

21102750D

HOUSE JOINT RESOLUTION NO. 564

Offered January 13, 2021

Prefiled January 13, 2021

Directing the Virginia Freedom of Information Advisory Council to study whether the provisions of the Virginia Freedom of Information Act allowing public bodies to charge requesters for the production of public records should be amended to make access to public records easier for requesters. Report.

Patron—Mullin

Referred to Committee on Rules

WHEREAS, in enacting the Virginia Freedom of Information Act (FOIA) (§ 2.2-3700 et seq. of the Code of Virginia), the Virginia General Assembly determined that "[t]he affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government"; and

WHEREAS, the General Assembly further determined in enacting FOIA that its provisions "shall be liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government"; and

WHEREAS, the Virginia Freedom of Information Advisory Council serves as the clearinghouse for public access issues to the General Assembly by keeping abreast of trends, developments in judicial decisions, and emerging issues related to FOIA and access generally; and

WHEREAS, FOIA allows public bodies to make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records; and

WHEREAS, charges assessed by a public body for producing public records pursuant to FOIA are often a source of confusion and misunderstanding for requesters; and

WHEREAS, such charges are sometimes so large they prohibit or discourage requesters from gaining access to requested records; and

WHEREAS, the pervasiveness of electronic mail and other electronic records has resulted in a tremendous increase in the number of records that must be searched and processed, often requiring the time of specially trained personnel and resulting in delays and high hourly search rates; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia Freedom of Information Advisory Council be directed to study whether the provisions of the Virginia Freedom of Information Act allowing public bodies to charge requesters for the production of public records should be amended to make access to public records easier for requesters.

In conducting its study, the FOIA Council shall 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 FOIA Council shall consider comment from and seek participation in the study by citizens of the Commonwealth, representatives of state and local government entities, broadcast, print, and electronic media sources, open government organizations, and other interested parties.

Technical assistance shall be provided to the FOIA Council by the Division of Legislative Services. All agencies of the Commonwealth shall provide assistance to the FOIA Council for this study, upon request.

The FOIA Council shall complete its meetings by November 30, 2021, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2022 Regular Session of the General Assembly. 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.

INTRODUCED

HJ564