

Senate Bill 554

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 **as introduced**.

Requires public body to respond to written request for public record as soon as practicable and without undue 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) A public body shall respond to a person who makes a written request for a public**
11 **record as soon as practicable and without undue delay. The response must acknowledge re-**
12 **ceipt of the request and must include one of the following:**

13 **(a) A statement that the public body does not possess, or is not the custodian of, the**
14 **public records.**

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

17 **(c) A statement that the public body is the custodian of at least some of the requested**
18 **public records, an estimate of the time the public body requires before the public records**
19 **may be inspected or copies of the records provided and an estimate of the fees that the re-**
20 **quester must pay under subsection (4) of this section as a condition of receiving the public**
21 **records.**

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

25 [(2)] **(3)** If the public record is maintained in a machine readable or electronic form, the custo-
26 dian shall provide a copy of the public record in the form requested, if available. If the public record
27 is not available in the form requested, the custodian shall make the public record available in the
28 form in which the custodian maintains the public record.

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

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

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

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

16 [(4)] (5) The custodian of any public record may furnish copies without charge or at a substan-
17 tially reduced fee if the custodian determines that the waiver or reduction of fees is in the public
18 interest because making the record available primarily benefits the general public.

19 [(5)] (6) A person who believes that there has been an unreasonable denial of a fee waiver or
20 fee reduction may petition the Attorney General or the district attorney in the same manner as a
21 person petitions when inspection of a public record is denied under ORS 192.410 to 192.505. The
22 Attorney General, the district attorney and the court have the same authority in instances when a
23 fee waiver or reduction is denied as it has when inspection of a public record is denied.

24 **(7) A public body shall annually review and make available to the public a written pro-
25 cedure for making public record requests that includes:**

26 **(a) A person and address to which public record requests may be sent;**

27 **(b) The amounts of and the manner of calculating fees that the public body charges for
28 responding to requests for public records; and**

29 **(c) Any other information that will assist a person seeking public records of the public
30 body.**

31 [(6)] (8) This section does not apply to signatures of individuals submitted under ORS chapter
32 247 for purposes of registering to vote as provided in ORS 247.973.

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

34 147.421. (1) If a public body is the custodian of any of the following information, upon the re-
35 quest of the victim, the public body shall provide to the victim any of the following information of
36 which it is the custodian and that is about the defendant or convicted criminal:

37 (a) The conviction and sentence;

38 (b) Criminal history;

39 (c) Imprisonment; and

40 (d) Future release from physical custody.

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

44 (3) As used in this section:

45 (a) "Criminal history" means a description of the prior arrests, convictions and sentences of the

1 person.

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

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

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

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

9 802.183. (1) The Department of Transportation may establish fees reasonably calculated to re-
10 imburse it for its actual cost in making personal information available to a person or government
11 agency authorized under ORS 802.179 to obtain the information. Fees established under this sub-
12 section are subject to the provisions of ORS 192.440 [(3) to (5)] **(4) to (6)**.

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

16 (a) Providing reasonable assurance of the identity of the requester;

17 (b) Providing reasonable assurance of the uses to which the personal information will be put, if
18 applicable;

19 (c) Showing that the individual whose personal information is to be disclosed has given permis-
20 sion for the disclosure, if permission is required; and

21 (d) Submitting a written request for the personal information in a form prescribed by the de-
22 partment.

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