2007 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: SB 671 **STATUS:** B Engrossed
SUBJECT: Specifies which records are public records and which records are subject to attorney client privilege for a public body.
GOVERNMENT UNIT AFFECTED: Department of Justice
PREPARED BY: Tim Walker
REVIEWED BY: Doug Wilson
DATE: May 16, 2007

	2007-2009	2009-2011
EXPENDITURES:		
See Comments		
REVENUES:		
See Comments		

EFFECTIVE DATE: January 1, 2008

GOVERNOR'S BUDGET: This bill is not anticipated by the Governor's recommended budget.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

COMMENTS: This bill provides a method for public bodies to disclose public records which were previously considered records covered by attorney-client privilege and therefore exempt from public records law. This bill allows a public body to condense, or summarize, a public record to contain the factual information, as long as the factual information in not legal opinion or advice, without waiving the attorney-client privilege. In addition, the bill allows a petitioner to seek a review of the condensed version of the document. The Attorney General, a judge, or district attorney will review the condensed version and compare it with records requested to see if the condensed version adequately describes the records.

The fiscal impact of this bill is indeterminate. The Department of Justice (DOJ) currently provides advice to agencies concerning their obligations under Oregon's public disclosure laws and this requirement, to some extent, is anticipated in their budget. If public bodies consider the protections provided in this bill to preserve the attorney-client privilege as adequate, it could lessen the necessity of legal review. If public bodies do not consider this protection adequate, they may deny more public records request which in turn could increase the number of appeals and reviews conducted by legal counsel. If petitioners do not consider the condensed version adequate, they have the right to request a review by the Attorney General, a judge or the district attorney and this could incur additional costs to the public body. There is no meaningful methodology to predict the frequency of reviews or appeals or predict the various routes that agencies may take in releasing public records requests. In addition, each public body may reach a different conclusion concerning the interpretation and requirements of this bill.