



INDEPENDENCE

Oregon's Story Begins Here

CITY OF INDEPENDENCE

May 3, 2019

To: Senate Committee on Business and General Government

Re: HB 2353

HB 2353, while well-intentioned, could have a significant negative impact on cities – especially smaller cities.

Of the 241 cities in Oregon 192 of them – nearly 80% – have a population of under 10,000. Very nearly all – if not all – of these cities have just one person responsible for public records requests, the city recorder. This person usually wears other hats – risk management, human resources, finance – truly, a multi-faceted job.

What happens when this one-person/multi-department staff takes vacation, for example? Not only has he/she been out of the office for one or two weeks, there may be other important issues awaiting their return – the filing of an HR complaint, a sewer spill, or other significant occurrence that requires full attention. The city recorder in these instances is not unresponsive or making undue delay to the records request, but a delay may be inevitable.

This measure would require a public body to pay a \$200 fee and attorney fees to the requestor if the district attorney finds a city was unresponsive or responded with undue delay. How is 'unresponsive' or 'undue delay' determined? It may be difficult for a district attorney – a county-level position with a much larger employee base – to comprehend how very small communities operate. The bill also does not allow for an appeal or for due process. This will change the working relationship that cities have with their counterparts at the county level from a cordial one to a defensive one.

Another factor to consider – a requestor, with receipt of the fines and reduction of fees (which are based on actual costs, not for profit), now has a monetary motive to make the complaints. With no

due process or appeal rights, a city could find themselves making regular payments to disgruntled individuals.

Lastly, the bill declares an emergency, causing it to go in to effect immediately. I cannot perceive that there have been such a number of public records refusals by cities to warrant this. Should the legislature determine that the bill is necessary, it should not be passed with an emergency clause. These clauses should be reserved for true emergencies.

We respectfully request that you do not support HB 2353, realizing that a 'one-size-fits-all' approach does not always make good law.

Sincerely yours,

A handwritten signature in black ink that reads "John McArdle". The signature is written in a cursive, flowing style.

John McArdle,
Mayor

cc: Senator Jackie Winters