



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL
COMMONWEALTH OF VIRGINIA

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

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May 20, 2015



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

**Wednesday, May 20, 2015 - 1:30 p.m.
House Room C, General Assembly Building**

**SUGGESTED AGENDA
ANNOTATED**

- **Call to Order, and introduction of members.**
- **Recap of FOIA and Related Access Bills from 2015 Session of General Assembly.**
- **Bills referred to Council for study by 2014 Session of General Assembly:¹**
 - HB 1646 (Pogge) - FOIA; proceeding for enforcement.
 - HB 1722 (Ramadan)/ SB 893 (Petersen) - FOIA; working papers and correspondence exemptions for university presidents.
 - HB 1776 (Albo)/SB 1032 (McDougle) - Alcoholic beverage control; referred to FOIA Council by enactment clause.
 - HB 2223 (Morris) - FOIA; willful violations a misdemeanor; penalty.

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

- SB 1166 (Hanger) - Public service corporations; access to public records.
- SB 1402 (Cosgrove) - FOIA; open meeting exemption for gang-related activities.
- **Study of the Virginia Freedom of Information Act - HJR No. 96 (2014)(LeMunyon).**

As a reminder, 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exemptions and whether FOIA should be amended to eliminate any exemption from FOIA that the FOIA Council determines is no longer applicable or appropriate.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. Last year the Council developed a study plan and appointed two subcommittees, the Records Subcommittee and the Meetings Subcommittee, to carry out the study as directed by HJR No. 96.

- **Subcommittee Reports.**
 - **Records Subcommittee.** *The Records Subcommittee held its first meeting of the 2015 Interim on May 11, 2015, to continue its study of records exemptions as directed by HJR No. 96 that began last year.*
 - **Meetings Subcommittee.** *The Meetings Subcommittee held its first meeting of the 2015 Interim on May 12, 2015, to continue its study of meetings exemptions as directed by HJR No. 96 that began last year.*
- **Public comment.**
- **Expiring FOIA Council Membership terms:**

- **George Whitehurst: second full 4-year term ends July 1, 2015;**
- **Stephanie Hamlett: first 4-year term ends July 1, 2015; eligible for reappointment; and**
- **Kathleen Dooley: first 4-year term ends July 1, 2015; reappointed by Senate Rules to a second 4-year term ending July 1, 2019.**
- **Other Business.**
 - **Databases and recent FOIA Council Advisory Opinion.**
 - **FOIA Roadshows.**
- **Of note.**
- **Set future meetings.** (Reminder: Meetings may only be scheduled on Monday, Tuesday, and Wednesday of the first and third full weeks of the month.)
- **Adjournment.**

Council Members

Senator Richard H. Stuart, Chair
Sandra G. Treadway
Forrest M. "Frosty" Landon
John G. Selph
G. Timothy Oksman
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 2015 SESSION OF GENERAL ASSEMBLY

1. **HB 1646 (Pogge) - FOIA; proceeding for enforcement.** Provides that in an enforcement action, if the court finds the public body violated certain meeting notice requirements, the court may invalidate any action of the public body taken at such meeting.
2. **HB 1722 (Ramadan)/ SB 893 (Petersen) - FOIA; working papers and correspondence exemptions for university presidents.** Eliminates the working paper and correspondence record exemption for the president or other chief executive officer of any public institution of higher education in Virginia.
3. **HB 1776 (Albo)/SB 1032 (McDougle) - Alcoholic beverage control.** Eliminates the Alcoholic Beverage Control (ABC) Board and replaces it with the Virginia Alcoholic Beverage Control Authority, created by the bill. The bill has a delayed effective date of July 1, 2018, except that the provisions of the thirteenth and fourteenth enactments become effective July 1, 2015.

NOTE: The thirteenth enactment clause to this bill states *that the Virginia Freedom of Information Advisory Council shall include in its study of the Virginia Freedom of Information Act in accordance with House Joint Resolution No. 96 of the Acts of Assembly of 2014 a review of the provisions of § 2.2-3705.7 of the Code of Virginia as amended by this act and make any recommendations it deems necessary and appropriate.*

4. **HB 2223 (Morris) - FOIA; willful violations a misdemeanor; penalty.** Provides that in addition to the civil enforcement provisions of FOIA, any officer, employee, or member of a public body who, without legal excuse or justification, deliberately, willfully, and knowingly violates certain FOIA provisions is guilty of a Class 1 misdemeanor.
5. **SB 1166 (Hanger) - Public service corporations; access to public records.** Makes a public service corporation subject to the public records provisions of the Virginia Freedom of Information Act with respect to any project or activity for

which it may exercise the power of eminent domain and has filed or prefiled for a certificate or other permitting document.

6. **SB 1402 (Cosgrove) - FOIA; open meeting exemption for gang-related activities.** Authorizes a public body to convene a closed meeting for consultation with or briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning criminal street gang-related activities.

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