

Department of Planning and Budget

2017 Fiscal Impact Statement

1. Bill Number: HB1539

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: LeMunyon

3. Committee: Committee on General Laws

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. Clarifies the definition of public record. The bill also (i) defines "personal contact information" that is excluded from FOIA's mandatory disclosure provisions in certain cases; (ii) clarifies that a requester has the right to inspect records or receive copies at his option; (iii) clarifies language in certain record exclusions under FOIA that certain records may be disclosed at the discretion of the custodian; (iv) consolidates the personnel record exclusion with the limitation on the application of that exclusion, and specifically clarifies that the name, in addition to position, job classification, and salary, of a public employee is public information as per opinions of the Attorney General and the FOIA Council; (v) eliminates, effective July 1, 2018, the exclusion for the Alcoholic Beverage Control Authority relating to operating and marketing strategies; (vi) eliminates the exclusion for correspondence of local officials as unnecessary; (vii) consolidates various public safety exclusions relating to building plans and drawings and critical infrastructure into a single exclusion; (viii) eliminates the exclusion for administrative investigations of the Department of Human Resource Management, as the exclusion is already covered under the personnel records exclusion; (ix) expands the exclusion for personal information provided to the Virginia College Savings Plan to cover qualified beneficiaries, designated survivors, and authorized individuals, which terms are defined in the bill; (x) consolidates the various record exclusions for the Department of Health Professions and the Department of Health into single exclusions for each Department; (xi) clarifies certain Department of Social Services exclusions; (xii) provides an exclusion for local finance boards that provide postemployment benefits other than pensions; and (xiii) eliminates the record exclusion for Virginia Wildlife Magazine. The bill also eliminates the correspondence exclusion for certain state and local officials. 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).

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: NO FISCAL IMPACT

8. Fiscal Implications: This bill provides clarification of 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 will submit an estimate of local fiscal impact.

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.