

REVISED FISCAL IMPACT STATEMENT ON BILL NO. H.3163, House Amendment
(Doc. No. 3163C002.AGM.AB13)

TO:	The Honorable F. Gregory "Greg" Dellaney, Jr., Chairperson, House Judiciary Committee		
FROM:	State Budget Division, Budget and Control Board		
ANALYSTS:	K. Earle Powell, Nicole Jennings, Bryce Wilson, Rodney Grizzle, R.J. Stein, Torina Wood, Nicole Ford-Jennings		
DATE:	March 26, 2013	SBD:	2013149

AUTHOR:	Representative Taylor	PRIMARY CODE CITE:	30-4-30
SUBJECT:	Freedom of Information Act		

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:
A Cost to the General Fund (See Below)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:
Minimal (Some additional costs expected but can be absorbed)

BILL SUMMARY:

This is a House Amendment to House Bill 3163 regarding the Freedom of Information Act. This Bill revises the Freedom of Information Act (FOIA), which establishes an individual's rights to inspect or obtain copies of public records and other government documents and includes provisions for the electronic transmission and online posting of public records. Documents from meetings during the previous six-month period are included among the records a public body must make available for public inspection and copying. The Bill revises the required timeline for complying with a FOIA request and provides that records must be furnished or made available no later than 30 calendar days from the date of the original request. If, however, the records are more than 24 months old, the public body is allowed up to 45 additional calendar days to comply with the request. The Bill revises the fees that a public body is allowed to charge for complying with FOIA requests by: disallowing copy charges for records that are stored or transmitted in an electronic format; capping fees at the prevailing commercial rate for producing copies; and, prohibiting a public body from charging for staff time associated with gathering or reproducing the records. The Bill allows a deposit of up to 25% of the total cost for reproduction of the records to be required prior to the public body searching for or making copies of records.

EXPLANATION OF IMPACT:

Department of Archives and History

The Department indicates that this Bill will have a fiscal impact on the General Fund of the State of \$943,000. Of this amount, the agency estimates a recurring cost of \$357,500 to support 5 FTEs to assist in coordination, preservation, and administration of the electronic records archives required. The agency estimates non-recurring costs of \$585,500 associated with the purchase of two (2) SAN Server and Fiber Channel appliances to maintain electronic public records. In addition, non-recurring cost estimates include security infrastructure upgrades; the development and purchase of applications to meet access and search requirements; yearly licensing and maintenance fees; and additional compact shelving.

House of Representatives

The House of Representatives reports that the impact created by the removal of the General Assembly's exemption under the Freedom of Information Act (FOIA) is difficult to determine. The removal of the exemption will most likely increase the number of FOIA requests made upon the House of Representatives, and the scope of these requests is likely to pertain to topics that cannot be completely foreseen. The House indicates that, based upon the current level of FOIA requests and inquiries received, there will be a substantial increase in work required for document review, organization, and retention. Thus, the estimated fiscal impact that will require the hiring of a minimum of one staff attorney and an assistant to be responsible for reviewing, organizing, and retaining documents heretofore exempt from disclosure under FOIA. The estimated salary, fringe benefits, and miscellaneous costs associated with these staff positions is an estimated \$125,000 to \$150,000 annually. The House

indicates that this estimate is subject to change if the number and scope of FOIA requests received is substantially greater and broader than the FOIA requests and inquiries currently received by the House of Representatives.

Administrative Law Court

The Court indicates that this Bill will have a fiscal impact on the General Fund of the State of \$111,370. From that total cost, \$108,250 would be recurring cost for Personal Services/Fringe Benefits for 1.00 new Hearing Officer and one new Administrative Assistant. The balance of \$3,120 would be non-recurring cost for office equipment

The Senate

The Senate indicates that the impact on the Senate budget is unknown. The cost is undeterminable because the number of FOIA requests received combined with the nature and scope of the documents requested.

State Department of Education

The Department reports they can absorb any additional costs associated with this Bill within current appropriations.

State Budget and Control Board

The Board indicates that the impact of this Bill would be minimal.

Department of Transportation

SCDOT indicates there is no fiscal impact with the adoption of this Bill.

Department of Disabilities and Special Needs

Department of Corrections

The Department indicates that the Bill will have a minimal impact on the General Fund of the State, which the agency can absorb at their current level of funding.

Department of Health and Environmental Control

The Department indicates that the Bill's requirement to respond within ten days and the salary-related cap on the fee that may be charged will require the Department to hire two additional staffers at a cost of \$68,623 and will result in operating costs that exceed the allowed recoupment fee by \$21,320 annually. The total un-recouped loss in revenue resulting from compliance is estimated at \$89,943 annually.

Commission on Higher Education

The Agencies have been forwarded a copy of the Bill, but to date, has not submitted impact of the proposed Bill.

SPECIAL NOTES:

The italicized portion of this impact indicates the items that have been revised. For this impact, the revised constitutes information that was not available in the original impact.

Approved by:



Brenda Hart,
Assistant Director, State Budget Division