

HB 2353 A STAFF MEASURE SUMMARY

Carrier: Sen. Dembrow

Senate Committee On Business and General Government

Action Date: 05/14/19

Action: Do pass the A-Eng bill.

Vote: 5-0-0-0

Yeas: 5 - Dembrow, Girod, Hass, Olsen, Riley

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Tyler Larson, LPRO Analyst

Meeting Dates: 5/14

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:

- Value of public transparency through examination of public records
- History of failure to respond to public records requests
- Impact of delays while consulting with legal counsel to determine if records are subject to exemptions
- Potential impacts on public bodies

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Under Oregon law, every person has the right to inspect any public record of a public body in this state, subject to exemptions. Unless otherwise expressly provided by statute, the custodian of any public record must 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. 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, a district attorney, or a court, when it finds that a public body responded to a request with undue delay or failed to respond to the request, to order a fee waiver or reduction and may require the public body pay a \$200 penalty to the requester.