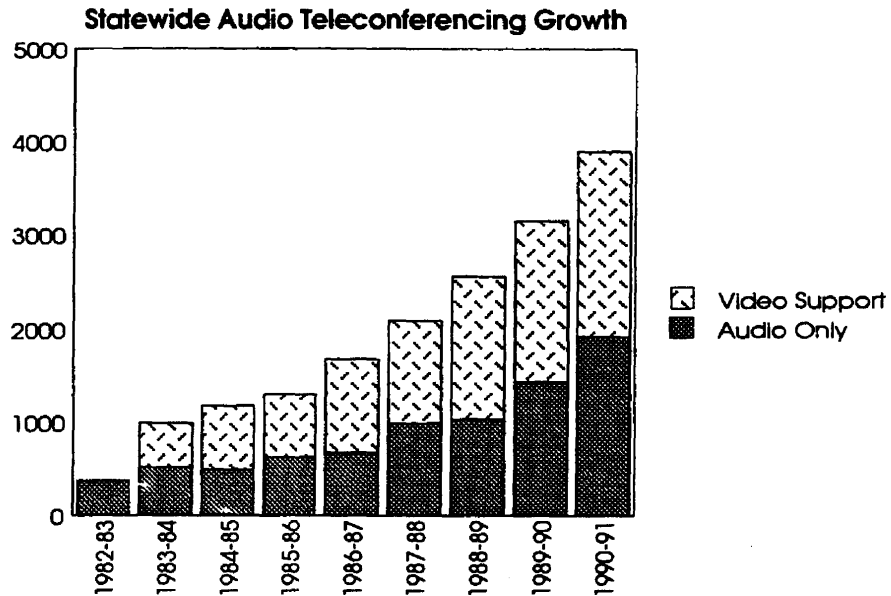


Figure 1

Video Teleconferencing: Video teleconferencing is used for training, administrative and other purposes – wherever large numbers of people spread across the state or nation must hear and see the same information at the same time. For example, local schools and state institutions of higher education use video teleconferencing to share courses among geographically dispersed locations. A prime illustration is the Graduate Engineering Program, originating at Virginia Tech in Blacksburg and at the University of Virginia in Charlottesville. This program has successfully offered instruction via teleconferencing to other Virginia campuses since 1984.

The technologies used to carry administrative, training and education “meetings” across the state include microwave, satellite, open broadcast and Instructional Television Fixed Service (ITFS), or combinations thereof – depending on the application and the audience to be reached. The backbone of the video network and many of its components are provided by Virginia’s public television (PTV) stations. The five primary stations and their transmission repeaters are in a star network, connected by microwave links; all state and PTV resources connect into this network by either microwave or fiber optic lines.

Video origination centers (studio-like television facilities for originating interactive programming) are available at four state universities, two community colleges, three high schools, the five

PTV stations and DIT. The DIT Executive Teleconferencing Center is designed for the dedicated use of state government.

Until recent years, most video teleconferencing in Virginia was educational in nature. As availability of facilities has grown, however, so, too, has the variety of its applications – expanding into training, agency staff meetings, vendor/client demonstrations, etc. In fiscal year 1983-84, when DIT first tracked video teleconferencing usage, 503 events were recorded; in fiscal year 1990-91, there were 3,924 events. (See Figure 2.)

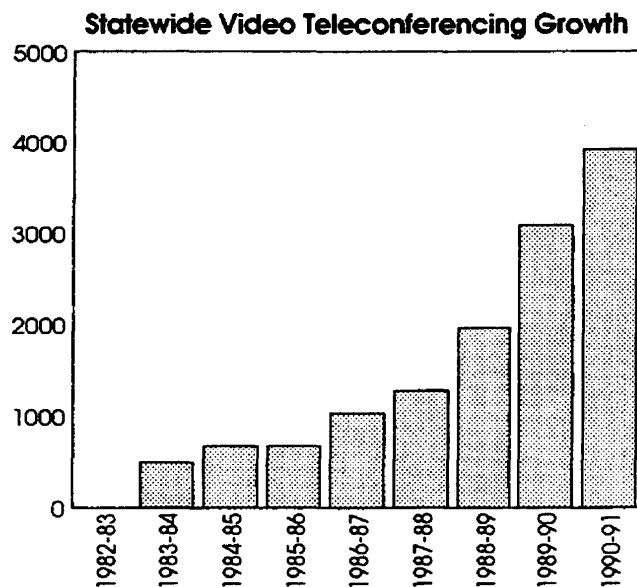


Figure 2

Electronic Meetings Under the Experimental Program

Following is a breakdown, in terms of usage, of the electronic meetings held under the FOIA experimental program since July 1, 1989. User response indicates that, while teleconferencing is still a young technology, it is capable of becoming a more important tool for conducting the state's business. Greater utilization will help lower costs even further for all users – and it will also provide better communications among users across the state.

Figure 3

**Boards and Commissions Using Teleconferencing During
the FOIA Trial Period – Reports Received as of 11/26/91**

| Body Meeting | Number of Meetings | Medium | Number of Remote Sites | Number of Attendees | Estimated Savings |
|---|---------------------------|---------------|-------------------------------|----------------------------|--------------------------|
| Virginia Public Telecommunications Board | 4 | audio | 33 | 55 | \$2,060 |
| Lottery Board | 1 | audio | 5 | 10 | \$ 390 |
| State Library Board | 1 | audio | 5 | 9 | \$ 650 |
| Board of Contractors | 1 | audio | 7 | 11 | \$1,000 |
| Board for the Visually Handicapped | 1 | video | 12 | 60 | NA* |
| Board for Geology | 1 | audio | 6 | 7 | \$1,000 |
| MHMR/SAS Board | 1 | audio | 8 | 10 | \$1,000 |
| Virginia Community College System | 3 | audio | 15 | 54 | \$3,700 |
| Real Estate Appraiser Board | 1 | audio | 8 | 9 | \$1,000 |
| Real Estate Board | 1 | audio | 3 | 5 | \$1,000 |
| Board for Accountancy | 1 | audio | 5 | 7 | NA* |
| College of William & Mary Board of Visitors | 1 | audio | 5 | 12 | \$1,755 |

**Not Applicable; advantage of teleconference was realized in terms of accessibility and service to recipients.*

Note: Information as accurate as possible based on data provided by users.

Findings

During the first 28 months of the experimental program, 17 meetings were held electronically by 12 public bodies of the Commonwealth, including the College of William and Mary's Board of Visitors, the Lottery Board and the Virginia Public Telecommunications Board. Because traditional costs for travel and related expenses were not incurred, the average cost saving per meeting was \$904, a total of \$13,555 for the meetings held during the experimental period.

All but one of the meetings were held by telephonic means, i.e., audio only; the exception was held by video between two sites. The meetings were conducted in a normal manner, and minutes were taken at all the meetings as required. Votes were taken at 11 of the meetings, and 10 of the meetings were tape recorded for the benefit of the members and the public. (Due to error, two of the meetings were not recorded, but minutes were taken.) All users restricted their electronic meetings to within the 25 percent requirement.

There was general satisfaction with the meetings, and all of the participants indicated that they would definitely use teleconferencing again. Some cited its cost effectiveness in light of budget constraints, while others were impressed with its usefulness in emergency situations, indicating that they would reserve it primarily for that use.

During the experimental period, no complaints were voiced by any of the participants, the news media or others interested in the meetings, and no significant problems or abuses occurred. Overall, the experiment has demonstrated a useful, cost-effective approach, and a promising alternative to traditional face-to-face meetings for public bodies.

Recommendation

The Department of Information Technology recommends that the General Assembly amend the Freedom of Information Act to permanently authorize electronic meetings under the same conditions established in the experimental program. A draft bill to that effect is set forth in the Appendix. Implementation of this recommendation would allow for continuing use of the technologies available, saving the state time and resources, and affording Virginia's public bodies an additional tool to conduct business for the benefit of the Commonwealth and her citizens.