

Oregon Secretary of State FAQ on SB 106A

1. How much will SB 106A cost?

LFO estimates that SB 106A is likely to cost at least \$700,000 in General Funds in 2017-19 to hire two attorneys, plus cover any additional support staff and associated costs. Over the next decade, this will divert over \$3.5 million in General Funds away from schools and other critical services. In contrast, the Archives Division can provide similar services within existing budget and personnel.

2. Does the Archives Division already do public records trainings?

Yes. Archives Division staff are experts in public records requirements and already provide trainings on public records management to state agencies and local governments. In May, the Archives Division began expanding these trainings to include media and members of the public. SB 106A unnecessarily duplicates these trainings.

3. Does the Archives Division already mediate public records disputes?

Under ORS 357.855, the State Archivist provides “advice and counsel on public record problems” to agencies and local governments. In May, the Archives Division announced a new, formal process for providing mediation of public records disputes, which will be a small expansion of the long-time role of the state’s Archivist. State Archives will report to the legislature annually on this work beginning in 2018.

4. Who has authority over public records under current statutes?

“The Secretary of State is the public records administrator of this state, and it is the responsibility of the secretary to obtain and maintain uniformity in the application, operation and interpretation of the public records laws.” (ORS 192.015). The Attorney General reviews petitions for access to public records that have been denied by public entities. (ORS 192.450 to 192.480).

5. Does SB 106A create an independent public records advocate?

No. The Governor can remove the advocate for any reason. For the first four-year appointment, a Public Records Advisory Council would send three nominees to the Governor. The Council itself is not independent since the Governor selects eight of the ten voting members of the Council. Further, the Council would sunset January 1, 2021 (Sections 16 & 18 of SB 106A) before the appointment of the advocate’s second four-year term in fall 2021. Therefore, the Governor controls the advocate.

6. Is the State Archives Division independent?

Yes. State Archivist Mary Beth Herkert has unparalleled credibility, having worked in the State Archives for more than three decades. Although a registered Democrat, she functions in a nonpartisan way and has served as State Archivist under Secretaries of State Bill Bradbury, Kate Brown, Jeanne Atkins, and Dennis Richardson.

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