

# Senate Bill 555

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**.

Allows custodian of public record to furnish copy of record without charge or at reduced fee unless custodian determines that copy has been requested for primarily personal or commercial use. Allows custodian to consider financial hardship on public body in responding to request for waiver or reduction of fees.

## A BILL FOR AN ACT

1  
2 Relating to public records; creating new provisions; and amending ORS 192.440.

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:

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 the public record is maintained in a machine readable or electronic form, the custodian  
11 shall provide a copy of the public record in the form requested, if available. If the public record is  
12 not available in the form requested, the custodian shall make the public record available in the form  
13 in which the custodian maintains the public record.

14 (3)(a) The public body may establish fees reasonably calculated to reimburse the public body for  
15 the public body's actual cost of making public records available, including costs for summarizing,  
16 compiling or tailoring the public records, either in organization or media, to meet the person's re-  
17 quest.

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

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

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

**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 tary of State by rule, under ORS chapter 79 or ORS 80.100 to 80.130.

2 (4) The custodian of any public record may furnish copies without charge or at a substantially  
 3 reduced fee *[if the custodian determines that the waiver or reduction of fees is in the public interest*  
 4 *because making the record available primarily benefits the general public]* **unless the custodian de-**  
 5 **termines that the copies have been requested for primarily personal or commercial use. In**  
 6 **considering other instances in which the waiver or reduction of fees is requested, the**  
 7 **custodian may take into account financial hardship on the public body.**

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

13 (6) This section does not apply to signatures of individuals submitted under ORS chapter 247 for  
 14 purposes of registering to vote as provided in ORS 247.973.

15 **SECTION 2. The amendments to ORS 192.440 by section 1 of this 2007 Act apply to re-**  
 16 **quests to inspect public records received on or after the effective date of this 2007 Act.**

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