

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass as Amended and Be Printed Engrossed

Vote: 4 - 0 - 1

Yeas: Beyer, Prozanski, Walker, Burdick

Nays: 0

Exc.: Kruse

Prepared By: Bill Taylor, Counsel

Meeting Dates: 2/21, 3/21, 3/28

WHAT THE MEASURE DOES: Requires a government entity to respond as soon as practicable and without undue delay to a written request for a public document. Allows the public body to request clarification concerning the request. Requires the entity's response to include: (1) Acknowledgement of the request; (2) A statement that the public body does not possess, or is not the custodian of the documents requested, if this be the case; (3) Copies of all public documents requested and not exempted from disclosure; (4) A statement that the government entity is custodian of at least some of the documents and an estimate of the time and cost associated with honoring the request; (5) A statement that the public body is the custodian of some of the records and that an estimate of time and cost associated with honoring the request will be provided within a reasonable time; (6) A statement that the public body is uncertain whether the public body possesses the public record and that the public body will search for the record and respond as soon as practicable; and (7) A statement that the state or federal law prohibits the public body from acknowledging whether the record exists. Removes the requirement that a person requesting a copy of a public record be given a certified copy. Requires government entities to make available to the public a written procedure for making public records that include the name of the person to whom the request may be sent and the amounts charged for requests, and how these charges are determined.

ISSUES DISCUSSED:

- Requestor needs an immediate response concerning the status of records request

EFFECT OF COMMITTEE AMENDMENT: Allows the state response to be a statement that state or federal law prohibits the public body from acknowledging whether the record exists, or that acknowledging whether the record exists would result in the loss of federal benefits or other sanction. Requires that a statement under this paragraph include a citation to the state or federal law relied on by the public body. Removes the need for annual review of its public records procedures.

BACKGROUND: The public has a right to inspect and obtain a copy of any public document unless the document is specifically excluded from disclosure (ORS 192.420). At the same time, a government entity may respond to the request in a "reasonable time" and charge a fee reasonably calculated to reimburse it for the costs associated with making the records available (.ORS 192.440). However, this charge may not include attorney fees associated with determining if any of the records are exempt from disclosure.

What may be "reasonable" concerning time associated with collecting records and copying of records may not be reasonable to the one requesting these records. This is particularly true when a request is filed and nothing is heard concerning this request for an extended period of time.