



## CITY OF THE DALLES

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April 27, 2015

Representative Val Hoyle, Chair  
House Committee on Rules  
Oregon State Capital  
900 Court Street NE  
Room 64  
Salem, OR 97301

Re: House Bill 3505

Dear Representative Hoyle:

I am writing to express my concerns regarding House Bill 3505 which concerns the retention of public records, and the process by which local governments respond to request for public records. Although I agree the local governments should operate in a transparent manner, and respond to requests for public information in an equitable and efficient manner, I do not believe the proposed legislation would support this objective.

As I understand the proposed measure, it would establish a 7 day period from the time of receipt of a request for public records, in which a local government would have to respond and either produce the records, assert any exemptions for not disclosing the requested records, or provide an estimate for the costs of producing the records and the time it would take to produce the records.

The proposed 7 day time period for a response may work for certain requests for public records which are routine, and which do not require any extensive research time by staff or legal review to determine if there are any exemptions which would require that the documents not be disclosed. However, our city does receive certain requests for public records which either seek a large volume of documents, or the request involves documents which may be potentially exempt from disclosure, and the determination as to whether the City will ultimately assert an exemption from disclosure cannot be made within a period of 7 days. I understand the proposed legislation includes a provision that if a local government provides an initial response within the proposed 7 day period which is not completely responsive to the request to produce the public records, the local government must provide an update every 7 days thereafter concerning the progress made in responding to the request, until the request has been completely addressed. This provision would add an additional administrative burden to local governments.

The proposed measure includes a provision that if within 3 weeks after the request has been made, the local government has not either provided the documents which were requested to the requesting party, or allowed the requesting party to inspect the documents, or completely determined what exemptions from disclosure will be claimed, the local government will be deemed to have waived its right to charge its normal fees for producing the documents. The measure also provides that if a local government has not completely resolved the request for public records within 6 weeks of the date of the request, the request will be deemed to have been denied.

There is no guarantee that a public records request which seeks a large volume of documents, and which presents complicated issues related to a determination of whether the documents are exempt from public disclosure, would be resolved within a 3 week time period from the date of the request for the records. The provisions which automatically deem a request for public records as having been denied if not resolved within 6 weeks from the date of receipt of the request, effectively pre-empts the process by making a decision without allowing a local government to have completed the process to respond the request for public records.

The proposed measure also includes provisions which would have a burdensome and negative impact upon local governments. The provision requiring the adoption of a retention schedule for public records for a minimum of three years will require local governments to incur additional costs for the review and storage of public records. The proposed fee schedule in the measure appears to significantly limit the amount of the fee which local governments can charge for the production of public records, which will have a negative impact upon the financial resources for local governments.

I encourage you and the other members of the House Rules Committee not to support the proposed legislation.

Regards,

  
Gene E. Parker  
City Attorney