

Virginia Freedom of Information Advisory Council
SB 324 Work Group (2024)

Revised Study Plan

Note: This study plan has been revised to reflect the input of the workgroup participants at the meeting held on July 8, 2024.

Senate Bill 324 (Roem, 2024) provides that the Freedom of Information Advisory Council (Council) shall convene a work group "to examine the current FOIA provisions on charges and make recommendations on ways to amend such provisions to make the assessment of charges by public bodies for the production of public records more uniform, more transparent, easier to understand, and less costly." The bill sets forth the following directives for the completion of the study:

- The work group "shall complete its meetings by November 30, 2024, and present its findings and recommendations for consideration by the FOIA Council at its meeting in December 2024."
- After the work group completes its work, the "chairman of the FOIA Council shall submit to the Division of Legislative Automated Systems an executive summary of the work group's findings and recommendations with any additional comments by the FOIA Council no later than the first day of the 2025 Regular Session of the General Assembly."
- Finally, the "executive summary shall state whether the FOIA Council intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website."

The Council is currently expected to meet on December 4, 2024, and the first day of the 2025 Regular Session of the General Assembly is January 8, 2025. The following study plan is proposed in order to facilitate compliance with the study directives.

I. Scope of Work Group Review and Recommendations

- A. Review of current Virginia law, other states' laws and prior studies and issue identification;
- B. Review of SB 324 (keeping in mind that the bill does "not become effective unless reenacted by the 2025 Session of the General Assembly.");
- C. Following the statutory directive, findings and recommendations on ways to make the assessment of charges by public bodies for the production of public records
 - more uniform
 - more transparent
 - easier to understand, and
 - less costly

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II. Composition of Work Group

<p>FOIA Council Delegate Elizabeth Bennett-Parker DeIEBennett-Parker@house.virginia.gov</p>	<p>FOIA Council Lola Rodriguez Perkins - Surry County Attorney lperkins@surrycountyva.gov</p>
<p>Senate (Patron of SB 324) Senator Danica A. Roem senatorroem@senate.virginia.gov</p>	
<p>Virginia Press Association Aimee Seibert Commonwealth Strategy Group aimee@commonwealthstrategy.net</p> <p>Betsy Edwards, Executive Director, VPA Betsye@vpa.net</p> <p>Steve Weddle steview@vpa.net</p>	<p>Coalition for Open Government Megan Rhyne Executive Director mrhyne@opengovva.org</p>
<p>Virginia Association of Counties Phyllis Errico- General Counsel perrico@vaco.org</p> <p>Jeremy Bennett - Director of Intergovernmental Affairs jbennett@vaco.org</p>	<p>Virginia Association of Broadcasters Jonathan Williams Jonathan.Williams@easterassociates.com</p>
<p>Virginia Municipal League Michelle Gowdy - Executive Director mgowdy@vml.org</p>	<p>Commissioners of the Revenue Association of VA Eric Maybach eric.maybach@fauquiercounty.gov</p>
<p>Virginia Electoral Board Association Jim Nix nixj@charlottesville.org</p>	<p>Interested Citizen Ramin Seddiq ramins2536@gmail.com</p>
<p>Virginia School Boards Association Lesley Rigney, Director Legal and Policy Services lesley@vsba.org</p>	<p>Virginia Association of School Superintendents Scott Brabrand - Executive Director s.brabrand@vassonline.org</p>

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Virginia Department of Education Rebecca S. Askew - Policy Director rebecca.askew@doe.virginia.gov	State Council on Higher Education in Virginia Alan Edwards - Interim Director alanedwards@schev.edu
Virginia Sheriffs' Association John W. Jones - Executive Director jjones@virginiasheriffs.org	Virginia Association of Chiefs of Police Dana G. Schrad - Executive Director dana@vachiefs.org
Virginia Association of Commonwealth's Attorneys James Hingeley Albemarle County Commonwealth's Attorney jhingeley@albemarle.org	Virginia State Police First Sergeant William K. Shipman - Office of Legal Affairs kent.shipman@vsp.virginia.gov
Local Government Attorneys of Virginia, Inc. Martin Crim mcrim@sandsanderson.com	Virginia Department of Transportation Holly Jones holly.jones@vdot.virginia.gov
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City of Charlottesville Michael P. Kochis Chief of Police chief@charlottesville.gov	Town of Herndon Maggie A. DeBoard Chief of Police maggie.deboard@herndon-va.gov
Interested Citizen Bob McWhirter bob.mcwhirter@gmail.com	Town of Warrenton Stephen Clough Town Clerk sclough@warrentonva.gov

III. Schedule of Work Group Meetings/Submission of Recommendation

Because the workgroup is not a public body its meetings will be virtual in order to facilitate participation by the interested parties with some in-person meetings possible. The workgroup will operate by consensus since there is no fixed membership for voting purposes. If consensus cannot be reached on an issue, then the workgroup shall report that result by describing the issue

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and point(s) of contention that could not be resolved. Meetings will be recorded and the recordings and other materials will be posted on the FOIA Council website. It is anticipated that the workgroup will meet five or six times as needed (recognizing that charges may be a complicated issue, but also that it has been studied several times previously). At its first meeting the workgroup agreed without objection to hold the remainder of its meetings virtually on Mondays at 10 AM according to the following schedule:

First Meeting - July 8, 2024

- Introduction of members; determine additional members
- Review of proposed work plan
- Review of current law and prior studies
- Issue identification
- Incorporate input from stakeholders

Second Meeting - July 29, 2024

- Review other states' laws
- Study procedures for making requests:
 - Current requirement that a request for public records shall identify the requested records with reasonable specificity
 - Process for negotiating on scope of request and terms of production
- Discussion and recommendations for amendments to current procedure for making requests

Third Meeting - August 19, 2024

- Study procedures for processing requests:
 - Who within an organization performs search and review?
 - What are the charges for search and review?
 - Should there be a statutory cap on search and review charges, and if so, what should it be?
- Discussion and recommendations for amendments to current procedure for processing requests

Fourth Meeting - September 9, 2024

- Study broader structural issues that may impact charges for requests:
 - What should be the role of the FOIA Council?
 - Use of technology and how it affects charges (ex. storage, retrieval, and search of electronic files)
 - Funding from the state budget
 - Who should serve as FOIA officers? What should their role be in processing requests?
- Discussion and recommendations for amendments regarding the above issues
- Determine final recommendations to be made in executive summary and report to the FOIA Council; staff to prepare same

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Fifth Meeting - September 30, 2024

- Review executive summary and report to the FOIA Council; discuss and amend if needed as recommended by workgroup consensus
- After the workgroup has reached consensus staff will finalize the executive summary and report to be presented to the FOIA Council at its December meeting as directed by SB 324.

Sixth Meeting - October 21, 2024

- To be held if needed