

Department of Planning and Budget 2016 Fiscal Impact Statement

1. Bill Number: SB494-S2

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Surovell, S.

3. Committee: General Laws and Technology

4. Title: Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination.

5. Summary: This Governor-proposed substitute bill introduces the following enactment clause: "That the Virginia Freedom of Information Advisory Council be directed to study the matters decided in Department of Corrections v. Surovell, 776 S.E. 2d 579 (Va. 2015), and make recommendations for legislative change." Additionally, it specifies that portions of engineering and architectural drawings may be excluded from the disclosure provisions of FOIA, to the extent such disclosure would jeopardize the security of any governmental facility, building or structure or the safety of persons using such facility. The current language specifies that "engineering and architectural drawings" may be so excluded, rather than "portions of engineering and architectural drawings."

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: No fiscal impact.

8. Fiscal Implications: None.

9. Specific Agency or Political Subdivisions Affected: The Virginia Freedom of Information Advisory Council, and state and local agencies that have engineering and architectural drawings and are not exempt from FOIA.

10. Technical Amendment Necessary: None.

11. Other Comments: The original bill: 1) reversed the holding of the Virginia Supreme Court in the case of Department of Corrections v. Surovell, by setting out the general rule of redaction, which provides that no provision of FOIA is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by FOIA or by any other provision of law, 2) stated that a public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under FOIA or other provision of law applies to the entire content of the public record, and 3) provided that in a FOIA enforcement action, no court shall be required to accord any weight to the determination of a public body as to whether an exclusion applies. This substitute bill does not include the above items.

Date: 3/3/16