

Department of Planning and Budget 2004 Fiscal Impact Statement

1. Bill Number HB358

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

2. Patron Suit

3. Committee General Laws

4. Title Freedom of Information Act; posting of notice of rights and responsibilities by state public bodies.

5. Summary/Purpose:

Requires all state public bodies created in the executive branch of state government and subject to the Freedom of Information Act (FOIA) to make available certain information to the public upon request and to post such information on the Internet, including: (i). A plain English explanation of the rights of a requester under FOIA, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with FOIA; (ii) contact information for the person designated by the public body to (a) assist a requester in making a request for records or (b) respond to requests for public records; and (iii) any policy the public body has concerning the type of public records it routinely withholds from release as permitted by FOIA. The bill requires the Freedom of Information Advisory Council to assist state public bodies in the development and implementation of this information, upon request.

The bill also specifies what information must be included in minutes of open meetings.

Finally, the bill requires public bodies to make an audio or audio/visual recording of all closed meetings, which must be kept for two years from the date of the meeting. In this regard, the bill provides that where an action is brought to enforce FOIA, a court may conduct an in camera review of the closed meeting recording to determine what portions, if any, shall be made available to the parties for use as evidence in the proceeding. The court may, for purposes of discovery, redact from the closed meeting recording any information protected by law. The bill further provides that it shall not be construed to supersede the privacy or confidentiality provisions of state or federal law.

6. Fiscal impact is indeterminate

7. Budget amendment necessary: No

8. Fiscal implications: It is not possible to determine an exact cost of this bill. Agencies could experience some cost in developing the plain English explanation of FOIA procedures and in posting that information on the Internet.

In addition, the requirement to audiotape or videotape closed meetings could have significant fiscal impact for some agencies, depending on how often closed meetings are held. These

agencies could experience costs of in terms of the taping of the meetings and in storage of the recordings.

9. Specific agency or political subdivisions affected: all Executive Branch agencies subject to the Freedom of Information Act.

10. Technical amendment necessary: No

11. Other comments: No

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