

House Bill 4135

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown)

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**.

Directs State 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 to coordinate efforts of certain executive department agencies in fulfilling public records requests for records in electronic form and to provide technical assistance to other specified executive department agencies in fulfilling public records requests for records in electronic form. Provides that duties of department become operative January 1, 2017.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to fulfilling public records requests for electronic records; creating new provisions;
3 amending ORS 291.039; and declaring an emergency.

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

5 **SECTION 1.** ORS 291.039 is amended to read:

6 291.039. (1) The office of the State Chief Information Officer is established in the Oregon De-
7 partment of Administrative Services for the purpose of directing, coordinating and overseeing state
8 information technology and telecommunications in accordance with ORS 291.038 and other statutes,
9 rules and policies that govern the state's or state agencies' budgeting, planning, acquiring, manag-
10 ing, overseeing and using telecommunications and information technology.

11 (2) The Governor shall appoint the State Chief Information Officer, who serves at the pleasure
12 of the Governor. The State Chief Information Officer may adopt rules in accordance with ORS
13 chapter 183 to exercise and carry out the duties, functions and powers committed to the State Chief
14 Information Officer under ORS 291.038 and other statutes, rules or policies that commit functions
15 to the State Chief Information Officer.

16 (3) The State Chief Information Officer must be a person who, by training and experience, is
17 well qualified to:

18 (a) Perform the duties that the Governor specifies; and

19 (b) Carry out the functions specified in ORS 291.038 and in other statutes, rules or policies that
20 commit functions to the State Chief Information Officer.

21 (4)(a) The State Chief Information Officer shall:

22 (A) Serve as the Governor's chief advisor concerning information resources, information tech-
23 nology, information systems, geographic information systems, information systems security and tele-
24 communications.

25 (B) Implement and maintain an information technology governance program for the executive
26 department.

27 (C) Adopt rules, policies and standards for budgeting, planning, acquiring, installing, operating

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 and overseeing telecommunications and information technology for the executive department.

2 (D) Review and make recommendations to the Governor and the Legislative Assembly concern-
3 ing state agency information technology budget requests.

4 (E) Adopt plans, rules, policies and standards for the executive department concerning ge-
5 ographic information systems and geographic data.

6 (F) Adopt state information systems security plans, rules, policies and standards for the execu-
7 tive department.

8 (G) Assess state agencies each biennium to evaluate compliance with the State Chief Informa-
9 tion Officer's rules, policies and standards and provide results of the assessments to the Governor
10 and to the Joint Legislative Committee on Information Management and Technology.

11 (H) Develop and promote training programs in information technology, information systems se-
12 curity, geographic information systems, enterprise architecture and project and portfolio manage-
13 ment.

14 (I) Enhance sharing and coordination among federal, tribal, regional, state government and local
15 government entities in this state with respect to geographic information systems and geographic
16 data.

17 (J) Oversee information technology and telecommunications procurements as provided in ORS
18 279A.050 (7).

19 (K) Conduct a market analysis each biennium to determine whether the state data center is the
20 most effective and efficient method for providing information technology and information resources
21 to state agencies and other users. In conducting the market analysis, the State Chief Information
22 Officer shall consider best practices and trends among federal, state and local government entities
23 and the extent to which new or emerging technologies affect how the state provides information
24 technology and information resources. The State Chief Information Officer shall provide the results
25 of the analysis to the Governor and to the Joint Legislative Committee on Information Management
26 and Technology and may recommend changes in the information technology and information re-
27 sources that the state data center provides or in methods that the state data center uses to provide
28 information technology and information resources.

29 (L) Identify information technology services that the State Chief Information Officer recom-
30 mends for design, delivery and management as enterprise or shared information technology services
31 and, each biennium, report to the Governor and the Joint Legislative Committee on Information
32 Management and Technology concerning the status of new enterprise or shared information tech-
33 nology services.

34 (M) Adopt or update each biennium an Enterprise Information Resources Management Strategy
35 for the state. In addition to the functions described in ORS 184.477, the Enterprise Information Re-
36 sources Management Strategy must provide for integrating statewide technology initiatives, ensur-
37 ing compliance with information technology rules, policies and standards, promoting coordination,
38 consolidation and alignment of information resources and technologies and effectively managing the
39 state's and state agencies' information technology portfolios. In developing the Enterprise Informa-
40 tion Resources Management Strategy, the State Chief Information Officer shall consult with and
41 consider advice and suggestions from the department, state agencies and local governments, from
42 private sector information technology experts, from the Legislative Fiscal Officer, from the Joint
43 Legislative Committee on Information Management and Technology or from individual members of
44 the Legislative Assembly that the President of the Senate and the Speaker of the House of Repre-
45 sentatives appoint for the purpose of consulting with the State Chief Information Officer under this

1 subsection.

2 (N) Identify and recommend to the Governor, within the State Chief Information Officer's
 3 biennial budget request, resources that are necessary to implement the Enterprise Information Re-
 4 sources Management Strategy.

5 **(O) Develop standards, protocols and procedures for executive department agencies to**
 6 **use in searching for and identifying requested public records that are retained in electronic**
 7 **form and to use in fulfilling public records requests that seek records in electronic form.**

8 (b) As used in this subsection:

9 (A) "Executive department" has the meaning given that term in ORS 174.112, except that
 10 "executive department" does not include the Secretary of State in performing the duties of the
 11 constitutional office of Secretary of State or the State Treasurer in performing the duties of the
 12 constitutional office of State Treasurer.

13 (B) "Geographic data" means digital data that consist of geographic or projected map coordinate
 14 values, identification codes and associated descriptive data to locate and describe boundaries or
 15 features on, above or below the surface of the earth, demographic data or related data.

16 (C) "Geographic information system" means hardware, software, and data for capturing, man-
 17 aging, analyzing and displaying geographic data.

18 (D) "Information system" means computers, hardware, software, storage media, networks, oper-
 19 ational procedures and processes used in collecting, processing, storing, sharing or distributing in-
 20 formation within, or with any access beyond ordinary public access to, the state's shared computing
 21 and network infrastructure.

22 (E) "State government" has the meaning given that term in ORS 174.111.

23 (5) The State Chief Information Officer may:

24 (a) Organize and reorganize the office of the State Chief Information Officer in the manner the
 25 State Chief Information Officer considers necessary to conduct the work of the office of the State
 26 Chief Information Officer properly.

27 (b) Divide the office of the State Chief Information Officer into administrative programs, units
 28 or sections and appoint an individual to administer each program, unit or section that the State
 29 Chief Information Officer establishes under this subsection. The individual the State Chief Infor-
 30 mation Officer appoints serves at the pleasure of the State Chief Information Officer and must be
 31 well qualified by technical training and experience in the functions the individual will perform. The
 32 State Chief Information Officer's actions under this paragraph are subject to ORS chapter 240.

33 (c) Appoint subordinate officers and employees of the office of the State Chief Information Offi-
 34 cer, prescribe the officers' and employees' duties and fix compensation for the officers and employ-
 35 ees. The State Chief Information Officer's actions under this paragraph are subject to ORS chapter
 36 240.

37 (d) Delegate to an employee of the office of the State Chief Information Officer or to another
 38 individual any duty, function or power that the State Chief Information Officer may exercise or
 39 perform under ORS 291.038 or under other statutes, rules or policies that commit functions to the
 40 State Chief Information Officer. For the purpose of performing an official act in the State Chief In-
 41 formation Officer's name, the State Chief Information Officer may delegate a duty, function or power
 42 by means of an interagency agreement, an intergovernmental agreement in accordance with ORS
 43 chapter 190 or a contract. An official act that an individual performs in the name of the State Chief
 44 Information Officer under a delegation from the State Chief Information Officer under this para-
 45 graph is an official act of the State Chief Information Officer.

1 **SECTION 2.** (1) As used in this section, “executive department” has the meaning given
2 that term in ORS 174.112, except that “executive department” does not include the Secretary
3 of State in performing the duties of the constitutional office of Secretary of State or the
4 State Treasurer in performing the duties of the constitutional office of State Treasurer.

5 (2) The Oregon Department of Administrative Services shall coordinate the efforts of
6 each executive department agency for which the department is the custodian of the public
7 records of the agency that are retained in electronic form, in fulfilling public records re-
8 quests made of the agency.

9 (3) The department shall provide technical assistance to each executive department
10 agency for which the department is not the custodian of the public records of the agency
11 that are retained in electronic form, in fulfilling public records requests made of the agency.

12 (4) When an executive department agency is aware that the same public records request
13 has been made of itself and one or more other executive department agencies, the agency
14 shall consult with the department prior to producing records in order to ensure consistency
15 between agencies in the production of records.

16 (5) In providing coordination and technical assistance under this section, the department
17 shall apply the standards, protocols and procedures that the State Chief Information Officer
18 develops under ORS 291.039 (4)(a)(O).

19 **SECTION 3.** Section 2 of this 2016 Act becomes operative January 1, 2017.

20 **SECTION 4.** The State Chief Information Officer and the Oregon Department of Admin-
21 istrative Services may adopt rules to implement the provisions of ORS 291.039 (4)(a)(O), as
22 amended by section 1 of this 2016 Act, and section 2 of this 2016 Act, including but not limited
23 to rules establishing procedures for compiling public records that are stored in electronic
24 form.

25 **SECTION 5.** This 2016 Act being necessary for the immediate preservation of the public
26 peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect
27 on its passage.
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