

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date: 06/08/15

Action: Do Pass As Amended And Be Printed Engrossed.

Meeting Dates: 06/08

Vote:

Yeas: 9 - Barnhart, Gilliam, Hoyle, Kennemer, McLane, Nosse, Rayfield, Smith Warner, Wilson

Prepared By: Erin Seiler, Committee Administrator

WHAT THE MEASURE DOES:

Restores clear and convincing public interest standard for release of public employees', volunteers' and others' personal information pursuant to public records request. Requires public bodies to delay response and forward such requests to affected persons or their representatives. Permits public body to recover costs associated with notifying individuals whose personal information is sought and for making determinations whether clear and convincing public interest standard has been met, regardless of whether information is disclosed. Provides civil and criminal immunity to public body or official of public body for harm caused by release of information based on its determination that clear and convincing evidence of public interest required disclosure. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Restoration of public interest standard by clear and convincing evidence for disclosure of certain information about public employees and volunteers
- Immunity for public entities that disclose information
- Ability of public body to recover costs, regardless of whether information is disclosed
- "Clear and convincing" public interest standard
- Limited reasons that personal information of public employees would be requested or disclosed
- Reasons for restoration of public interest standard

EFFECT OF COMMITTEE AMENDMENT:

Provides civil and criminal immunity to public body or official of public body for harm caused by release of information based on its determination that clear and convincing evidence of public interest required disclosure. Permits public body to recover costs associated with notifying individuals whose personal information is sought and for making determinations whether clear and convincing public interest standard was met, regardless of whether information is disclosed.

BACKGROUND:

There are two categories of public records that are exempt from disclosure pursuant to a public records request: One category may be released upon a showing that the public interest requires disclosure (ORS 192.501), such as information about active litigation, trade secrets, investigative reports in criminal proceedings, and electors' residential addresses; the other category of records that are exempt from disclosure are those that require a particularized showing in order to warrant being made public (ORS 192.502), such as: advisory communications where the public interest outweighs the interest in frank discussions; medical or other similar personal information where the public interest is clear and convincing and does not constitute an unreasonable invasion of privacy; and the private addresses, phone numbers, and dates of birth of public employees and volunteers, where the public interest is shown by clear and convincing evidence.

On April 9, 2015, House Bill 3037 took effect, removing the clear and convincing public interest standard required to disclose the addresses, phone numbers and dates of birth of public employees and volunteers, exempting that information outright, and expanding the outright exemption to include personal cell phone numbers, personal email addresses, driver license numbers, employer-issued identification card numbers, and emergency contact information.

House Bill 3557-A restores the clear and convincing public interest standard required to disclose personal information about public employees and volunteers that was removed by House Bill 3037, and makes a number of other changes to the process when such information is requested, including: requiring the requestor to provide the names of individuals seeking the information; requiring the public body in receipt of such a request to forward it to the affected individual and requiring the public body to delay responding to the request for seven days. In addition, the measure permits a public body to recover associated costs and provides immunity from civil and criminal liability for harm caused by release of personal information based on a determination that the standard was met.