

**Testimony by Wilsonville Mayor Tim Knapp  
in Opposition to HB 4130:  
Unnecessary Legislation Imposes Unfunded  
Mandate on Local Governments that Subsidizes  
Potential Abuse of Public Records Requests**



For Public Hearing Scheduled on Feb. 5, 2016,  
Before the House Committee on Rules

**To Chair Williamson, Vice-Chairs Gilliam and Hoyle, and Members of the  
Committee:**

The City of Wilsonville opposes HB 4130 as introduced as being not only unnecessary for the public benefit, but actually detrimental to local governments by creating a new unfunded mandate by the State that may encourage abuse of records requests.

First, local governments throughout the Oregon worked with the Oregon State Archivist to adopt a revised City Records Retention Schedule (OAR 166-200-0200) just over a year ago. There appears to be no public benefit of creating an arbitrary retention period when municipal governments have already adjusted their records management programs to the recently adopted schedule.

Additionally the Oregon Association of Municipal Recorders (OAMR) is working with the Attorney General's Public Records Task Force to review these and other issues related to public records requests. Action on HB 4130 should be deferred until the task force issues legislative recommendations that may be fully addressed in the regular 2017 session.

Second, HB 4130 as introduced limits cities' ability to recover the full costs of researching and providing records, and therefore creates an unfunded mandate by the State in violation of Article XI, Section 15 (1), of the Oregon Constitution: "[W]hen the Legislative Assembly \* \* \* requires any local government to establish a new program or provide an increased level of service for an existing program, the

State of Oregon shall appropriate and allocate to the local government moneys sufficient to pay the ongoing, usual and reasonable costs of performing the mandated service or activity.” To make this proposal work, the committee could amend the bill to provide direct state funding to subsidize records requests fulfilled by local governments.

By limiting the ability of local governments to recover the real costs to fulfill records requests, the legislature would in effect be encouraging through financial subsidizing of public costs an abuse of records requests by private parties. The legislature should not encourage parties who may seek to abuse public process through the filing of frivolous records requests that seek to tie-up staff resources of local governments.

For example, Wilsonville has received extensive records requests that appear to constitute politically motivated “fishing expeditions” or efforts to encumber local decisions that vested private interests seek to overturn. Rewarding this kind of activity with a public subsidy is unconscionable; we are fine with researching and fulfilling records requests — just let local governments recoup the true costs so that the public does not bear these expenses.

Thus, given the current effort by the Attorney General’s task force undertaking public records review and the unfunded state mandate to local governments that the proposed legislation advances, the City of Wilsonville respectfully urges a “Do Not Pass” vote on HB 4130 as introduced. Thank you for your time and consideration.

Sincerely,



Tim Knapp, Mayor  
City of Wilsonville