

Date:	June 4, 2025
To:	Chair Jama, Vice Chair Bonham, Members of the Senate Rules Committee
From:	Association of Oregon Counties Legislative Affairs Manager Tim Dooley
Subject:	SB 1077 -1 Oppose

Counties believe in Oregon’s public records law - which presumes that records created or maintained by government should be public - unless otherwise exempted from disclosure. We do not believe that SB 1077’s provisions help further that goal. Counties are opposed to SB 1077 -1 for several reasons.

First, from a principle of local control, we do not support the transfer of public records appeals from the county district attorney to the state department of justice. This transfer of responsibility is funded by a complicated plan that imposes substantial administrative burdens on local governments.

This funding plan creates a new system that allows local governments to impose up to a 500% fee on commercial requestors above the local government’s cost to produce the record, then to forward 2/3s of that excess amount to DOJ to fund appeals attorneys, and to retain 1/3 of the excess amount locally and to dedicate those funds to pay for processing requests, granting fee waivers, or fee reductions. To illustrate a 500% increase, take the highest volume request many Sheriff’s Offices and Police Departments receive – a traffic crash investigation. \$20 is not out of the ordinary for the cost of this report in many jurisdictions. A 500% increase takes that cost to \$120 *per report*. The agency would then remit \$67 to DOJ and keep \$33 to fund fee waivers.

That’s not to say there isn’t space to increase the cost for commercial requesters. In one metro area jurisdiction, a single commercial requester accounts for 45% of their public records requests, over 2,200 per year. These high-volume requests are burdensome for local governments. But to require this separate accounting scheme would hinder the work of local governments, especially in smaller jurisdictions, who may not have sufficient staff to track and remit these payments. Allowing local governments to increase fees for commercial requestors and invest those funds into records administration locally would be an example of a solution counties could accept.

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Counties believe that those closest to the issue are the ones best situated to handle the problem. Locally elected district attorneys are able to more effectively and easily work through public records issues with their local governments and requestors than to have a back and forth between a DOJ attorney who may not have the local context and experience to understand the history of a specific request or project in the community and why the local government applied the exemption that they did.

Secondly, the bill has several provisions regarding fee waivers that are problematic. Currently, public bodies may waive fees if they determine that a fee waiver is in the public interest, which is a term that is well established in case law for public records disputes. This bill allows for a fee waiver for any reason. This opens the door to claims that a waiver, or its denial, is arbitrary on behalf of the public body, rather than only waiving fees on requests that are truly in the public interest.

Also, the bill exempts the news media from the definition of commercial requestor, but leaves the definition of news media unclear. This will require local governments to make judgements about who qualifies as news media in an era of independent journalists, blogs, podcasts, substacks, and other non-traditional platforms. This will inevitably lead to conflict and litigation.

In sum, counties believe that the public records law is a valuable tool for the public to understand how their government works, but do not believe that this bill is the vehicle to improve this system. We are happy to engage in discussions regarding common sense reforms and improvements to the system but are opposed to the bill in this form.