



DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL

MEMORANDUM

DATE: April 27<sup>th</sup>, 2015  
TO: Honorable Val Hoyle, Chair  
FROM: Aaron Knott, Legislative Director  
SUBJECT: HB 3505 – Modifying Public Records

This testimony is presented in opposition to HB 3505.

**BACKGROUND**

HB 3505 makes a series of reforms to public records laws designed to make public bodies more immediately responsive to public records requests. While some of the changes contained within HB 3505 are laudable, the bill as written will incentivize the filing of excessively complex requests and prohibit public bodies from collecting their fair expenses. The Department of Justice opposes HB 3505 as written.

**HB 3505 encourages overbroad public records requests.** Sec. 3(4) of HB 3505 requires a public body to waive all fees if they are unable to fulfill a public records request in its entirety within a 21 day period. While a typical public records request should be completed within 21 days, requests of particular complexity or volume may be impracticable to resolve. Public records requests do not arrive on a predictable schedule, and several can arrive at one time. This forces a public body to either pull qualified staff off of other assignments without warning or forfeit the expense of fulfilling the request. This creates the peculiar incentive to file as large or complex of a request as possible in hope that the public body will lack the resources to respond within 21 days.

**HB 3505 prevents public bodies from fairly recouping their expenses.** Sec. 4 of HB 3505 establishes a fee structure which effectively eliminates the very real cost of staff or attorney time by requiring the public body to impose the lesser of the physical cost of the materials or the actual cost. Because the actual cost will always exceed the physical cost of materials, staff and attorney time are permanently eliminated by this proposal.

The receipt of a public records request should be taken seriously and dealt with promptly, but should not be a cause for panic or the hurried diversion of other resources. The Department of Justice stands in opposition to HB 3505.

**Contact:** Aaron Knott, Legislative Director, 503-798-0987 or [aaron.d.knott@doj.state.or.us](mailto:aaron.d.knott@doj.state.or.us)