

Senate Bill 223

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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**.

Prohibits state use of privately hosted electronic mail to conduct public business. Provides exceptions.

Permits use of privately hosted electronic mail accounts only if state agency adopts written policy establishing penalties for violation of prohibition on use of privately hosted electronic mail to conduct public business and policy is in effect. Requires agency to obtain approval of State Archivist before policy can take effect.

Requires that any use of mobile communications device to send or receive written communications relating to conduct of public business be done on state-issued mobile communications device. Provides exceptions.

Prohibition and requirements become operative January 1, 2020.

Authorizes Secretary of State to provide guidance and establish other exceptions by rule.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to use of privately owned facilities to facilitate state communications; and prescribing an
3 effective date.

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

5 **SECTION 1. Sections 2 to 6 of this 2019 Act are added to and made a part of ORS 192.005**
6 **to 192.170.**

7 **SECTION 2. For the purpose of protecting public access to public records, it is the policy**
8 **of this state that state agencies, employees and public officials not conduct public business**
9 **using privately hosted electronic mail or personally owned mobile communications devices.**

10 **SECTION 3. (1) A state agency, employee or public official may not use privately hosted**
11 **electronic mail to conduct public business via electronic mail.**

12 **(2) Subsection (1) of this section does not apply, and a state agency, employee or public**
13 **official may use privately hosted electronic mail to conduct public business, if the state**
14 **agency, employee or public official sends a copy of all electronic mail sent from or received**
15 **by the privately hosted electronic mail account of the state agency, employee or public offi-**
16 **cial, including all attachments, to a state-authorized electronic mail account within 24 hours**
17 **of transmission or receipt by the privately hosted electronic mail account, unless extenuat-**
18 **ing circumstances justify a delay in sending a copy of the electronic mail to the state-**
19 **authorized electronic mail account.**

20 **SECTION 4. (1) A state agency may not allow the use of a privately hosted electronic**
21 **mail account unless the agency adopts a written policy that establishes penalties for violating**
22 **section 3 of this 2019 Act and the policy is in effect.**

23 **(2) The state agency shall file the written policy and any subsequent amendment to the**
24 **written policy with the State Archivist. The written policy or amendment to that policy does**

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 not take effect until approved by the State Archivist.

2 (3) A state agency shall report all violations of the agency's policy to the State Archivist
3 within 60 days of the date of the violation.

4 **SECTION 5.** (1) When using a mobile communications device to send or receive texts or
5 other written communication that contains information relating to the conduct of the
6 public's business, a state agency, employee or public official shall use only a mobile commu-
7 nications device that is issued by the State of Oregon.

8 (2) Notwithstanding subsection (1) of this section, a state employee or public official may
9 use a personally owned mobile communications device to send or receive communications
10 described in subsection (1) of this section if the state employee or public official forwards a
11 copy of the written communication to a state-issued mobile communications device or a
12 state-authorized electronic mail account.

13 **SECTION 6.** For purposes of sections 3, 4 and 5 of this 2019 Act, the Secretary of State
14 may by rule:

15 (1) Establish other exceptions to the prohibition on the use of privately hosted electronic
16 mail by state agencies, employees or public officials to conduct public business;

17 (2) Provide guidance on what constitutes extenuating circumstances that justify, under
18 section 3 of this 2019 Act, a delay after the 24-hour period for timely transmission of a copy
19 of electronic mail from a privately hosted electronic mail account to a state-authorized
20 electronic mail account; and

21 (3) Provide guidance on what constitutes a reasonable period of time to forward copies
22 of written communication described in section 5 of this 2019 Act to a state-issued mobile
23 communications device or a state-authorized electronic mail account.

24 **SECTION 7.** Sections 3, 4 and 5 of this 2019 Act become operative on January 1, 2020.

25 **SECTION 8.** This 2019 Act takes effect on the 91st day after the date on which the 2019
26 regular session of the Eightieth Legislative Assembly adjourns sine die.

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