

House Bill 2245

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Health Care for Secretary of State Kate Brown)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs State Archivist to provide certain assistance and training to political subdivisions relating to public records management, retention, long-term storage and disposition.

Directs State Archivist to award grants to political subdivisions for programs related to public records management.

Adds fee for filing or recording certain documents with county clerk.

Creates Public Records Advisory Committee. Establishes Public Records Management Assistance Fund. Continuously appropriates moneys in fund to Secretary of State for use by State Archivist.

A BILL FOR AN ACT

1
2 Relating to political subdivision public records; creating new provisions; amending ORS 205.320,
3 205.323 and 357.885; and appropriating money.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 to 6 of this 2011 Act are added to and made a part of ORS 357.805**
6 **to 357.895.**

7 **SECTION 2. The Legislative Assembly finds that:**

8 (1) **Requirements imposed upon political subdivisions for public records management,**
9 **retention, long-term storage and disposition significantly increase costs to political subdivi-**
10 **visions.**

11 (2) **The State Archivist lacks funds and trained personnel to provide political subdivisions**
12 **with sufficient assistance and advice in public records management, retention, long-term**
13 **storage and disposition.**

14 (3) **The public records of the State of Oregon and its political subdivisions are so inter-**
15 **related and interdependent that the decision as to which records are retained or destroyed**
16 **is a matter of statewide public policy and statewide concern.**

17 (4) **The State of Oregon and its political subdivisions have a responsibility to ensure or-**
18 **derly retention and destruction of all public records, whether current or noncurrent, and to**
19 **ensure the preservation of public records of value for administrative, legal and research**
20 **purposes.**

21 **SECTION 3. (1) The State Archivist shall:**

22 (a) **Provide assistance to political subdivisions concerning public records management,**
23 **retention, long-term storage and disposition;**

24 (b) **Provide advice to political subdivisions concerning archival preservation, cataloging**
25 **and indexing of public records;**

26 (c) **Train political subdivision officials in the proper methods of creating, maintaining,**
27 **cataloging, indexing, transmitting, storing and reproducing photographic, optical, electronic**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 or other images used as public records; and

2 (d) Award grants to political subdivisions for programs relating to public records man-
 3 agement, retention, long-term storage and disposition.

4 (2) The State Archivist may employ personnel who are trained and experienced in public
 5 records management, retention, long-term storage and disposition to work with political
 6 subdivisions in carrying out the provisions of subsection (1) of this section.

7 (3) The State Archivist shall use moneys from the Public Records Management Assist-
 8 ance Fund established under section 4 of this 2011 Act to carry out the provisions of this
 9 section.

10 **SECTION 4.** The Public Records Management Assistance Fund is established in the State
 11 Treasury, separate and distinct from the General Fund. Interest earned by the Public Re-
 12 cords Management Assistance Fund shall be credited to the fund. Moneys in the fund are
 13 continuously appropriated to the Secretary of State to be used by the office of the State
 14 Archivist for the purposes set forth in section 3 of this 2011 Act.

15 **SECTION 5.** (1) There is created the Public Records Advisory Committee, consisting of
 16 five members who shall be appointed by the Secretary of State. In making the appointments,
 17 the Secretary of State shall give consideration to geographic balance.

18 (2) The Public Records Advisory Committee shall consist of:

19 (a) One representative from the office of the State Archivist;

20 (b) Two members from an association of county clerks;

21 (c) One member from an association of city clerks; and

22 (d) One member from a special district.

23 (3) The term of office of each committee member is three years, but a member serves
 24 at the sole discretion of the Secretary of State. The Secretary of State shall appoint a suc-
 25 cesssor to a member before the expiration of the term of the member. A member is eligible
 26 for reappointment. If a position on the committee is vacant for any cause, the Secretary of
 27 State shall make an appointment to become immediately effective for the unexpired term.

28 (4) A member of the committee may receive only actual and necessary travel and other
 29 expenses pursuant to ORS 292.495. Members of the committee may not receive compensation
 30 for services as a member.

31 **SECTION 6.** (1) The State Archivist shall award grants described in section 3 of this 2011
 32 Act to political subdivisions based on recommendations of the Public Records Advisory
 33 Committee.

34 (2) The committee shall review grant proposals submitted by political subdivisions and
 35 shall prepare a list of grant proposals recommended by the committee based on criteria
 36 adopted by rule of the State Archivist.

37 (3) The State Archivist shall adopt rules governing grant eligibility, grant evaluation and
 38 any other criteria relating to grant proposals submitted under this section.

39 **SECTION 7.** ORS 205.323 is amended to read:

40 205.323. (1) In addition to and not in lieu of the fees charged and collected under ORS 205.320
 41 and other fees, the county clerk shall charge and collect the following fees for the recording or fil-
 42 ing of any instrument described in ORS 205.130:

43 (a) A fee of \$1, to be credited as provided in subsection (4)(a) of this section;

44 (b) A fee of \$10, to be credited as provided in subsection (4)(b) of this section; [*and*]

45 (c) A fee of \$15, to be credited as provided in subsection (4)(c) of this section[.]; **and**

1 **(d) A fee of \$1, to be credited as provided in subsection (4)(d) of this section.**

2 (2) Subsection (1) of this section does not apply to the recording or filing of the following:

3 (a) Instruments that are otherwise exempt from recording or filing fees under any provision of
4 law;

5 (b) Any satisfaction of judgment or certificate of satisfaction of judgment; or

6 (c) Internal county government instruments not otherwise charged a recording or filing fee.

7 (3) Subsection (1)(c) of this section does not apply to the recording or filing of:

8 (a) Instruments required under ORS 517.210 to maintain mining claims;

9 (b) Warrants issued by the Employment Department pursuant to ORS 657.396, 657.642 and
10 657.646; or

11 (c) A certified copy of a judgment, a lien record abstract as described in ORS 18.170 or a sat-
12 isfaction of a judgment, including a judgment noticed by recordation of a lien record abstract.

13 (4) Of the amounts charged and collected under this section:

14 (a) The recording or filing fee charged and collected under subsection (1)(a) of this section must
15 be deposited and credited to the Oregon Land Information System Fund established under ORS
16 306.132.

17 (b) The recording or filing fee charged and collected under subsection (1)(b) of this section shall
18 be credited as follows:

19 (A) Five percent of the fee must be credited for the benefit of the county;

20 (B) Five percent of the fee must be credited for the benefit of the county clerk for the purposes
21 described in ORS 205.320 (18); and

22 (C) 90 percent of the fee must be credited to and deposited in the County Assessment and Tax-
23 ation Fund created under ORS 294.187.

24 (c) The recording or filing fee charged and collected under subsection (1)(c) of this section must
25 be credited to and deposited in the County Assessment and Taxation Fund created under ORS
26 294.187.

27 **(d) The recording or filing fee charged and collected under subsection (1)(d) of this sec-**
28 **tion shall be deposited as follows:**

29 **(A) 50 percent of the fee shall be deposited in a dedicated county archives fund in the**
30 **county treasury and shall be used by the county for the purposes of county public records**
31 **management, retention, long-term storage and disposition; and**

32 **(B) 50 percent of the fee shall be deposited in the Public Records Management Assistance**
33 **Fund established under section 4 of this 2011 Act.**

34 (5) The Department of Revenue is exempt from paying the fee under subsection (1)(c) of this
35 section.

36 **SECTION 8.** ORS 205.320 is amended to read:

37 205.320. In every county there shall be charged and collected in advance by the county clerk,
38 for the benefit of the county, the following fees, and no more, for the following purposes and ser-
39 vices:

40 (1) For filing and making entry when required by law of any instrument required or permitted
41 by law to be filed, when it is not recorded, \$5 for each page.

42 (2) For filing and making entry of the assignment or satisfaction of any filed, but not recorded,
43 instrument, \$5 for each page.

44 (3) For each official certificate, \$3.75.

45 (4)(a) For purposes of this subsection, "page" means one side of a sheet 14 inches, or less, long

1 and 8-1/2 inches, or less, wide.

2 (b) For recording any instrument required or permitted by law to be recorded, \$5 for each page,
3 but the minimum fee shall not be less than \$5.

4 (c) For supplying to private parties copies of records or files, not more than \$3.75 for locating
5 a record requested by the party and 25 cents for each page.

6 (d) For each official certificate, \$3.75.

7 (5) For taking an affidavit for and making and issuing a marriage license and registering the
8 return of the license, or for taking an affidavit for and registering a Declaration of Domestic Part-
9 nership, \$25.

10 (6) For solemnizing a marriage under ORS 106.120, \$25. This subsection does not require that
11 the county clerk charge a fee for solemnizing a marriage after normal working hours or on Satur-
12 days or legal holidays. This subsection does not prohibit a county clerk from charging and accepting
13 a personal payment for solemnizing a marriage if otherwise authorized by ORS 106.120.

14 (7) For taking and certifying acknowledgment or proof of execution of any instrument, the fee
15 established in the schedule adopted by the Secretary of State under ORS 194.164.

16 (8) For issuing any license required by law, other than a marriage or liquor license, and for
17 which no fee is otherwise provided by law, \$5.

18 (9) For any service the clerk may be required or authorized to perform and for which no fee is
19 provided by law, such fees as may favorably compare with those established by this section for
20 similar services and as may be established by order or rule of the county court or board of county
21 commissioners.

22 (10) For recording any instrument under ORS 205.130 (2), as required by ordinance pursuant to
23 ORS 203.148.

24 (11) In addition to and not in lieu of the fees charged under subsection (4) of this section, for
25 each additional municipal assessment lien recorded under ORS 93.643, \$5.

26 (12) In addition to and not in lieu of the fees charged under subsection (4) of this section, for
27 each additional assignment, release or satisfaction of any recorded instrument, \$5.

28 (13) In addition to and not in lieu of the fees charged under subsection (4) of this section, for
29 each additional transaction described under ORS 205.236, \$5.

30 (14) In addition to and not in lieu of the fees charged under subsection (4) of this section, for
31 each additional lien recorded under ORS 311.675, \$5.

32 (15) For preparing and recording the certificate under ORS 517.280, \$20 or such other fee that
33 is established by the county governing body.

34 (16) In addition to and not in lieu of the fees charged under subsection (4) of this section, for
35 each additional claim listed on an affidavit of annual compliance under ORS 517.210, \$5.

36 (17) In addition to and not in lieu of the fees charged under subsection (4) of this section, for
37 each additional name listed on a cooperative contract under ORS 62.360 (2) or for recording the
38 termination of a cooperative contract under ORS 62.360 (4), \$5.

39 (18) Notwithstanding any other law, five percent of any fee or tax that is not collected for the
40 benefit of the county clerk shall be deducted from the fee or tax. The moneys deducted shall be
41 expended for acquiring storage and retrieval systems, payment of expenses incurred in collecting the
42 fee or tax and maintaining and restoring records as authorized by the county clerk. Moneys col-
43 lected under this subsection shall be deposited in a county clerk records fund established by the
44 county governing body. No moneys shall be deducted under this subsection from:

45 (a) Fees collected for the Domestic Violence Fund under ORS 106.045.

1 (b) Fees collected for conciliation services under ORS 107.615.

2 (c) Real estate transfer taxes enacted prior to January 1, 1998.

3 (d) Fees collected under ORS 205.323 for the Oregon Land Information System Fund.

4 (e) Fees collected under ORS 205.323 (1)(c) for the housing-related programs listed in ORS
5 294.187 (2)(b).

6 (f) **Fees collected under ORS 205.323 (1)(d) for county public records management, re-**
7 **tention, long-term storage and disposition and for the Public Records Management Assist-**
8 **ance Fund.**

9 **SECTION 9.** ORS 357.885 is amended to read:

10 357.885. **Except as provided in section 3 of this 2011 Act,** the Secretary of State shall pre-
11 scribe fees to be charged and collected by the State Archivist for official services rendered as State
12 Archivist. All moneys received pursuant to this section shall be deposited in the miscellaneous re-
13 cepts account established pursuant to ORS 279A.290 for the State Archivist.

14 **SECTION 10. The amendments to ORS 205.320 and 205.323 by sections 7 and 8 of this 2011**
15 **Act apply to documents recorded or filed with a county clerk on or after the effective date**
16 **of this 2011 Act.**

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