



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

COMMONWEALTH OF VIRGINIA

Senator Richard H. Stuart, Chair
Delegate Luke E. Torian, Vice-Chair

Alan Gernhardt, Esq., Executive Director
Ashley Binns, Esq., Attorney

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VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

Wednesday, July 17, 2019 - 1:00 PM

Senate Room A, Ground Floor

Pocahontas Building

PROPOSED AGENDA

1. Call to Order, introduction of members.

2. Subcommittee Reports. *At its meeting on May 8, 2019, the FOIA Council assigned the bills referred by the 2019 Session of the General Assembly to three subcommittees for further study as listed below. A brief synopsis of each subcommittee's activities to date appears below.*

Forestry Records Subcommittee

- HB 2201 (Tyler); **State Forester; confidentiality of certain records.** Excludes from the mandatory disclosure provisions of the Virginia Freedom of Information Act certain records of the Department of Forestry (the Department). The records include trade secrets and financial information, reports of criminal violations made to the Department by persons outside the Department, and records of an active administrative investigation.

Donor Records Subcommittee

- HB 2386 (Bulova); **Public institutions of higher education; information relating to pledges and donations.** Requires public institutions of higher education, when accepting a donation, gift, or similar financial support that is conditioned upon the acceptance of certain terms and conditions by the public institution of higher education, to provide the donor with a written document acknowledging the public institution of higher education's acceptance of such terms and conditions. The bill requires the public

institution of higher education to retain a copy of such document and provides that such document shall be subject to the provisions of the Virginia Freedom of Information Act (FOIA). The bill provides that no discretionary exclusion in FOIA shall apply to protect information relating to the amount, date, purpose, and terms of a pledge or donation made to a public institution of higher education. The bill provides that the identity of the donor shall be protected only if (a) the donor has requested anonymity in connection with or as a condition of making a pledge or donation and (b) the pledge or donation does not impose terms or conditions related to academic decision-making.

Phishing Study Subcommittee

- HJ 628 (Heretick); **Study; Virginia Freedom of Information Advisory Council; threat of phishing attacks; report.** Directs the Virginia Freedom of Information Advisory Council (FOIA Council) to study the threat of phishing attacks on citizens and public employees whose contact and private information is legally obtained as a result of a Freedom of Information Act (FOIA) request. The study further directs the FOIA Council to examine the current FOIA provisions and make recommendations on ways to address the threat of phishing attacks on citizens and public employees of the Commonwealth.

3. FOIA training and reporting requirements.

- Training for local elected officials (SB 1431, effective July 1, 2020).
- Training for FOIA officers.

4. Other Business.

- *Update:* Electronic communications and social media guide.
- *Update:* Current FOIA training.
- *Issue:* Tolling provision for when a requester asks a public body for an estimate of charges before responding to a request for public records.

5. Public Comment.

6. Reminder: The next meeting of the Council is scheduled for Wednesday, September 18, 2019, at 1:00 pm in Senate Room A on the Ground Floor of the Pocahontas Building.

7. Adjournment.

Council Members

Senator Richard H. Stuart, Chair
Senator Mamie E. Locke
Sandra G. Treadway
Stephanie Hamlett
Mark Vucci
Michael Stern
Cullen Seltzer

Delegate Luke E. Torian, Vice-Chair
Delegate Glenn R. Davis, Jr.
Lee Bujakowski
Sterling Rives
Shawri King-Casey
William "Billy" Coleburn

Staff

Alan Gernhardt, Executive Director
Ashley Binns, Attorney

The FOIA Council's web site is: [http:// foiacouncil.dls.virginia.gov](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.