



April 24, 2015

Clackamas County Board of Commissioners
Policy Position
HB 3505: Relating to Public Records

Clackamas County opposes HB 3505: The Board of County Commissioners opposes HB 3505, which requires, among other things, the waiver of fees for public records requests not fulfilled within 3 weeks, irrespective of their size or complexity. HB 3505 poses three very serious concerns for Clackamas County: fee caps, restrictive timelines, and a lack of consideration for the future of public records.

HB 3505 proposes that fees to retrieve public records be set by state statute. While Clackamas County understands that public records should remain accessible, and we include affordability as a means of accessibility, we also seek to be fiscally responsible with our staff time and resources to respond to all public services. Under the current law, counties set public records fees taking into account the balance between staff cost and materials necessary to respond to a public records request. If fees are set by state statute and at the rate proposed by HB 3505, counties will be forced to use constrained general fund dollars to supplement public records requests that should be borne by the requestor, and not at the expense of other county programs. We do not see this as an affordable solution to transparency; rather, we believe this is an unjustified infringement by the State government in the normal business of Counties.

HB 3505 proposes that fees for public record requests be waived if the requests are not met within three weeks. Clackamas County receives a high volume of public records requests, and commits to responding to each in a timely manner. Some requests, however, are so broad in scope, or implicate privileged or potentially exempt records, that they require extensive work including legal review to ensure no exempt, privileged, or private citizen information is disclosed in violation of existing public records law. The costs of these types of requests often reach into the thousands of dollars – dollars that would be paid through regular citizen tax funds instead of the requestor if public bodies are penalized for requests that naturally take longer than three weeks to finalize. Furthermore, Clackamas County is concerned that HB 3505 will inadvertently cause the number of these broad, high workload requests to rise because requesters will seek to avoid fees by creating more expansive requests.

Finally, as public safety continues to evolve and adapt to technological innovations, we are seeing more public interest favoring body-cameras to be worn by public safety officers. These videos will also be subject to records requests. These types of requests require the addition of video editing personnel to retrieve content and edit for privacy, in addition to the staff already required. We anticipate this will increase the time and costs it takes to comply with public records requests.

While Clackamas County agrees that the transparency of government action is an invaluable tool to ensure the responsible use of public tax dollars, we believe that HB 3505 is overly broad and gives rise to many unintended consequences, including excessive costs, confusion, and forcing public subsidy of complex requests. We urge a “no” vote on HB 3505.

Please contact Chris Lyons at clyons@clackamas.us for more information.