



STATE OF OREGON
Legislative Counsel Committee

January 31, 2012

MEASURE: HB 4084
EXHIBIT: 3
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SUBMITTED BY: BeaLisa Sydlik

To: Representative Vic Gilliam
Representative Carolyn Tomei
Co-Chairs, House Committee on Human Services

From: BeaLisa Sydlik, Deputy Legislative Counsel

Subject: Request for HB 4084-2 Amendments

This memorandum is in response to the request of Beth Herzog, Committee Administrator, for an explanation of why the -2 amendments, as requested on January 31, 2012, are not needed.

The -2 amendments were requested because stakeholders believed that reimbursement for costs of producing financial records under ORS 192.602 was in the discretion of the Department of Human Services and not the financial institution providing the financial records. To the contrary, ORS 192.602 (2) explicitly provides that the "financial institution may require that the requesting state or local agency reimburse the financial institution for the reasonable costs incurred." The department has no authority under the statute to exercise any discretion with respect to reimbursement of costs to provide financial records. ORS 192.602 (2) clearly states this is the prerogative of the financial institution to which the request has been made. Since this is the result desired by the stakeholders, the -2 amendments are not necessary.

I have included the text of ORS 192.602, with the relevant subsection highlighted for your convenience:

192.602 Time for compliance; reimbursement; exceptions. (1) A financial institution shall have a reasonable period of time in which to comply with any proper customer authorization, summons, subpoena or search warrant permitting or seeking disclosure of financial records. For the purposes of this section, a "reasonable period of time" shall in no case be less than 10 days from the date upon which the financial institution receives or is served with a customer authorization, summons, subpoena or search warrant. However, in all cases in which disclosure is sought pursuant to ORS 192.596, the reasonable period of time shall be not less than 20 days.

(2) Before making disclosures, a financial institution may require that the requesting state or local agency reimburse the financial institution for the reasonable costs incurred by the financial institution in the course of compliance. These costs include, but are not limited to, personnel costs, reproduction costs

and travel expenses. The following charges shall be considered reasonable costs:

(a) Personnel costs, \$30 per hour per person, computed on the basis of \$7.50 per quarter hour or fraction thereof, for time expended by personnel of the financial institution in searching, locating, retrieving, copying and transporting or conveying the requested material to the place of examination.

(b) Reproduction costs, \$1 per page, including copies produced by reader and printer reproduction processes. Photographs, films and other materials shall be reimbursed at actual costs.

(c) Travel expenses, 50 cents per mile, plus other actual costs, necessary to transport personnel to locate and retrieve the information required or requested and to convey the required or requested material to the place of examination.

(3) The provisions of subsection (2) of this section do not apply in the case of records subpoenaed by a prosecuting attorney as evidence of the crimes of negotiating a bad check under ORS 165.065, forgery under ORS 165.007 and 165.013, theft by deception by means of a bad check under ORS 164.085, fraudulent use of a credit card under ORS 165.055, identity theft under ORS 165.800 or racketeering activity under ORS 166.720 or of an offense listed in ORS 137.700.