

A-Engrossed
Senate Bill 554

Ordered by the Senate April 12
Including Senate Amendments dated April 12

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Newspaper Publishers Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires public body to respond to written request for public record as soon as practicable and without [*undue*] **unreasonable** delay. Provides that response must contain certain information.
Requires public body to make available written procedure for making public record requests.

A BILL FOR AN ACT

1
2 Relating to public records; amending ORS 147.421, 192.440 and 802.183.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 192.440 is amended to read:

5 192.440. (1) The custodian of any public record that a person has a right to inspect shall give
6 the person, [*on demand*] **upon request:**

7 (a) A [*certified*] copy of the public record if the public record is of a nature permitting copying;
8 or

9 (b) A reasonable opportunity to inspect or copy the public record.

10 **(2) If a person makes a written request to inspect a public record or to receive a copy**
11 **of a public record, the public body receiving the request shall respond as soon as practicable**
12 **and without unreasonable delay. The public body may request additional information or**
13 **clarification from the requester for the purpose of expediting the public body's response to**
14 **the request. The response of the public body must acknowledge receipt of the request and**
15 **must include one of the following:**

16 (a) A statement that the public body does not possess, or is not the custodian of, the
17 public record.

18 (b) Copies of all requested public records for which the public body does not claim an
19 exemption from disclosure under ORS 192.410 to 192.505.

20 (c) A statement that the public body is the custodian of at least some of the requested
21 public records, an estimate of the time the public body requires before the public records
22 may be inspected or copies of the records will be provided and an estimate of the fees that
23 the requester must pay under subsection (4) of this section as a condition of receiving the
24 public records.

25 (d) A statement that the public body is the custodian of at least some of the requested
26 public records and that an estimate of the time and fees for disclosure of the public records
27 will be provided by the public body within a reasonable time.

28 (e) A statement that the public body is uncertain whether the public body possesses the

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 **public record and that the public body will search for the record and make an appropriate**
2 **response as soon as practicable.**

3 **(f) A statement that state or federal law prohibits the public body from acknowledging**
4 **whether the record exists or that acknowledging whether the record exists would result in**
5 **the loss of federal benefits or other sanction. A statement under this paragraph must include**
6 **a citation to the state or federal law relied upon by the public body.**

7 [(2)] (3) If the public record is maintained in a machine readable or electronic form, the custo-
8 dian shall provide a copy of the public record in the form requested, if available. If the public record
9 is not available in the form requested, the custodian shall make the public record available in the
10 form in which the custodian maintains the public record.

11 [(3)(a)] (4)(a) The public body may establish fees reasonably calculated to reimburse the public
12 body for the public body's actual cost of making public records available, including costs for sum-
13 marizing, compiling or tailoring the public records, either in organization or media, to meet the
14 person's request.

15 (b) The public body may include in a fee established under paragraph (a) of this subsection the
16 cost of time spent by an attorney for the public body in reviewing the public records, redacting
17 material from the public records or segregating the public records into exempt and nonexempt re-
18 cords. The public body may not include in a fee established under paragraph (a) of this subsection
19 the cost of time spent by an attorney for the public body in determining the application of the pro-
20 visions of ORS 192.410 to 192.505.

21 (c) The public body may not establish a fee greater than \$25 under this section unless the public
22 body first provides the requestor with a written notification of the estimated amount of the fee and
23 the requestor confirms that the requestor wants the public body to proceed with making the public
24 record available.

25 (d) Notwithstanding paragraphs (a) to (c) of this subsection, when the public records are those
26 filed with the Secretary of State under ORS chapter 79 or ORS 80.100 to 80.130, the fees for fur-
27 nishing copies, summaries or compilations of the public records are those established by the Secre-
28 tary of State by rule, under ORS chapter 79 or ORS 80.100 to 80.130.

29 [(4)] (5) The custodian of any public record may furnish copies without charge or at a substan-
30 tially reduced fee if the custodian determines that the waiver or reduction of fees is in the public
31 interest because making the record available primarily benefits the general public.

32 [(5)] (6) A person who believes that there has been an unreasonable denial of a fee waiver or
33 fee reduction may petition the Attorney General or the district attorney in the same manner as a
34 person petitions when inspection of a public record is denied under ORS 192.410 to 192.505. The
35 Attorney General, the district attorney and the court have the same authority in instances when a
36 fee waiver or reduction is denied as it has when inspection of a public record is denied.

37 **(7) A public body shall make available to the public a written procedure for making public**
38 **record requests that includes:**

39 **(a) The name of one or more persons to whom public record requests may be sent, with**
40 **addresses; and**

41 **(b) The amounts of and the manner of calculating fees that the public body charges for**
42 **responding to requests for public records.**

43 [(6)] (8) This section does not apply to signatures of individuals submitted under ORS chapter
44 247 for purposes of registering to vote as provided in ORS 247.973.

45 **SECTION 2.** ORS 147.421 is amended to read:

1 147.421. (1) If a public body is the custodian of any of the following information, upon the re-
2 quest of the victim, the public body shall provide to the victim any of the following information of
3 which it is the custodian and that is about the defendant or convicted criminal:

- 4 (a) The conviction and sentence;
- 5 (b) Criminal history;
- 6 (c) Imprisonment; and
- 7 (d) Future release from physical custody.

8 (2) A public body, in its discretion, may provide the requested information by furnishing the
9 victim with copies of public records. The public body may charge the victim its actual cost for
10 making public records available as provided in ORS 192.440 [(3)] (4).

11 (3) As used in this section:

12 (a) "Criminal history" means a description of the prior arrests, convictions and sentences of the
13 person.

14 (b) "Future release" means the projected or scheduled date of release of the person from con-
15 finement, the name and location of the correctional facility from which the person is to be released
16 and the community where the person is scheduled to reside upon release.

17 (c) "Imprisonment" means the name and location of the correctional facility in which the person
18 is confined.

19 (d) "Public body" has the meaning given that term in ORS 192.410.

20 **SECTION 3.** ORS 802.183 is amended to read:

21 802.183. (1) The Department of Transportation may establish fees reasonably calculated to re-
22 imburse it for its actual cost in making personal information available to a person or government
23 agency authorized under ORS 802.179 to obtain the information. Fees established under this sub-
24 section are subject to the provisions of ORS 192.440 [(3) to (5)] (4) to (6).

25 (2) The department may adopt rules specifying conditions that must be met by a person or gov-
26 ernment agency requesting personal information under ORS 802.179. Such conditions may include
27 but need not be limited to:

- 28 (a) Providing reasonable assurance of the identity of the requester;
- 29 (b) Providing reasonable assurance of the uses to which the personal information will be put, if
30 applicable;
- 31 (c) Showing that the individual whose personal information is to be disclosed has given permis-
32 sion for the disclosure, if permission is required; and
- 33 (d) Submitting a written request for the personal information in a form prescribed by the de-
34 partment.

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