



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL
COMMONWEALTH OF VIRGINIA

Senator Richard H. Stuart, Chair
Delegate James M. LeMunyon, Vice Chair

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April 22, 2014



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

**Tuesday, April 22, 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 2014 Session of General Assembly.** *Note that this update will be preliminary in nature, as the 2014 Reconvened Session is scheduled for April 23, 2014, 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 2014 Session of General Assembly:¹**
 - HB 339 (Anderson)/SB 387 (Reeves) - FOIA; certain proprietary records of the Department of Rail and Public Transportation.
 - HB 788 (LeMunyon) - FOIA; out-of-state requests for records.

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

- HB 839 (Brink) - FOIA; applicability to the Office of the Attorney General.

4. Study of the Virginia Freedom of Information Act - HJR No. 96

(LeMunyon).

HJR No. 96 directs the FOIA Council to study all exemptions contained in FOIA to determine the continued applicability or appropriateness of such exemptions and whether FOIA should be amended to eliminate any exemption from FOIA that the FOIA Council determines is no longer applicable or appropriate. HJR No. 96 also requires the FOIA Council to examine the organizational structure of FOIA and make recommendations to improve the readability and clarity of FOIA. The FOIA Council is required to consider comment from citizens of the Commonwealth; representatives of state and local governmental entities; broadcast, print, and electronic media sources; open government organizations; and other interested parties. All agencies of the Commonwealth are required to provide assistance to the FOIA Council for this study, upon request. The bill requires the FOIA Council to report its findings and recommendations by December 1, 2016. *To begin this study, it is suggested that the Council develop a study plan, an organizational time table, and address issues such as the use of subcommittees and workgroups to carry out the two-year study as directed by HJR No. 96.*

5. Appointment of Subcommittees related to bills referred and study of FOIA.

6. Other Business.

Request from Delegate Bulova - Retaliation against citizens for using FOIA. *After being contacted by a constituent, Delegate Bulova sent a letter requesting that the FOIA Council consider whether it is necessary or would be prudent to introduce legislation that would protect an individual who has exercised his or her FOIA rights from retaliation by a public official.*

7. Of note.

Electronic meetings. July 1, 2014 sunset provision on subsection H of § 2.2-3708. *This provision was passed last year to allow certain state-level advisory*

bodies to conduct meetings using audio-visual technology without assembling a quorum in a single physical location. The General Assembly did not act to extend the sunset provision; this subsection will expire on July 1, 2014.

8. Public Comment.

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

10. Adjournment.

Council Members

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

Delegate James M. LeMunyon, 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 2014 SESSION OF GENERAL ASSEMBLY

1. **HB 339 (Anderson)/SB 387 (Reeves) - FOIA; certain proprietary records of the Department of Rail and Public Transportation.** Provides an exemption for confidential proprietary information and trade secrets, including commercial or financial information, balance sheets, revenue and cost projections, and detailed freight origin and destination information provided by a private transportation business to the Virginia Department of Transportation and or the Department of Rail and Public Transportation for any purpose authorized or regulated by state law, including obtaining and administering grants or other financial assistance for transportation projects, provided such information is exempt from disclosure under federal laws governing transportation or the federal Freedom of Information Act.
2. **HB 788 (LeMunyon) - FOIA; out-of-state requests for records.** Sets out the process for public bodies to respond to record requests made by out-of-state requesters.
3. **HB 839 (Brink) - FOIA; applicability to the Office of the Attorney General.** Clarifies that for the purposes of FOIA applicable to access to public records, the Office of the Attorney General shall be considered a public body and, except as otherwise expressly provided by law, shall have the same obligations to disclose public records as other custodians of public records. The bill contains technical amendments.

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