

Department of Planning and Budget 2017 Fiscal Impact Statement

1. Bill Number: HB1539 – ER

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

2. Patron: LeMunyon

3. Committee: Passed both houses

4. Title: Virginia Freedom of Information Act (FOIA); public access to records of public bodies.

5. Summary: Virginia Freedom of Information Act (FOIA); public access to records of public bodies. The bill contains numerous technical amendments. This bill is a recommendation of the Freedom of Information Advisory Council pursuant to the HJR 96 FOIA study (2014-2016). The substitute expands the FOIA exclusion related to public safety that pertained to information provided to or collected by a telecommunications carrier to include all communication service providers, and restores “correspondence” in the list of exclusions from FOIA for the Office of the Governor that was eliminated in the introduced version of the bill.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Final. NO FISCAL IMPACT

8. Fiscal Implications: This bill clarifies terms, definitions, and exemptions contained within the Virginia Freedom of Information Act. As such, the bill is primarily technical in nature. The FOIA Council and several state agencies were contacted regarding this bill and no substantive fiscal impact to state government has been identified. The Commission on Local Government issued an estimate of local fiscal impact on the introduced version of the bill on January 12, 2017.

9. Specific Agency or Political Subdivisions Affected: All public bodies including local government and local school boards

10. Technical Amendment Necessary: No

11. Other Comments: HB 1539 and HB 1540 are in response to HJR 96, which was passed in the 2014 Session of the General Assembly. HJR 96 directed the Virginia Freedom of Information Advisory Council (FOIA Council) to study all exemptions contained in the Virginia Freedom of Information Act (FOIA) to determine the continued applicability or appropriateness of such exemptions and whether FOIA should be amended to eliminate any exemption from FOIA that the FOIA Council determines is no longer applicable or appropriate.

The bill strikes the last sentence of the definition of “public records” that states “Records that are not prepared for or used in the transaction of public business are not public records.” This sentence was added to the definition of public records through the 2011 Session of the General Assembly, Chapter 242 in response to a FOIA case.