

April 23, 2015

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

Re: House Bill 3505 (HB3505)

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

I am submitting the following comments on behalf of the Oregon Association of Municipal Recordors and the City of Salem. HB3505 would apply to all cities in Oregon, and its adoption brings with it a potential burden for many. My experience with municipal records officers has shown them to be a dedicated group of individuals who strive to comply with the current Public Records Laws and to act responsibly. I'm not sure what problem the passage of HB3505 would solve, and I feel these changes would be onerous for some.

Salem strives to make the most sought after records immediately available by posting these materials to the City website. This allows for immediate and free access to records by the public. In lieu of that, most requests are filled immediately, or an immediate response is sent to the requestor. In Salem, for example, staff provides a written response to written requests, typically submitted online, within 5 days of receipt. The requestor is informed of the estimated length of time to fill the request and associated costs if any. The records officer may also seek clarification of the request to help narrow the search.

Oregon has many small cities that may have limited staff. Records officers often have a wide variety of responsibilities, all with their own time compliance requirements. By requiring certain time limits for responses to records requests, the staffer may have to make a decision on the least impactful of consequences – researching/fulfilling an extensive records request or letting other job duties, like a City Council agenda packet, meeting minutes, or election filings, slip. Based on my experience, it is difficult to imagine city records officers not making a good faith effort to complete or respond to a request within a reasonable period of time and doing so at the least possible expense to the requestor.

Most cities have adopted a master fee schedule in which billable hours and copying costs are included. Many requests are filled electronically making it unnecessary to make copies or to incur postage costs. HB3505 further seems to take the position that it is easy to retrieve records in a digital age. That is applicable if one had entirely digital records that are well organized, and it is not financially feasible for cities to make that leap to the digital age. Both large and small municipalities still maintain a hybrid mix of paper and digital records. Response times can be affected by the need to send materials such as microfilm to 3rd party vendors to reproduce the record for the requestor. If the time limits in HB 3505 were exceeded the City would not be able to recoup its cost in preparing the records.

After an extensive review process by the Oregon Association of Municipal Records Records Management Committee with expert guidance from State Archivist Mary Beth Herkert, the revised City Retention Schedule was adopted less than a year ago. I do not see the benefit of adding another year's retention when people have scaled their records management programs to the recently adopted schedule. Cities who signed service agreements with the Secretary of State's Office for electronic records management would have to go through yet another modification to their processes.

In addition, HB3505 requires public bodies to retain, on their own servers, public records created through social media. This creates an unanticipated storage expense for cities, and would cause unnecessarily duplication of storage of social media content that is already maintained by a public body's vendor. Section 6 of the bill would also impose civil penalties on individual public officials for violations of this new rule, and would unduly chill local government use of social media to communicate with the public. At a time when many local governments are embracing social media to encourage public involvement, adding to the cost of utilizing this technology, and threatening individual public employees with civil penalties for even unknowing violations is counterproductive.

Cities may not have the storage capability for an expanded retention schedule; a minimum of 3 years retention for a desk calendar, for example seems unrealistic. These currently have a one-year retention; by requiring cities to keep an additional two years' worth will add to ongoing storage costs in any medium. For many practical reasons, the proposed amendment is neither sustainable nor equitable for a significant number of Oregon cities.

Thank you for your consideration.

Sincerely,

Amber Mathiesen, CMC
City Recorder, City of Salem
Oregon Association of Municipal Records