

FISCAL IMPACT OF PROPOSED LEGISLATION

79th Oregon Legislative Assembly – 2017 Regular Session
Legislative Fiscal Office

Measure: SB 106 - 16

*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Measure Description:

Creates Public Records Advocate and Public Records Advisory Council.

Government Unit(s) Affected:

Statewide, Department of Administrative Services (DAS), Secretary of State

Summary of Expenditure Impact:

The fiscal impact of the measure for a full biennium is likely to cost at least \$700,000.

Analysis:

SB 106-16 creates the Office of the Public Records Advocate and the position of Public Records Advocate. The Public Records Advocate must be a member in good standing of the Oregon State Bar and would serve a four-year term, with the possibility of being reappointed to consecutive terms. The Advocate may hire staff (deputy advocates or other professional staff) to accomplish the duties established in the measure. The bill allows the State Archivist of the Office of the Secretary of State to provide office space and administrative support to the Advocate. If the State Archivist declines to provide such space and support, the Department of Administrative Services (DAS) is required to do so. The measure also creates the Public Records Advisory Council and specifies duties of the Council.

Specific duties and authorities of the Advocate and the Office would include:

- Hiring of one or more deputy advocates or other professional staff
- Providing facilitated dispute resolution services between state agencies and public records requesters when there is a dispute
- Determining whether a party to facilitated dispute resolution is acting in good faith
- Adopting rules regarding the conduct of facilitated dispute resolution sessions
- Providing training for state agencies and local governments on public records requests requirements and best practices
- Providing guidance and advice to state agencies and local governments on specified matters pertaining to public records

The measure also provides that a requester of public records is entitled to recover all costs and attorney fees incurred if the Advocate determines that a state agency failed to act in good faith.

The Governor's Budget included \$633,187 General Fund for the new positions (Principal Executive Manager G and an Operations and Policy Analyst 4). This amount may be sufficient to cover personal services and service and supplies costs for the 2017-19 biennium, depending on beginning salary levels and when the positions are filled. The costs could increase if the Advocate determines additional staff are needed. In addition, there may be additional costs for space and support.

In general, agencies are expected to experience no or minimal fiscal impact as a result of this bill. Some agencies point out that they could experience costs if it is determined they did not act in good faith and must pay requestors' costs and attorney fees, as well as if the costs of the office end up being funded with an assessment on agencies at some point in the future.

Given the costs associated with the measure, it has a subsequent referral to the Joint Committee on Ways and Means where further analysis of the costs will take place.