

Updating Public Records Law

HB 2112

BACKGROUND

The mission of SoS as it relates to archives

- Our mission at the Oregon Secretary of State is to build trust between the people of Oregon and their state government so Oregonians trust the public services that can make a positive difference in their everyday lives.
- The Oregon State Archives sets retention schedules for and provides access to the permanently valuable records of Oregon government. We elevate equity through identifying and actively eliminating barriers. We use plain language to increase understanding and impact. We are committed to serving the people of Oregon and strive to understand all viewpoints.

The Secretary of State is the public records administrator for Oregon, and responsible for maintaining uniformity in the application, operation and interpretation of public records laws. (ORS 192.015)

Each state agency or political subdivision shall maintain a public record or accurate copy of a public record in accordance with a retention schedule authorized under ORS 192.018 or 192.105, without regard to the technology or medium used to create or communicate the record.

We seek to meet these statutory requirements through a variety of means:

- Clarify Oregon Public Records Law as it relates to technology and technical language to break down barriers to public records transparency and increase government accountability.
- Refine statutory language to make it easier for public records custodians to accurately apply the laws as written.
- Make it clear to government entities that tribal cultural value should be considered when appraising records for retention value.

Brief overview of current practice

- We are not looking to modify current practice. We wish to update the language. There are outdated technical references that do not reflect current technology.
- ORS 192 is not in alignment with efforts to ensure tribal governments in Oregon have a voice in how long information is kept by state and local government.

What we're proposing to do to solve existing problems

- Remove language that can be misunderstood by government entities and refers to obsolete technology.
- Add tribal cultural value to be considered when appraising public records for retention.

CURRENT CHALLENGES IF ANY

Technologically out-of-date language in ORS 192.005 has created a lack of clarity for public bodies, who often wrongly apply it to text messages. The spirit of the law is to exempt voicemail, not text messages. Unfortunately, some agencies may have misinterpreted the language and destroyed text messages that relate to state business. HB 2112 clarifies that text messages should be included as public records for retention purposes. It also makes it clear to our records custodians that this law was last updated before the advent of text messaging.

HOW HB 2112 HELPS OREGONIANS

We will be more in alignment with recent efforts to ensure tribal governments in Oregon have a voice in how their information is kept. Public records custodians have a better chance of providing access to public records when they can clearly understand the law.

