

STAFF MEASURE SUMMARY

House Committee On Rules

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 05/28/15

Action: Do Pass.

Meeting Dates: 05/13, 05/28

Vote:

Yeas: 7 - Barnhart, Hoyle, Kennemer, Nosse, Rayfield, Smith Warner, Wilson

Nays: 1 - Gilliam

Exc: 1 - McLane

Prepared By: Erin Seiler, Committee Administrator

WHAT THE MEASURE DOES:

Directs Secretary of State Audits Division to conduct performance audit of state agency public records retention and disclosure practices, including analysis and recommendations on specified criteria. Requires submission of audit report to legislative entities and Governor on or before November 20, 2015. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Timely access to public records
- Purpose of audit
- Identifying best practices for management of public records
- Methods for accessing and reviewing public records
- Scope of public records requests
- Applicability and inclusion of Legislative Assembly in audit

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

Oregon law does not currently impose deadlines for responding to public records requests; instead, ORS 192.430(1) requires that “[t]he custodian of any public records shall furnish proper and reasonable opportunities for inspection and examination of the records during normal business hours to all persons having cause to make examination of them.” This has been interpreted by the Attorney General to allow public bodies a reasonable time to provide copies of the requested records or to make them available for inspection. Oregon law allows public bodies to establish fees for reimbursement of the actual cost of making public records available, including costs of summarizing, compiling or tailoring the records to meet the public’s request, staff time, and in some cases, attorney time as well. All states give public bodies authority to recoup the cost of records requests; 11 states exclude staff time in the cost calculation, and no other state allows for calculation of attorney time as part of the fee.

Senate Bill 9 directs the Secretary of State (SOS) to conduct a performance audit to examine state agency retention and disclosure of practices related to public records and requests for public records. The audit is to examine a sample of large, medium and small state agencies in order to identify and make recommendations regarding best practices and procedures for receiving and processing public records requests. The SOS audit is to consider the following issues: identifying agencies responsive to requests by gathering and disclosing responsive records; how record retention is managed, considering methods of categorization and storage of records; how fee estimates are determined and whether to impose or waive fees; process for determining and applying exemptions from required disclosure of public records; how workload is managed by identifying cost, timeliness, accuracy and completeness in responding to public records requests; process for training and assigning

responsibility for record retention management and record request processing and establishing guidelines concerning the use or creation of email, text messaging, instant messaging and other forms of social media.

The audit report is to be submitted on or before November 20, 2015.