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HOUSE BILL NO. 2507

Offered January 9, 2019

Prefiled January 9, 2019

A BILL to amend the Code of Virginia by adding a section numbered 2.2-501.1, relating to Office of the Attorney General; Virginia Freedom of Information Act Ombudsman; powers and duties; report.

Patrons—Roem, Ayala, Delaney, Hope, Hurst, Kory, Mullin and Rasoul

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 2.2-501.1 as follows:****§ 2.2-501.1. Virginia Freedom of Information Act Ombudsman created; powers and duties; report.**

A. As used in this section, unless the context requires a different meaning:

"Public records" means the same as that term is defined in § 2.2-3701.

"Requester" means any person who requests public records from a state agency.

"State agency" means any agency, institution, board, bureau, commission, or council listed in the appropriation act. However, "state agency" does not include any public institution of higher education.

B. There is hereby established a Virginia Freedom of Information Act Ombudsman (Ombudsman) in the Office of the Attorney General to (i) mediate disputes between requesters and state agencies over requests for public records and (ii) promote compliance by state agencies with the provisions of the Freedom of Information Act. The Attorney General shall hire the Ombudsman, who shall be licensed to practice law in the Commonwealth. The Ombudsman shall be designated a full-time state employee.

C. The Ombudsman shall be responsible for mediating disputes between requesters and state agencies over requests for public records, including disputes involving (i) the application of an exemption; (ii) proper redaction of information contained in a public record; (iii) production of a public record given available staff and resources; and (iv) adequate disclosure of public records relevant to the request.

During mediation, the Ombudsman shall not (a) compel a state agency to disclose to the Ombudsman or a requester public records or redacted information in the state agency's physical custody or (b) disclose information received from a requester or state agency without written consent.

D. The Ombudsman may adopt such policies and guidelines necessary to carry out the provisions of this section.

E. The Ombudsman shall regularly consult with relevant stakeholders and interested parties to improve the efficiency and efficacy of the Act. For purposes of this subsection, "relevant stakeholders" means the Virginia Association of Counties, the Virginia Municipal League, the Local Government Attorney's Association of Virginia, and the Virginia Coalition for Open Government.

F. The Ombudsman shall report annually, by November 30 of each year, to the Governor and the General Assembly on his activities and policy recommendations, including the input from stakeholders obtained pursuant to subsection E.

INTRODUCED

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