

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date: 02/05/16

Action: Do Pass.

Meeting Dates: 02/05

Vote:

Yeas: 9 - Barnhart, Gilliam, Hoyle, Huffman, Kennemer, Rayfield, Smith Warner, Williamson, Wilson

Prepared By: Erin Seiler, Committee Administrator

WHAT THE MEASURE DOES:

Directs Chief Information Officer to develop standards, protocols and procedures for specified executive department agencies to use in fulfilling public records requests that seek records in electronic form. Directs Oregon Department of Administrative Services (DAS) to coordinate efforts of executive department agencies in fulfilling public records requests for records in electronic form that DAS has custody of and to provide technical assistance to executive department agencies in fulfilling public records requests for records in electronic form that DAS does not have custody of. Requires DAS to coordinate requests when multiple executive department agencies receive requests for records DAS has custody of. Duties of DAS become operative January 1, 2017. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Standardization of public records request process
- Scope of public records requests received by agencies
- Ability to respond to requests in timely and efficient manner
- Recommendations from audit of state agency public records retention and disclosure practices
- Establishment of public records ombudsman

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

The right to inspect public records in Oregon dates back to the early 1900s, when the Legislative Assembly enacted the first statute granting citizens the right to inspect public records. Current public records law includes an overview of how state agencies should retain their records and how to respond to public records requests; allows agencies to charge fees and set guidelines for turnaround time; and identifies which records may be exempt from disclosure. Oregon law also 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.

In 2015, the Legislature passed Senate Bill 9 requiring the Secretary of State (SOS) Audits Division to conduct a performance audit of state agency retention and disclosure of practices related to public records and requests for public records. The audit considered the following issues: identifying agencies responsive to requests by gathering and disclosing records; how record retention is managed, the 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, released in November 2015, sampled nine state agencies of various size and scope and made a series of recommendation regarding best practices and procedures for the receipt and management of public records requests. Amongst the recommendations included in the audit were for the Department of Administrative Services (DAS) to provide statewide guidance and training on procedures for handling non-routine and complex public records requests, including communicating with requesters regarding fees and timelines, and for DAS to provide guidance to state agencies on implementing a record management program or process that fits the needs of each agency. House Bill 4135 is an initial measure to implement the recommendations of the audit.