

# Senate Bill 863

Sponsored by Senator GIROD

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes law enforcement units to adopt additional public records request fees designed to recoup costs of storage, storage technology, indexing and retrieval of information captured through use by law enforcement of body cameras to capture daily duties of police officers. Requires fee schedules to be designed to recoup costs over three-year period.

## A BILL FOR AN ACT

1  
2 Relating to information captured through law enforcement use of body cameras; amending ORS  
3 192.440.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 192.440 is amended to read:

6 192.440. (1) The custodian of any public record that a person has a right to inspect shall give  
7 the person, upon request:

8 (a) A copy of the public record if the public record is of a nature permitting copying; or

9 (b) A reasonable opportunity to inspect or copy the public record.

10 (2) If a person makes a written request to inspect a public record or to receive a copy of a  
11 public record, the public body receiving the request shall respond as soon as practicable and without  
12 unreasonable delay. The public body may request additional information or clarification from the  
13 requester for the purpose of expediting the public body's response to the request. The response of  
14 the public body must acknowledge receipt of the request and must include one of the following:

15 (a) A statement that the public body does not possess, or is not the custodian of, the public re-  
16 cord.

17 (b) Copies of all requested public records for which the public body does not claim an exemption  
18 from disclosure under ORS 192.410 to 192.505.

19 (c) A statement that the public body is the custodian of at least some of the requested public  
20 records, an estimate of the time the public body requires before the public records may be inspected  
21 or copies of the records will be provided and an estimate of the fees that the requester must pay  
22 under subsection (4) of this section as a condition of receiving the public records.

23 (d) A statement that the public body is the custodian of at least some of the requested public  
24 records and that an estimate of the time and fees for disclosure of the public records will be pro-  
25 vided by the public body within a reasonable time.

26 (e) A statement that the public body is uncertain whether the public body possesses the public  
27 record and that the public body will search for the record and make an appropriate response as soon  
28 as practicable.

29 (f) A statement that state or federal law prohibits the public body from acknowledging whether  
30 the record exists or that acknowledging whether the record exists would result in the loss of federal

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 benefits or other sanction. A statement under this paragraph must include a citation to the state  
2 or federal law relied upon by the public body.

3 (3) If the public record is maintained in a machine readable or electronic form, the custodian  
4 shall provide a copy of the public record in the form requested, if available. If the public record is  
5 not available in the form requested, the custodian shall make the public record available in the form  
6 in which the custodian maintains the public record.

7 (4)(a) The public body may establish fees reasonably calculated to reimburse the public body for  
8 the public body's actual cost of making public records available, including costs for summarizing,  
9 compiling or tailoring the public records, either in organization or media, to meet the person's re-  
10 quest.

11 (b) The public body may include in a fee established under paragraph (a) of this subsection the  
12 cost of time spent by an attorney for the public body in reviewing the public records, redacting  
13 material from the public records or segregating the public records into exempt and nonexempt re-  
14 cords. The public body may not include in a fee established under paragraph (a) of this subsection  
15 the cost of time spent by an attorney for the public body in determining the application of the pro-  
16 visions of ORS 192.410 to 192.505.

17 (c) The public body may not establish a fee greater than \$25 under this section unless the public  
18 body first provides the requestor with a written notification of the estimated amount of the fee and  
19 the requestor confirms that the requestor wants the public body to proceed with making the public  
20 record available.

21 (d) Notwithstanding paragraphs (a) to (c) of this subsection, when the public records are those  
22 filed with the Secretary of State under ORS chapter 79 or ORS 80.100 to 80.130, the fees for fur-  
23 nishing copies, summaries or compilations of the public records are those established by the Secre-  
24 tary of State by rule, under ORS chapter 79 or ORS 80.100 to 80.130.

25 **(e)(A) Notwithstanding paragraphs (a) to (c) of this subsection, a public body may adopt**  
26 **a fee schedule that collects additional amounts designed to recoup qualified additional ex-**  
27 **penditures incurred by the public body, if:**

28 **(i) The public body is a law enforcement unit, as defined in ORS 181.610; and**

29 **(ii) The public records being sought consist of information captured through use by law**  
30 **enforcement of body cameras to record the daily duties of police officers, as defined in ORS**  
31 **181.610.**

32 **(B) As used in this paragraph, "qualified additional expenses" means:**

33 **(i) The costs of storage and storage technology employed to retain information captured**  
34 **through use of body cameras; and**

35 **(ii) The costs of indexing and retrieving information captured through use of body cam-**  
36 **eras.**

37 **(C) A fee schedule adopted pursuant to this paragraph shall be designed to recoup quali-**  
38 **fied additional expenses as amortized over a three-year period.**

39 (5) The custodian of any public record may furnish copies without charge or at a substantially  
40 reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest  
41 because making the record available primarily benefits the general public.

42 (6) A person who believes that there has been an unreasonable denial of a fee waiver or fee  
43 reduction may petition the Attorney General or the district attorney in the same manner as a person  
44 petitions when inspection of a public record is denied under ORS 192.410 to 192.505. The Attorney  
45 General, the district attorney and the court have the same authority in instances when a fee waiver

1 or reduction is denied as it has when inspection of a public record is denied.

2 (7) A public body shall make available to the public a written procedure for making public re-  
3 cord requests that includes:

4 (a) The name of one or more persons to whom public record requests may be sent, with ad-  
5 dresses; and

6 (b) The amounts of and the manner of calculating fees that the public body charges for re-  
7 sponding to requests for public records.

8 (8) This section does not apply to signatures of individuals submitted under ORS chapter 247 for  
9 purposes of registering to vote as provided in ORS 247.973.

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