

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: SB324

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: Roem

3. Committee: General Laws and Technology

4. Title: Virginia Freedom of Information Act; charges for production of public records.

5. Summary: Prohibits a public body from charging a requester for any costs incurred during the first two hours spent accessing or searching for requested records when such requester has made four or fewer individual record requests to such public body within 31 consecutive days. The bill provides that for any additional time spent accessing or searching for such records, or when such requester makes five or more individual record requests to such public body within any 31-consecutive-day period, the public body shall not charge an hourly rate for accessing or searching for the records exceeding the lesser of the hourly rate of pay of the lowest-paid individual capable of fulfilling the request or \$33 per hour. The bill allows a public body to petition the appropriate court for relief from the \$33 per hour fee cap upon showing by a preponderance of the evidence that there is no qualified individual capable of fulfilling the request for \$33 per hour or less and requires such petition to be heard within seven days of when the petition is made, provided that the public body has sent and the requester has received a copy of the petition at least three working days prior to filing. The bill also provides that in certain instances a hearing on any petition shall be given precedence on a circuit court's docket over all cases that are not otherwise given precedence by law and that the time period the public body has to respond to a record request shall be tolled between the requester's receipt of the petition and the final disposition of the court. Finally, the bill prohibits a public body from charging a requester for any court costs or fees resulting from a petition.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Preliminary, see Item 8.

8. Fiscal Implications: The provisions of this bill could potentially create an indeterminate impact to state agencies and other public bodies covered by the Virginia Freedom of Information Act. The exact impact, if any, to a specific state agency or other public body will depend on the current policies implemented by such agencies or bodies to recover the costs associated with accessing and searching for records as part of responding to requests for information. To the extent that the provisions of this bill are in line with an agency's or public body's current practices, no negative impact is expected for that agency or body. To

the extent that an agency's or other public body's current policies allow for a higher charge than that outlined in this bill, they may experience a fiscal impact in the form of a reduction in the amount charged to requesting parties.

The provisions of this bill also allow the affected public body to petition the appropriate court for relief from fee cap imposed by this bill, which could potentially increase the administrative workloads for the Office of the Attorney General and the Virginia Court System. However, it is not possible at this time to determine the costs of this potential increase in workload.

9. Specific Agency or Political Subdivisions Affected: All state public bodies subject to the Freedom of Information Act

10. Technical Amendment Necessary: No

11. Other Comments: None