

Don't Make Counties Pay for Kitzhaber & Hayes' Hijinks

HB 3505's unrealistic requirements are an over-reaction
that will increase costs for local governments

House Bill 3505 has several sound provisions, but would significantly burden Oregon counties and appears to expose both elected officials and employees to personal fines for using electronic communication that is not backed up on a county server.

The provision: HB 3505 requires public bodies to respond to public records request within seven days of request and at seven-day intervals thereafter until complete disposition of request.

The problem: This requirement might be fine for the simple run-of-the mill requests, but would be unduly burdensome for broad, large, or complicated requests. For such requests, the three-week limit would result in a county eating the costs to respond.

The provision: HB 3505 also waives fees that the public body would have received if complete disposition of request has not been made within three weeks and treats a request as denied if complete disposition has not been made within six weeks of request.

The problem: The bill's unrealistic six-week limit would likely throw these complicated requests into the courts or lead to the release of records without public agencies conducting any serious review for exemptions to disclosure.

The provision: HB 3505 establishes alternative method for determining fees public bodies may charge public records requesters. Requires public body to charge lesser of fee determined under existing law or under alternative method

The problem: The maximum amounts that HB 3505 allows would completely gut counties' current fee schedule, and would require counties to eat much of the response costs

The provision: HB 3505 requires a public body that creates or retains public records on social media, that sends public record through text messaging or using electronic mail addresses via a domain it doesn't own, to store copies of those records on storage equipment owned or operated by public body within 30 days of their creation or retention. It's also authorizes Attorney General to impose civil penalties for violation of storage requirements.

The problem: Capturing and retaining all this information would be a substantial burden for county IT departments. Since HB 3505 appears to create personal fine liability to elected officials and public employees, if a Commissioner were to use a Yahoo, Gmail, or other account to conduct County business and these weren't backed up by the County, fines would be imposed.

The provision: HB 3505 declares an emergence and, thus, is effective on passage.

The problem: Public bodies are given no time to implement these substantial changes

Why Should Counties Pay for Governor Kitzhaber's Shenanigans?