



OREGON DEPARTMENT OF JUSTICE

TO: Senate Committee on Rules

FROM: Leslie Wu, Policy Advisor to Attorney General Rayfield, Oregon Department of Justice

DATE: May 28, 2025

SUBJECT: Testimony on SB 1077 -1 Amendment

The Oregon Department of Justice is neutral on the -1 amendments to Senate Bill 1077, and writes to outline our technical suggestions about certain language in the amendment. We have communicated these suggestions with some proponents of the bill in an effort to ensure our agency can implement these changes in line with their goals. We hope to see another amendment that incorporates these changes should the bill move forward.

- Section 6(4) requires the Department of Justice to conflict-screen in a manner that would be impossible without the creation of some form of ombudsman position outside of the agency. We understand the proponents' desire to be ensuring that the current public records attorney role continues to operate in the same manner as it has in the past, and that the attorney serving in the role is not required to be screened off certain appeals due to their work on state agency public records matters. Our proposal is to delete this section to solve the conflict-screening problem.
- Section 6(2) provides that a party may initiate trial proceedings if the Attorney General does not issue an order on a petition within seven days of receipt of the petition. However, the -1 amendment elsewhere allows for the Attorney General to extend the seven-day deadline. To harmonize these provisions, we recommend that the language at lines 6-7 be changed to "does not rule on the petition within the timeframe prescribed by subsection (1) of this section."
- Section 2(5)(e) instructs custodians of records to prioritize processing of fee waiver requests that are in the public interest. We are concerned that this applies only to fee waivers but not to substantial reductions in fees, could be used as an excuse for delaying responses to certain requests, and could be difficult to enforce since the prioritization would not be subject to review on appeal.

- Section 9(2) states that upon request of the Attorney General or district attorney, the public body must within four days transmit the records sought “unless otherwise agreed by the parties or the factors under ORS 192.329(6) apply.” Many factors can affect whether and when an agency can transmit records to the Attorney General or district attorney’s office, including the factors under ORS 192.329. If the intent of this provision is to allow the Attorney General or district attorney to establish a different timeframe for transmission for the public body, we recommend that the clause be changed to “or a different timeframe prescribed by the district attorney or Attorney General” so that the Attorney General or district attorney can get input from the body, set a revised deadline, and adjust the petition response deadline, in line with the language at Section 6(1)(b).

The Oregon Department of Justice is committed to fair handling of public records appeals. While the agency currently handles some public records appeals, the -1 amendment would assign all public records appeals normally handled by other district attorney offices (except Multnomah County) to the agency. We anticipate this will have a fiscal impact for our agency but understand that alleviating local district attorney office workloads could be beneficial for those offices.

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