

Mayor
Honorable Lori DeRemer



City Manager
Jason A. Tuck

April 27, 2015

House Committee on Rules
Oregon State Capitol
900 Court Street NE
Salem, OR 97301

To the Honorable Chair Hoyle and Members of the House Committee on Rules,

Re: Oppose HB 3505

HB 3505 requires cities and other local governments to fulfill complicated public records requests within an infeasible timeframe or forgo reimbursement for their costs. This legislation seeks to improve transparency, however HB 3505 will only confound customer service and exhaust limited public dollars. The City of Happy Valley urges your opposition to HB 3505 for the following reasons:

1. HB 3505 does not account for the diversity of public records requests.

Often, a record request requires minimal effort to fulfill. In such instances, the cost of producing a public record is negligible, and frequently local governments forego fee collection. HB 3505, however, fails to consider that not all public record requests are easily fulfilled. Larger, more complex requests may require staff time, additional temporary staff, specialty printing services and other public resources. Treating all public requests as equivalent is an inaccurate assumption.

2. HB 3505 does not account for the soft costs of public records requests.

Many local governments, such as Happy Valley, are smaller employers. Every employee serves a critical function to a jurisdiction's operation. When a public employee must fulfill a complex records request, that employee is diverted from his or her critical functions. Complex record requests by nature necessitate staff time, and staff time is funded through public dollars. Inhibiting a local government from recovering the actual cost of a request enables private parties to mishandle public resources and burdens the community to subsidize an employee's time through public funds.

3. HB 3505 imposes infeasible time constraints on local governments.

HB 3505 requires a local government to respond to a records request within seven days of the initial receipt of a request. If a request is not fulfilled within three weeks, all fees owed to a local government are waived. Failure to fulfill a request within six weeks is considered to

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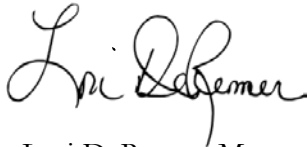
be a denial of the request. HB 3505 fails to consider that highly complex record requests require time. Records often pre-date electronic storage repositories, therefore a record's retrieval requires physical examination of tangible records, following paper trails and maintaining the integrity of original documents. It is unlikely that a smaller governing unit can sufficiently fulfill a complex records request in the proposed timeframe. Consequently, local governments are unlikely to recover the costs of larger record requests, again placing a burden on the community to subsidize private requests through public dollars.

To mitigate loss and/or diversion of public resources, local governments will strive to fulfill requests within the proposed timeframe. Fulfillment of larger record requests, however, will require reprioritization of municipal services. Summarily, records requestors will be granted a higher level of priority than other citizens and businesses requesting city services. Prioritizing one request over another raises several equity questions.

Finally, HB 3505 operates under a faulty assumption that local governments exert control over all parties involved in the fulfillment of a records request, namely a city's attorney. A local government's attorney or attorney firm often serves several local governments. Consequently, a local government cannot control the schedule or availability of a city attorney to review records. Unless the attorney was to reprioritize existing casework, the proposed timeframe may be infeasible, thereby placing liability on local governments.

Taking into consideration the diverse range of public records requests, the soft costs of fulfilling requests, and the infeasible timelines set forth, Happy Valley urges your opposition to HB 3505.

Sincerely,

A handwritten signature in black ink that reads "Lori DeRemer". The signature is written in a cursive, flowing style.

Lori DeRemer, Mayor

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Preserving and enhancing the safety, livability and character of our community