



May 14, 2019

Senator Chuck Riley, Chair
Senate Committee on Business and General Government
900 Court St. NE
Salem, Oregon 97301

RE: City of Eugene concern regarding 'undue delay' definition in HB 2353

Chair Riley and Members of the Committee:

The City of Eugene continues to support access and efficient responses to public records requests. On average, the City receives over 4,000 public records requests per year, with an average commitment of 1 hour per request, this results in roughly 2 FTE of staff time annually. And this doesn't include the much larger multi-week requests that are becoming more frequent. We have seen this level of inquiry rise over the past few years and after the passage of SB 481 we retooled our programs. While we support the intent of HB 2353, we are concerned with the potential impact on city resources required to defend ourselves from future claims of 'undue delay' and the impact of having a district attorney waive fees on large projects.

When the laws around public records responses changed last year, our City Recorder worked with the City Attorney's Office to develop a set of nine different response forms that can be used as-is or modified to communicate with a requestor in almost any circumstance. We have a designated public records coordinator in every division across the City, who is responsible for coordinating the work internally and communicating with the requestor. When a request comes in, our Deputy City Recorder categorizes it (Level 1, 2, or 3), identifies and communicates with key staff who will be involved in the response, and then keeps tabs on the request as it progresses. Additionally, we are continually training staff across the organization on the importance of prompt communication, good recordkeeping, city obligations, liability, etc. For very large or time-consuming records requests, we are keeping the requestor informed along the way about anticipated costs and timelines.

'Undue delay' is a subjective threshold. We get many requests from people who have no idea what staff resources will be needed to identify, locate, retrieve and review the records they want. We request that a clearer definition of 'undue delay' be provided as part of HB 2353, as we believe this lack of clarity could be abused by some requestors to make complaints and will change the relationship cities have with district attorneys when resolving public record issues. Without this clarity, we believe the bill can incentivize claims regardless of the merits and waste public resources, additionally we are very concerned about the ability to lose cost-recovery for staff time spent on records requests.

Ultimately we are concerned about the underlying issue, which is that most local governments are under-resourced for responding to public records requests, especially under the new state requirements and the demand keeps growing. Please provide clarity on this issue to ensure effective implementation and the ability for local governments to efficiently respond to the needs of the public.

Sincerely,
Submitted Electronically.
Ethan Nelson, Intergovernmental Relations Manager