

What would happen to Oregon without public records fees?

Fr: Steve Suo | To: Oregon Public Records Advisory Council Leg. Committee | Da: August 2022

This is a crude attempt at scoping out the fiscal impact for **all public bodies** if Oregon eliminated all public records fees – something Todd has not proposed – based on testimony we heard as a committee and data collected by the Public Records Advocate.

The first thing to note is that public bodies collect **very little** in the way of fees currently. Fee revenue does not come close to paying for public records compliance. This means that if public bodies collected none of their current fee revenue, the losses would be small. For example: In 2018, 53 state agencies that answered the Public Records Advocate's survey said they track fee collections for public records. The survey shows the 53 agencies received 22,540 records requests in a year but collected just \$189,666 in records fees. If these state agencies collected **nothing** from requesters, they would have come up **\$189,666** short.

Of course, this ignores the fact that making public records free might remove a deterrent to requesters and increase the number of requests. But by how much?

It turns out we have a test case. Experts told us that the federal government, partly due to statute and partly by culture and policy over the past 50 years, has effectively made records free to all requesters. Here's the result: In fiscal 2020, the government spent \$552 million on FOIA compliance and charged barely anything to recoup that cost. Although that sounds like a lot, these costs amounted to just .03% of the federal government's \$1.6279 trillion [discretionary budget for FY 2020](#).

If Oregon spent the same share of its \$23.7 billion [2019-21 general fund budget](#) answering public records requests, **the annualized hit to state agencies would be \$3.5 million**. The revenues for all of Oregon's local government governments combined are about 55% the size of the state government's, according to 2019 Census Bureau data. Extrapolating, that would put **the cost to all local governments at \$1.9 million** annually. **The combined amount for state and local agencies: \$5.4 million.**

Not all of these would be new costs. As noted above, Oregon agencies are already spending large amounts on records retrieval without recouping the cost. Furthermore, a big chunk of what Oregon public bodies do recover is from commercial requesters. If we preserved fees for this group, then the total lost revenue would be even smaller. Lastly, it's important to note that the range of people, companies and causes requesting records from the federal government through FOIA is far bigger than those active in Oregon. Therefore, the \$5.4 million projection for Oregon's state and local costs is unrealistically high. But it's a decent proxy for the kind of toll that would occur if Oregon pursued the maximum reduction in fees possible.

What would the loss of \$5.4 million a year do to public services in Oregon? To put this number in context, the following are FY2020 costs **state agencies** reported to Oregon's publicly available payroll and expenditures databases:

- \$49.3 million for office supplies
- \$10.1 million for salaries of public relations professionals (PIOs)
- \$10.1 million for advertising and publicity contracts

- \$6.5 million for out-of-state employee travel
- \$2.5 million for salaries of state-employed web designers

For a comparable example from **local government**: Portland spends \$1.7 million annually on PIO salaries.

This is not to suggest these expenditures are frivolous – only that they are no more essential than answering records requests. And we know other states have escaped fiscal calamity without charging fees for records. Connecticut, Kentucky, Oklahoma waive everything but the small cost of photocopying paper records for non-commercial requesters. As of 2019, all had smaller revenues at the state and local level than Oregon.

State	Total revenue	State	Local	Population	Tot. rev. per cap.
OK	\$39,508,934	\$27,729,794	\$16,217,141	3,956,971	\$9.98
KY	\$46,017,228	\$34,620,643	\$16,090,771	4,467,673	\$10.30
CT	\$50,322,835	\$35,345,480	\$20,397,972	3,565,287	\$14.11
OR	\$62,084,741	\$44,950,268	\$24,856,808	4,217,737	\$14.72

Sources: [State and local revenue 2019](#) and [2019 population estimates](#)

What revenues might be available to offset a reduction in fees collected in Oregon? The following are examples of major records fees currently collected from commercial requesters, some of which were not captured in the 2019 Records Advocate survey:

- Insurers and other businesses seeking Portland police reports: \$286,728 in 2021, [according to the city](#).
- Oregon Judicial Department online subscriber access to court records (OJCIN), primarily to law firms: \$5.9 million in 2019-21 biennium, [according to Legislative Fiscal Office](#), or roughly \$3 million a year.
- Oregon Corporations Division fees to credit bureaus, Lexis-Nexis and other data miners: roughly \$224,000 annually, according to data provided in response to my email inquiry.
- Multnomah County Assessment and Taxation: \$44,902.20 for FY 2022, according to the department’s response to my email inquiry.

Many more sources of commercial fee revenue exist. If we left these records fees above in place and imposed a 20% surcharge – by changing the law to allow greater than actual cost recovery for commercial requests – the examples above alone could raise \$700,000 annually toward a statewide Oregon Transparency Fund. A 50% surcharge would raise **\$1.8 million**. Dun and Bradstreet would pay \$300 a week for UCC lien filings instead of \$200.

Oregon voters by referral or initiative have dedicated portions of state lottery revenue to education, parks, and veterans. The Oregon lottery forecast for 21-23 biennium is \$1.7 billion. Dedicating .3% of annual lottery revenues to a statewide transparency fund would provide about **\$2.5 million** annually.

As with the discussion of fee reductions, **these revenue sources are not intended as specific proposals**. I offer the concrete numbers as discussion points. They suggest that the revenue losses from the most extreme fee reduction strategy would be small enough to be offset without harming vital public services.