



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL
COMMONWEALTH OF VIRGINIA

Senator Richard H. Stuart, Chair
Delegate Salvatore R. Iaquinto, Vice Chair

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March 18, 2013



***VIRGINIA FREEDOM OF INFORMATION
ADVISORY COUNCIL***

**Monday, March 18, 2013 - 1:30 p.m.
House Room D, General Assembly Building**

**SUGGESTED AGENDA
*ANNOTATED***

- 1. Call to Order, and Introduction of members.**
- 2. Recap of FOIA and Related Access Bills from 2013 Session of General Assembly.** *Note that this update will be preliminary in nature, as the 2013 Reconvened Session is scheduled for April 3, 2013, and the Governor has not yet acted on all of the access-related bills that were passed by the General Assembly.*
- 3. Bills referred to Council for study by 2013 Session of General Assembly:¹**
 - A. HB 2032 (May)--Freedom of Information Act; electronic meetings.
 - B. HB 2125 (Keam)--Virginia Freedom of Information Act; requests for records.

¹ Summaries of each of the bills referenced below appear as Appendix A to this agenda.

- C. HB 2321 (Surovell)--Virginia Freedom of Information Act; application to the State Corporation Commission.
- D. SB 889 (Black)--Virginia Freedom of Information Act; electronic communication meetings; school boards.
- E. SB 1371 (Stuart)-- Virginia Freedom of Information Act; repetitive requests; remedies.

4. Appointment of Subcommittees.

5. Other Business.

- Participation by the FOIA Council in the annual wreath-laying celebration at James Madison's Montpelier on March 16. *As a reminder, Freedom of Information Day in Virginia is celebrated on March 16, which is James Madison's birthday, as resolved in Senate Joint Resolution 170 (2006).*
- Opinion of the Attorney General regarding license plate readers. *You will recall that this issue was brought to the attention of the Council at its meeting in September, 2012 as a concern about over-collection of license plate and vehicle information by law enforcement. The OAG issued an opinion last month that decided that general, passive collection using license plate readers violates the Government Data Collection and Dissemination Practices Act, but that it was legal to use such devices in the context of specific investigations and gathering criminal intelligence information.*
- Remembering Clifton A. "Chip" Woodrum, founding Chair of the FOIA Council. *Delegate Woodrum headed the General Assembly study of FOIA from 1998-2000, was chief patron of the House bill that created the FOIA Council, and was the first Chair of the FOIA Council. He passed away February 19, 2013.*

6. Public Comment.

7. Set future meetings. (Reminder: Meetings may only be scheduled on Monday, Tuesday, and Wednesday of the first and third full weeks of the month.)

8. Adjournment.

Council Members

Senator Richard H. Stuart, Chair
Sandra G. Treadway
Forrest M. "Frosty" Landon
John G. Selph
James Schliessmann
Kathleen Dooley

Delegate Sal Iaquinto, Vice Chair
Christopher Ashby
George T. Whitehurst
Ed Jones
Robert L. Tavenner
Stephanie Hamlett

Staff

Maria J.K. Everett, Executive Director
Alan Gernhardt, Staff Attorney

The FOIA Council's web site is: <http://dls.state.va.us/foiacouncil.htm>. To assist us in providing Internet dissemination of materials, presenters are requested to submit written comments and handouts in electronic format by (i) e-mail to staff prior to meetings or (ii) diskette furnished to staff at 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.

APPENDIX A

BILLS REFERRED TO COUNCIL FOR STUDY BY 2013 SESSION OF GENERAL ASSEMBLY

1. **HB 2032 (May) - Freedom of Information Act; electronic meetings.** Allows regional public bodies to conduct electronic meetings in the same manner as state public bodies. The bill also removes the requirement that a public body hold one meeting each year at which no member participates using electronic means. This bill is a recommendation of the Joint Commission on Technology and Science.
2. **HB 2125 (Keam) - Virginia Freedom of Information Act; requests for records.** Provides that FOIA requests may be made by any citizen of the United States and not just citizens of the Commonwealth. The bill also allows a public body to require prepayment before providing requested records when the cost for production of the records is likely to exceed \$100.
3. **HB 2321 (Surovell) - Virginia Freedom of Information Act; application to the State Corporation Commission.** Makes the State Corporation Commission (SCC) subject to the Freedom of Information Act (FOIA) and designates venue for FOIA petitions against the SCC. The bill reverses a case holding that the Freedom of Information Act is not applicable to the SCC (*Christian v. State Corporation Commission*, November 2011).
4. **SB 889 (Black) - Virginia Freedom of Information Act; electronic communication meetings; school boards.** Allows local school boards to hold electronic communication meetings to the same extent allowed currently for state public bodies. The bill contains technical amendments.
5. **SB 1371 (Stuart) - Virginia Freedom of Information Act; repetitive requests; remedies.** Allows a public body to petition the appropriate court for additional time to respond to a request for records when the request is one of a series of requests by the same requester and a response by the public body within the time required by FOIA will prevent the public body from meeting its operational responsibilities. The bill also authorizes a court, in any action to enforce the provisions of FOIA, to decline to order production of the requested records if the evidence shows that the frequency or volume of the record requests made by the petitioner (i) constitutes an unreasonable burden on the resources of the public body, (ii) will prevent the public body from meeting its operational responsibilities, or (iii) has been made to evade the payment of any charges assessed in accordance with FOIA. The bill contains technical amendments.