

[Floor Situation](#) | [Summary](#) | [Background](#) | [Cost](#) | [Staff Contact](#)

## [H.R. 653, Freedom Of Information Act \(FOIA\) Oversight and Implementation Act of 2015](#)

### FLOOR SITUATION

On Monday, January 11, 2016, the House will consider [H.R. 653](#), the FOIA Oversight and Implementation Act of 2015, under suspension of the rules. The bill was introduced on February 2, 2015, by Rep. Darrell Issa (R-CA) and was referred to the Committee on Oversight and Government Reform, which ordered the bill reported, as amended, by voice vote, on March 25, 2015.

### SUMMARY

H.R. 653 amends the Freedom of Information Act (FOIA) to increase transparency and accountability in government by improving public accessibility of government records. Specifically, the bill: establishes a single website for making FOIA requests; requires agencies to electronically post commonly requested records; requires agencies to pay certain attorney fees and other litigation costs related to FOIA disputes; reduces the number of exemptions agencies can use to withhold information; and expands agency annual reporting requirements associated with FOIA.

### BACKGROUND

The Freedom of Information Act (FOIA) allows any person, irrespective of citizenship, to request and obtain existing and unpublished agency records on any topic for any reason. FOIA was originally enacted in 1966 and was updated in 1974, 1976, 1986, 1996, 2007, and 2010. The Act grants the public presumptive access to agency records unless the material falls within nine exception categories. Disputes over the release of records requested pursuant to FOIA can be appealed administratively, resolved through mediation, or challenged in court.<sup>1</sup> In fiscal year 2014, Executive Branch agencies received over 700,000 FOIA requests; however, agencies invoked exemptions more than 550,000 times.<sup>2</sup> For a full list of the nine categories click [here](#).

In January 2009, the Administration issued a memorandum which stated, "The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness

<sup>1</sup> See CRS Report, "[The Freedom of Information Act \(FOIA\): Background, Legislation, and Policy Issues.](#)" August 15, 2015.

<sup>2</sup> See [House Report 114-391](#) at 9.

prevails.”<sup>3</sup> In March 2009, the Justice Department issued guidance reasserting this presumption of disclosure. According to the Committee, “H.R. 653 would codify the presumption of openness, making it a permanent requirement for agencies, with respect to FOIA. Based on the Department of Justice’s standard to defend a decision in litigation, H.R. 653 would prohibit agencies from withholding information unless the agency ‘reasonably foresees that disclosure would cause a specific, identifiable harm to an interest protected by an exemption, or if disclosure is prohibited by law.’”<sup>4</sup>

According to the bill sponsor, “At a time when the American people’s trust in the federal government is at an all-time low, we must strengthen and refine our laws that enable transparency and openness in government. Requests through the Freedom of Information Act remain the best tool for the American people to hold their government accountable. In this information technology driven era, it should be easier, not harder for citizens to have simpler and broader access to government information.”<sup>5</sup>

## **COST**

The Congressional Budget Office (CBO) [estimates](#) implementing H.R. 653 would cost \$22 million over the 2016-2020 period, assuming appropriation of the necessary amounts. The bill would affect direct spending by agencies not funded through annual appropriations; therefore, pay as-you-go procedures apply. CBO estimates, however, that any net increase in spending by those agencies would not be significant. Enacting the bill would not affect revenues.

## **STAFF CONTACT**

For questions or further information please contact [John Huston](#) with the House Republican Policy Committee by email or at 6-5539.

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<sup>3</sup> See White House Memorandum, [“Freedom of Information Act Memorandum for the Heads of Executive Departments and Agencies.”](#) January 21, 2009.

<sup>4</sup> See [House Report 114-391](#) at 9.

<sup>5</sup> See Rep. Darrell Issa Press Release, [“Issa and Cummings Introduce Bipartisan FOIA Reform Legislation.”](#) February 2, 2015.