VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

COMMONWEALTH OF VIRGINIA

Delegate Marcus B. Simon, Chair
Senator Mamie E. Locke, Vice-Chair

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VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

Wednesday, December 4, 2024 - 1:00 PM
House Room A, General Assembly Building
Richmond, VA

Note: This meeting will be held in person and live streamed at
https://virginiageneralassembly.gov/house/committees/commstream.html

SUGGESTED AGENDA
ANNOTATED

1. **Call to Order; introduction of members.**

2. **SB 324 Workgroup Report.** *The third enactment clause of SB 324 (Roem, 2024) directed the formation of a workgroup "to examine the current FOIA provisions on charges and make recommendations on ways to amend such provisions to make the assessment of charges by public bodies for the production of public records more uniform, more transparent, easier to understand, and less costly." The workgroup has met seven times this year and has by consensus has recommended a guide to Best Practices for Making Requests which has been published on the Reference Materials webpage of the Council website. The workgroup also considered draft legislation as summarized below:*

    - **Virginia Freedom of Information Act; procedure for responding to requests; charges; posting of notice of rights and responsibilities.** Limits the fees charged for producing public records to the median hourly rate of pay of employees of the public body or the actual hourly rate of pay of the person performing the work,

whichever is less, and provides that a public body may petition a court for relief from this fee limit if there is no one who can process the request at the median hourly rate of pay or less. The bill makes corresponding amendments to the required statement on charges in the notice of rights and responsibilities that must be posted on a public body's website. The bill also amends existing law providing that a public body may petition a court for additional time to respond to a request for public records to allow such petitions to be heard in either general district or circuit court, to give such petitions priority on the court's docket, and to toll the response time while such a petition is pending before a court. The bill makes technical amendments, including moving provisions regarding charges for the production of public records into a separate section of the Virginia Freedom of Information Act.

However, while some participants expressed support for the draft legislation, the work group did not establish consensus on it as several participants indicated that organizations they represent either were divided or had not yet taken a position on the draft.

As directed by SB 324, "The work group shall complete its meetings by November 30, 2024, and present its findings and recommendations for consideration by the FOIA Council at its meeting in December 2024. The chairman of the FOIA Council shall submit to the Division of Legislative Automated Systems an executive summary of the work group's findings and recommendations with any additional comments by the FOIA Council no later than the first day of the 2025 Regular Session of the General Assembly. The executive summary shall state whether the FOIA Council intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website." Staff has prepared an executive summary and report for the Council's consideration.

3. **Legislative Preview.** *Each year the Council makes itself available to interested parties as a forum for legislative proposals involving FOIA or other access-related issues. By acting as a forum, the FOIA Council hopes that all persons interested in proposed FOIA amendments will be informed of these proposed amendments well in advance of the next session of the General Assembly and have the opportunity to address any disagreements or other issues before the next session.*

4. **Staffing Proposal; discussion.**

5. **Other Business.**
    - **Virginia Association of Counties (VACo); impact of FOIA requirements on local governments during public emergencies.** *Please see "VACo FOIACouncilChairLetter24" included with today's meeting materials for full background.*

    - **General District Court Benchbook & FOIA Procedure for Petitions for Mandamus or Injunction.** *Please see "VFOIA Council Issue Presentation (11-27-24)" prepared by citizen Theodore Marcus, Esq., included with today's meeting materials for full background.*

6. **Public Comment.**

7. **Set Future Meeting Dates.**

8. **Adjournment.**

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Council Members

Delegate Marcus B. Simon, Chair	**Senator Mamie E. Locke, Vice- Chair**
Senator Richard H. Stuart	**Delegate Elizabeth B. Bennett-Parker**
Dennis Clark	**Amigo Wade**
Ryan Ferguson	**Chidi James**
Maria J.K. Everett	**Ken Reid**
Corrine Louden	**Lola Rodriguez Perkins**
Lindsay Fisher	**Jon Burkett**

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The FOIA Council's website is: http:// foiacouncil.dls.virginia.gov. To assist us in providing Internet dissemination of materials, presenters are requested to submit written comments and handouts in electronic format by email to staff prior to meetings. Presenters are also requested to bring 20 copies of their remarks or handouts to meetings. These copies will be provided to FOIA Council members and the public.
E-mail: foiacouncil@dls.virginia.gov.