

ALBERT Todd * PRA

From: Mark Landauer <Mark@mjlconsulting.com>
Sent: Tuesday, September 6, 2022 8:20 PM
To: Emily Harris; ALBERT Todd * PRA; Steve Suo; Rep Power; LUO Yufeng * PRA; Scott Stauffer; Kron Michael C; Sen Thatcher; gotharde@seiu503.org; Tyler Janzen
Subject: Re: PRAC Leg Subcommittee meeting Friday

Emily and Members of the sub-committee:

Forgive me for my absence from the previous meeting. I enjoyed reviewing it.

I realize we have an agenda set for tomorrow but I will hopefully be given an opportunity to provide some feedback regarding two areas of agreement:

1) Using the lowest salary for the purpose of calculating fees (we need to address those situations where volunteers are running the show). I do have a solution in mind.

2) Requiring a public records policy and price methodology be on the website. We have hundreds of districts without an internet presence. Solution - Provided that the policies be posted at a physical location open and available to the public or made available upon request we can probably agree to not being able to charge fees.

Finally – regardless of the outcome of whether we decide to categorize the types of requestors or not I feel strongly that we should better define what costs can and cannot be included. ORS 192.324.

(4)(a) The public body may establish fees reasonably calculated to reimburse the public body for its actual costs incurred to respond to requests for public records as follows:

Actual staff time required to identify, locate, review, redact, duplicate, compile, and transmit requested records in response to the request; to communicate with the requester to clarify the request; and to coordinate delivery of records to or review of the records by the requester. Staff time shall be calculated at the staff person’s regular hourly rate of pay without consideration of the public body’s other employment-related costs, including but not limited to payroll taxes and employee benefits. If unpaid volunteers are available or necessary to respond to requests for public records, the public body may establish a fee for the time spent by such volunteer at an hourly rate not to exceed the then-applicable minimum hourly wage in the state of Oregon.

b) Time spent by an attorney for the public body to review requested public records for the purpose of redacting material and segregating the public records into exempt and nonexempt records. The public body shall not assess a fee for the cost of time spent by an attorney to determine or advise the public body regarding the application of the provisions of ORS 192.311 to 192.478.

Actual costs of materials and services incurred to duplicate and transmit paper records, or to reproduce or copy requested records onto a portable drive or other storage device if requested by the requester. The public body shall not assess a fee for duplication or transmittal of documents that can be emailed or otherwise transmitted in electronic form to the requester and the requester agrees to receive the records in such electronic form.

With these changes, or similar being explicitly spelled out in the statute will make it clear to all parties what is chargeable and what is not. Many of our member ask questions about what is and is not billable and I think something like this makes it clear to all parties.

Sorry for the delay in getting this to you – it has been a busy and challenging couple of weeks for me.

Best wishes and I will look forward to seeing you tomorrow.

Mark Landauer