

SB 1077 -1 STAFF MEASURE SUMMARY

Senate Committee On Rules

Prepared By: Leslie Porter, LPRO Analyst

Meeting Dates: 5/28

WHAT THE MEASURE DOES:

The measure requires the Public Records Advisory Council to study public records, and submit a report that may include recommendations for legislation, to the interim committee related to public records, no later than September 15, 2026.

Fiscal impact: The measure may have a fiscal impact, but a statement has not yet been issued.

Revenue impact: The measure may have a revenue impact, but a statement has not yet been issued.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 The amendment replaces the measure. It amends public records statutes. It adds a definition for the term "commercial requester." It amends the current fees, creates an allowable fee for commercial requesters, and establishes how the fees collected from commercial requesters will be distributed. It establishes a process for a requester to receive an explanation of the fees charged, and allows non-commercial requesters to request a waiver, or a substantial reduction, of fees, if it is in the public interest. It establishes a process for submitting the request, determining the public interest, denying the request, and requesting a review of the denial. It establishes that a public body may not charge fees until a written procedure explaining this process made available by the public body. It establishes that an elected official is subject to the same requirements as a public body. It creates the Public Record Fund for the purpose of funding the adjudication of public records appeals. And, it establishes that the provisions apply to public records request made on or after January 1, 2026.

Detailed Summary

Public records fees

- Allows a public body to establish fees for up to the amount of the actual cost of furnishing the public records, for most requesters.
- Allows a public body to assess a fee up to 500 percent more than the actual cost of furnishing the public record, for commercial requesters.
- Allows requester to request an explanation for the basis of the fees, and requires the public body to respond in no more than five business days after the request is received.

Request for fees waiver or substantial reduction

- Allows non-commercial requesters to request a waiver, or a substantial reduction, of fees, if it is in the public interest.
- Establishes criteria for a public records custodian to consider when determining whether the request is in the public interest.
- Requires the custodian to provide a written explanation for denying the request.
- Establishes that a fee will reduced by at least the equivalent of two hours of employee time, minimum amount, if the request is approved
- Allows the public body to close the records request if the requester fails to pay the fee within 60 days of the later of the date the requester was informed of the fee or fee waiver or reduction denial.

Requesting a review of the denial of a fee waiver or reduction

- Establishes that a requester may petition the District Attorney (DA) in a county with a population exceeding 700,000 residents to review the denial of a fee waiver or reduction.
- Requires the petition to be filed within one year of the date the request was denied.
- For counties with 7000,000 or fewer residents, it requires the Attorney General (AG) to, within seven calendar days of receiving the petition, either issue an order, or provide the estimated date when an order will be issued.
- Requires the AG or DA to notify the public body when a petition is received, and requires the public body, within four business days of receiving the notice, to submit support for its position for denying the request.
- Allows the AG or DA to waive up to 100 percent of the fees, if the public body fails to comply.

Public Record Fund

- Requires the public body to retain 33 percent of the fees collected from commercial requesters, in excess of the actual cost of processing the request.
- Requires the public body to deposit 67 percent of the fees collected from commercial requesters into the Fund, in excess of the actual cost of processing the request.
- Requires moneys in the Fund to be appropriated to the Oregon Department of Justice for adjudicating public records appeal.

BACKGROUND:

Oregon's Public Records Law (ORS Chapter 192) defines a public record as any writing with information about the conduct of public business that is prepared, owned, used, or retained by a public body, including every state officer, agency, department, bureau, board, and commission, and every county and city governing body, school district, special district, municipal corporation, or any board, department, commission, council, or agency thereof. Additionally, "every person" has a right to inspect any nonexempt public record of a public body in Oregon.

All public bodies in Oregon must have a written procedure for responding to public records requests and may charge a fee to recover the cost of fulfilling a records request. Fees may be waived or reduced if doing so is in the public interest, which is when providing the record benefits the community or society as a whole instead of benefiting a private entity or person.

Current law gives discretion to waive the fee to public bodies. Oregon's public records law contains the following provision authorizing the collection of fees for public records requests:

(a) The public body may establish fees reasonably calculated to reimburse the public body for the public body's actual cost of making public records available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the request.