



# VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

## COMMONWEALTH OF VIRGINIA

Delegate Marcus B. Simon, Chair  
Senator Mamie E. Locke, Vice-Chair

Alan Gernhardt, Esq., Executive Director  
Joseph Underwood, Esq., Senior Attorney  
Lauren Waller, Research Associate

General Assembly Building ~ 201 N. 9th Street, 4th Floor ~ Richmond, Virginia 23219  
foiacouncil@dls.virginia.gov ~ 804-698-1810 ~ (Toll Free) 1-866-448-4100 ~ (Fax) 804-698-1899 ~ <http://foiacouncil.dls.virginia.gov>

**July 29, 2024**  
**10:00 AM**  
**(via Zoom)**

### **PROPOSED AGENDA (Annotated)**

#### **SB 324 Workgroup Studying Charges under the Virginia Freedom of Information Act**

- 1. Call to Order, introduction of participants.**
- 2. Review other states' provisions on charges.**
- 3. Discuss current Virginia law on procedures for making a request.** *At its last meeting the workgroup agreed by consensus to study certain parts of the process of making and responding to a request and how they affect the costs involved, beginning with the process of making the initial request and negotiating its terms as needed. Suggested topics to study include the following:*
  - Current requirement that a "request for public records shall identify the requested records with reasonable specificity." (§ 2.2-3704 (B).)
  - Process for negotiating on scope of request and terms of production
    - volume of records to be searched
    - time frame covered by request
    - time frame of response
    - costs to be charged (as a point of negotiation rather than statutory limits)
    - subject matter of request
    - key word searches
    - limiting request based on involvement of specified individuals (as authors, senders, recipients, or otherwise)
  - FOIA policy: "All public bodies and their officers and employees shall make reasonable efforts to reach an agreement with a requester concerning the production of the records requested." (§ 2.2-3700 (B).)

- Negotiating when a record does not already exist: "Subject to the provisions of subsection G, no public body shall be required to create a new record if the record does not already exist. However, a public body may abstract or summarize information under such terms and conditions as agreed between the requester and the public body." (§ 2.2-3704 (D).)
- Negotiating format of electronic records: "No public body shall be required to produce records from an electronic database in a format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in any format under such terms and conditions as agreed between the requester and public body, including the payment of reasonable costs." (§ 2.2-3704 (G).)
- Repeat requests for same materials

**4. Discussion.**

**5. Recommendations.**

**6. Other Business.**

**7. Schedule reminder.** *The next workgroup meetings are scheduled to be held virtually at 10 AM on the following dates:*

- Monday August 19
- Monday September 9
- Monday September 30
- Monday October 21

**8. Adjournment.**

\*\*\*\*\*

**Staff**

Alan Gernhardt, Esq., Executive Director  
 Joseph Underwood, Esq., Senior Attorney  
 Lauren Waller, Research Associate