



JACKSON COUNTY

Oregon

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Oregon State Legislature
Senate Committee On Rules

RE: Opposition for Oregon Senate Bill 1077 (2025) and its -1 Amendment

Dear Chair Jama, Vice-Chair Bonham, and the Members of the Senate Committee On Rules:

Jackson County appreciates the opportunity to provide testimony in opposition to Oregon Senate Bill (SB) 1077 (2025) and its -1 Amendment. The proposed Amendment represents significant changes to Oregon's Public Records Law. As written, the Public Records Law represents a straightforward process for public records requests that allows public bodies to be compensated for the additional work required for each request while balancing the need to be transparent in providing access to public records. The existing Oregon Revised Statutes (ORS) provide for, and the case law enables, the public's access to the records and the ability for requestors to access them for free or reduced cost if the request meets applicable standards. The opportunity for levels of appellate review already exists and provides extensive opportunities to contest a public body's determination. While Jackson County opposes the entire Amendment, we address three concerns in this letter: the increased fee does not sufficiently address costs, the addition of significant administrative burden, and the removal of local review of public body decisions.

The Amendment allows, but does not require, public bodies to assess 'commercial requestors' a fee up to 500 percent more than the actual cost. If public bodies charge a higher fee, the public body retains 33 percent to subsidize the processing of public records requests and to grant fee waivers, or *substantial* fee reductions, and directs the remaining 67 percent to a State fund for fund appellate review. This additional fee will not adequately subsidize waivers or reduction in fees. At Jackson County, we regularly receive requests from commercial entities, as well as fee waiver requests both from individual members of the public and reporters from news media outlets and blogs. In our experience, commercial requestors are requesting reports or data that Jackson County already created or is easy to retrieve from a database. Therefore, these requests are usually easy to process, take minimal staff time, and generate low fees, usually less than \$100. However, records requests where a fee waiver is requested are typically for broad-based requests covering large time spans, expansive data, information where reports are not generated, or hundreds of emails or communications of County employees. These types of requests result in large fees due to extensive searching, compiling, and often, significant attorney time for review of exemptions, such as with employee emails. These requests can typically exceed \$1,000 in cost for staff expenses. If a commercial requestor was charged 500 percent of \$20, that is a \$100 'profit', which the County would retain \$33. That amount will not come close to offsetting the fee waiver or reduction of a \$1,000 request. The Amendment stipulates that if fee reduction is warranted, the reduction must be at least the equivalent of two hours of employee time. While the County uses the lowest cost employee possible to process

requests, these hourly rates are still approximately \$55 per hour. Just this simple example shows how this commercial request 'profit' will not sufficiently compensate for the mandated extensive fee waiver and reductions built into the Amendment.

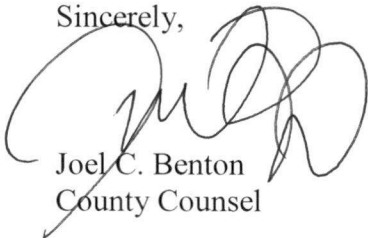
Jackson County is also strongly concerned about the significant administrative burden placed on public bodies for individual public records requests in areas where the ORS does not allow public bodies to collect fees for their time. The Amendment requires a more detailed explanation anytime a public body gives a fee estimate, applies a lawful exemption, or denies a fee waiver or reduction that is wholly within the public body's discretion. The Amendment changes several of the ORS that provide timelines for a public body's response, increasing the complexity of calculating these timelines, as well as complying with them. If a public body chooses to charge commercial requestors higher fees in an attempt to assist to subsidize the processing of public records requests, there is a significant additional burden in the accounting required to ensure the proper funds are sent to the State or used properly for processing records. Compensation is not provided for this additional accounting and actually discourages public bodies from charging commercial requestors more as it will likely cost more to properly account for the funds than to just proceed at current rates.

Finally, while the Amendment appears to have the effect of easing the burden on most elected district attorneys by sending appellate review of public record requests to the Office of the Attorney General, Jackson County believes it will unduly burden the Office, delay the expedited review of public records appeals, and removes the first layer of appellate review from a local decision maker. Specifically, for review of fee waivers or reductions, the case law states that the reviewer has the authority to determine whether a public body's discretion in granting or denying a fee waiver is reasonable. In our experience, local public bodies typically receive fee waivers for records claimed to be of local public interest for local matters. It is unlikely that the Office of the Attorney General will be able to adequately determine whether a fee waiver decision is reasonable according to the character of the public interest when they are local matters. Even more so, when they are faced with additional appellate review of public records request appeals from an additional 35 counties.

Jackson County strongly opposes SB 1077 and its -1 Amendment.

Thank you, again, for the opportunity to provide testimony on this very important topic.

Sincerely,



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