

House Bill 2345

Sponsored by Representative POWER (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Reduces public records request fees charged by state agencies by 50 percent if requester is member of news media, and waives fees entirely if request is narrowly tailored.

Requires similar reduction or complete waiver of fees for news media public records requests made of local governments or local service districts on or after January 1, 2021, unless governing body of local government or local service district has resolved not to adopt fee reduction or waiver.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public record fees; amending ORS 192.324; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 192.324 is amended to read:

5 192.324. (1) A public body that is the custodian of any public record that a person has a right
6 to inspect shall give the person, upon receipt of a written request:

7 (a) A copy of the public record if the public record is of a nature permitting copying; or

8 (b) A reasonable opportunity to inspect or copy the public record.

9 (2) If an individual who is identified in a public body's procedure described in subsection (7)(a)
10 of this section receives a written request to inspect or receive a copy of a public record, the public
11 body shall within five business days after receiving the request acknowledge receipt of the request
12 or complete the public body's response to the request. An acknowledgment under this subsection
13 must:

14 (a) Confirm that the public body is the custodian of the requested record;

15 (b) Inform the requester that the public body is not the custodian of the requested record; or

16 (c) Notify the requester that the public body is uncertain whether the public body is the custo-
17 dian of the requested record.

18 (3) If the public record is maintained in a machine readable or electronic form, the public body
19 shall provide a copy of the public record in the form requested, if available. If the public record is
20 not available in the form requested, the public body shall make the public record available in the
21 form in which the public body maintains the public record.

22 (4)(a) The public body may establish fees reasonably calculated to reimburse the public body for
23 the public body's actual cost of making public records available, including costs for summarizing,
24 compiling or tailoring the public records, either in organization or media, to meet the request.

25 (b) The public body may include in a fee established under paragraph (a) of this subsection the
26 cost of time spent by an attorney for the public body in reviewing the public records, redacting
27 material from the public records or segregating the public records into exempt and nonexempt re-
28 cords. The public body may not include in a fee established under paragraph (a) of this subsection
29 the cost of time spent by an attorney for the public body in determining the application of the pro-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 visions of ORS 192.311 to 192.478.

2 (c) The public body may not establish a fee greater than \$25 under this section unless the public
3 body first provides the requester with a written notification of the estimated amount of the fee and
4 the requester confirms that the requester wants the public body to proceed with making the public
5 record available.

6 (d) Notwithstanding paragraphs (a) to (c) of this subsection, when the public records are those
7 filed with the Secretary of State under ORS chapter 79 or ORS 80.100 to 80.130, the fees for fur-
8 nishing copies, summaries or compilations of the public records are the fees established by the
9 Secretary of State by rule under ORS chapter 79 or ORS 80.100 to 80.130.

10 (5)(a) The custodian of a public record may furnish copies without charge or at a substantially
11 reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest
12 because making the record available primarily benefits the general public.

13 **(b) If the custodian is a state agency, the custodian shall:**

14 **(A) Reduce the fee by 50 percent if the requester is a member of the news media; and**

15 **(B) Waive the fee completely if the request is narrowly tailored. A request is narrowly**
16 **tailored if the request describes requested records with specificity and only includes records**
17 **in which there is a public interest.**

18 **(c) If the custodian is a local government or local service district, both as defined in ORS**
19 **174.116, and the request is made on or after January 1, 2021, the custodian shall make the**
20 **fee reduction or waiver described in paragraph (b) of this subsection unless the governing**
21 **body of the local government or local service district has held a public meeting and deliber-**
22 **ated on and resolved not to adopt the fee reduction or waiver described in paragraph (b) of**
23 **this subsection.**

24 (6) A requester who believes that there has been an unreasonable denial of a fee waiver or fee
25 reduction may petition the Attorney General or the district attorney in the same manner as a re-
26 quester who petitions when inspection of a public record is denied under ORS 192.311 to 192.478.
27 The Attorney General, the district attorney and the court have the same authority in instances
28 when a fee waiver or reduction is denied as when inspection of a public record is denied.

29 (7) A public body shall make available to the public a written procedure for making public re-
30 cords requests that includes:

31 (a) The name of one or more individuals within the public body to whom public records requests
32 may be sent, with addresses; and

33 (b) The amounts of and the manner of calculating fees that the public body charges for re-
34 sponding to requests for public records.

35 (8) This section does not apply to signatures of individuals submitted under ORS chapter 247 for
36 purposes of registering to vote as provided in ORS 247.973.

37 **SECTION 2. This 2019 Act being necessary for the immediate preservation of the public**
38 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
39 **on its passage.**

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