

HB 2353 A STAFF MEASURE SUMMARY

Carrier: Rep. Power

House Committee On Judiciary

Action Date: 04/08/19

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 11-0-0-0

Yeas: 11 - Barker, Bynum, Gorsek, Greenlick, Lewis, McLane, Piluso, Power, Sprenger, Stark, Williamson

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Brian Lohsl, LPRO Analyst

Meeting Dates: 3/13, 4/8

WHAT THE MEASURE DOES:

Authorizes the Attorney General, district attorney, or court to require a public body to pay a \$200 penalty and reasonable attorney fees to a person who requested a public record upon determining that the public body failed to respond to the request or responded to the request with undue delay. Allows the Attorney General, district attorney, or court granting a petition filed under this section to provide for a fee waiver or fee reduction in the order granting the petition. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Current exception for impracticability of complying with timeline is broad
- Allows an estimated date of completion in lieu of a complete response
- Challenges with meeting timeline requirements
- Comparison of fees in other states for violation of public records request deadlines

EFFECT OF AMENDMENT:

Specifies \$200 penalty per occurrence. Allows the Attorney General, district attorney, or court granting a petition filed under this section to provide for a fee waiver or fee reduction in the order granting the petition.

BACKGROUND:

Under Oregon law, every person has the right to inspect any public record of a public body in this state, subject to exemptions. ORS 192.314. Unless otherwise expressly provided by statute, the custodian of any public record shall furnish proper and reasonable opportunities for inspection and examination of the records. A public body must respond to a written public records request as soon as practicable and without unreasonable delay. ORS 192.329. A response to a public records request is complete when the public body provides access to the requested public record information, asserts an exemption, or provides a combination of the two when some information is exempt and some is not exempt. The failure of a public body to provide a proper and timely response is treated as a denial of the request.

House Bill 2353 A allows the Attorney General, the district attorney, or a court to require the public body pay a \$200 penalty to the requester, plus reasonable attorney fees, if the Attorney General, district attorney, or court determine that the public body responded to the request with undue delay or failed to respond to the request.