



COALITION FOR SENSIBLE PUBLIC RECORDS ACCESS

May 27, 2025

To: The Senate Committee on Rules

Re: **SB 1077 Amendment—We Are Opposed to a 500% Increase in Public Records Fees**

Who We Are

The Coalition for Sensible Public Records Access (CSPRA) is a non-profit organization dedicated to promoting the principle of open public record access to ensure individuals, the press, advocates, and businesses the continued freedom to collect and use the information made available in the public record for personal, governmental, commercial, and societal benefit. Members of CSPRA are just a few of the many entities that comprise a vital link in the flow of information for these purposes and provide services that are widely used by constituents in your state. Collectively, CSPRA members alone employ over 75,000 persons across the U.S. The economic and societal activity that relies on entities such as CSPRA members is valued in the trillions of dollars and employs millions of people. Our economy and society depend on value-added information and services that includes public record data for many important aspects of our daily lives and work. We work to protect those sensible uses of public records.

1. Summary

We are deeply concerned about the proposed egregious fee increases proposed for commercial requesters brought up as amendment to a study bill late in the session with limited chances for full public debate and consideration. The gold standard for public records access fees is the cost of reproduction or transfer. Allowing a charge of up the 500% or the cost of a record is unjustified and unprecedented. Commercial requesters often ask for routine bulk records transfers that are automated, extremely low cost, and efficient. If the concern is burdensome requests, there are proven methods for addressing those. We have helped and supported other states work toward solutions to that issue that did not destroy the essential principles of public records access as this fee increase would. Keep the current law regarding recovering actual costs of public records for all users. Address other issues like burdensome requests directly. Conduct the study for its original purposes and further consider what else the study should address to make the system work better for records custodians and users. We are happy to supply frameworks for such work that other states have used.

2. A Dangerous Precedent

The public records law should not discriminate between the requesting person or entity, no matter the use of the data. The principle of trying to selectively charge certain entities if they profit from a government service already paid for with tax dollars is a slippery slope both within a public records domain and as a principle to apply to any government program.

If certain persons will profit from their public education, should they pay more for it or be charged a fee when they get a good paying job even though the income tax is already a graduated

one? Should a restaurant that delivers or Uber or taxi drivers pay extra gas tax because they directly profit from use of the roads? Should a bottled beverage plant pay extra water fees just because they make money selling the value-added water while another company that just uses it for cooling a manufacturing process does not? We do not think so. Public systems should encourage, rather than discriminate against, those that seek to better themselves by trying to improve their economic standing and provide needed services to customers. Picking and choosing among those so striving to improve their lot to pay extra for the use of a government service that helps them achieve that goal, is not in keeping with the constitutional and economic framework upon which we depend for prosperity as individual states and as a country.

A law firm, bank, title company, news organization, or collection firm may make a substantial profit, make heavy use of the records system, and may cost more than other commercial users. Yet the bill exempts two of them. We see no rational basis for charging extra for one commercial user over another and no justification at all for extra charges for commercial users. They already pay a variable but relevant cost and many commercial users under contract to get bulk records likely pay more than their actual cost to the system from which they draw the records. If the concern is burdensome or otherwise problematic requests, there are much better ways of addressing that issue and that would be a good topic for the interim study effort. CSPRA would be happy to participate in the study and provide resources to support this analysis and develop solutions.

3. Commercial Users Are Often Very Efficient In the Way They Access Records

The vast majority of commercial requests are standardized, low-cost, bulk requests and data transfers. The truth of modern data systems is that data storage and electronic transfer interfaces are cheap and get cheaper every year. After an interim study in which we participated, Washington State passed HB 1595 that placed these costs at 10 cents per gigabyte and that was based on the actual experience, contracts, and storage costs of the state, cities, and counties. Furthermore, private systems that disseminate, index, and add value to public records also take the burden off public systems to serve those needs, thereby further reducing cost to government. If you price commercial requester out of business with excessive fees, the burden will fall right back on the government to serve the thousands of public data users who need these records for every day personal and commercial activities. Finally, government itself is a large customer of the services of commercial requesters for a variety of public purposes such as law enforcement, benefits management, and child support collections. These fees will be passed back to these government users to absorb thereby further negating any gain from the fees.

4. Commercial Use of Public Court Records Is Economically and Personally Valuable

It is often said that we live in an information economy. The natural resource on which that economy depends is information and public records and commercial users of those records are a critical source. Public and private data is used in combination to equalize access to business opportunities, provide convenient and personalized customer service, increase markets and market efficiency, manage and reduce risk, and contribute substantially to economic growth. It is so ubiquitous, it is easy to forget that good information leads to the decisions and communications that help businesses get started or grow. We have achieved a degree of democratization of opportunity through equal and reasonably priced access to public information that strengthens the vitality of our entrepreneurial and small business sectors. Public policy

regarding commercial use of public records should not imperil the free flow of information that is a major job creation engine for our economy. The benefits that flow from these private services are many and critically important to life events, public safety, and the economy.

5. Excessive Fees on Public Data Is Troubling Double Taxation

We are concerned that this amendment will lead to double taxation. Taxpayers already pay for the creation of a public records system. The cost of getting copies of those public records is paid by the person getting access to them at the marginal cost of the copy and sometimes greater than marginal cost. So, the public records system is paid for by taxes and user fees. It is a public good. To use excessive fees to tax it again when it is repurposed for legal and societally beneficial purposes is an offense to the very notion of public records. They belong to the people, not the government. The government is the custodian for this public good. Public records should be freely used after they are accessed or copied for any legal purpose at the discretion of the user. If a business or person uses them and makes an income, they will pay taxes on that income that in turn supports the Oregon State government. Imposing fees amounting to a tax on public records will result in a pancaking or pyramid effect of taxing inputs and later taxing income derived from the inputs. This is neither fair or sound economic or tax policy considering all the beneficial uses of data and public records and how much a healthy economy depends on the free and frictionless flow of that information.

6. Excessive Fees Will Have Ripple Effects and Unforeseen Consequences

The economy is dependent on inputs of resources and labor. Changes in the availability or price of those inputs have ripple effects across the economy. Information has the additional unique position of helping to create demand and efficiently satisfying that demand. To levy excessive fees on a critical resource like public data is just asking for trouble. The negative impacts of such fees will likely be that the revenue from such fees would be dwarfed by the loss in business income and revenue from the effects of the tax. Further, raising the cost of a common input like data by adding extra fees will raise the cost of goods and services across the board. It also has a rippling cost multiplier effect of raising costs by a larger amount than the fee itself as so many entities use commercial data provider's services.

Conclusion: Oppose the 500% Increase and Policy of Discriminatory Pricing for Public Records

For the reasons set forth above, we respectfully urge you to oppose the amendment, support the interim study, and continue to base the public records charges for commercial users on the actual marginal costs of access. Please oppose grouping users into categories that results in unfair charges to users that exceeds their marginal and often low cost to the system. Thank you for your consideration of our input.

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