

From: **Heslinga, Joshua (VITA)** <Joshua.Heslinga@vita.virginia.gov>
Date: Tue, Dec 3, 2024 at 11:54 AM
Subject: SB324 legislative draft comment
To: FOIA Council (foiacouncil@dls.virginia.gov) <foiacouncil@dls.virginia.gov>

Alan and Joe,

I have reviewed [the legislative draft](#) in Appendix C of the [draft report](#) of the [SB324 Workgroup](#). Thank you to all who participated and helped come up with the draft and report.

It strikes me as a good thing that the draft adds general district courts (GDCs) as a venue where a public body may petition for additional response time. I write to encourage the Council to consider whether to make a further accompanying change related to GDCs.

One of the ways that GDCs make litigation more efficient is to facilitate parties, including business entities, engaging in limited self-representation, without an attorney. See [Va. Code § 16.1-88.03](#). The statute leaves whether to engage in such limited self representation up to the choice of the party, and there are clear statutory limits placed on that representation. *See id.* Moreover, any party aggrieved by a FOIA-related order of a GDC has a right to appeal to the circuit court, which then reviews de novo, per [Va. Code § 16.1-106](#).

Given that a key objective of the SB324 Workgroup's legislative draft is to expedite FOIA petitions and reduce fees, and given the extensive existing statutory GDC guardrails regarding such limited *pro se* participation by entities, I hope that the Council will also consider whether to give public bodies generally that same option. Interestingly, § 16.1-88.03(A) already gives that limited self-representation option to two public bodies – the Fort Monroe Authority and the Department of Military Affairs – and it is not clear why those are the only two public bodies who could benefit from having the same limited self-representation option as business entities. A requirement that a public body notify its counsel in advance of its intent to exercise that limited self-representation could be added if there were concern that a public body would “go rogue” or be insufficiently advised in doing so.

Thank you.

Joshua Heslinga

Director, Legal & Legislative Services

Virginia IT Agency (VITA)

Connecting – Protecting – Innovating

Office: 804-510-7288

Mobile: 804-551-2902

joshua.heslinga@vita.virginia.gov

7325 Beaufont Springs Dr, Richmond, VA 23225

<https://www.vita.virginia.gov/>