

This was the state of discussion as of 2024, when we revisited how everything was left at the end of the 2023 session. It might be useful to add a column for the SB 1077 amendments, which is where we ended up in May 2025.

	Existing statute	PRAC bill	SB 417 amendments
Allowable costs	<p><i>ORS 192.324(4)(a)</i></p> <p>the public body’s actual cost <u>of making public records available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the request</u></p>	<p><i>p. 2, line 25</i></p> <p><u>up to the public body’s actual cost to search, duplicate and review public records in order to make the records available to the requester.</u></p>	<p><i>p. 2, line 22</i></p> <p><i>Same as PRAC bill</i></p>
Allowable duplication costs	<p><i>ORS 192.324(4)(a).</i></p> <p><i>Categories not specified.</i></p> <p><i>AG’s manual: Allowed costs “include”</i></p> <p>copying records</p>	<p><i>p. 1, line 6</i></p> <p>“Duplicate” means to make a physical or digital copy of a record, including but not limited to a paper copy, an audio or digital tape or file, an item of electronic mail, a database file, an</p>	<p><i>p. 1, line 6</i></p> <p><i>Same as PRAC bill</i></p>

		electronic text file or a record in any storage format.	
Allowable review costs	<p><i>ORS 192.324(4)(a)</i></p> <p><i>Categories “include”</i></p> <p>summarizing, compiling or tailoring the public records</p> <p><i>AG’s manual: Allowed costs “include”</i></p> <p>reviewing the records in order to redact exempt material</p>	<p><i>p. 1, line 22</i></p> <p>Reading, listening to, viewing or watching a record to locate content that the public body considers exempt from disclosure and redacting material in order to apply an exemption.</p>	<p><i>p. 1, line 10</i></p> <p>Summarizing, compiling or tailoring a record; or</p> <p><i>Same as PRAC bill</i></p>
Allowable search costs	<p><i>AG’s manual: Allowed cost “include”</i></p> <p>the time spent by the public body’s staff in locating the requested records</p>	<p><i>p. 2, line 3</i></p> <p>“Search” means looking for and retrieving physical or digital records responsive to a public records request.</p>	<p><i>p. 1, line 15</i></p> <p><i>Same as PRAC bill</i></p>

Attorney fees	<p><i>ORS 192.324(4)(b)</i></p> <p>The public body may include in a fee established under paragraph (a) of this subsection the cost of time spent by an attorney for the public body in reviewing the public records, redacting material from the public records or segregating the public records into exempt and nonexempt records.</p> <p><i>ORS 192.324(4)(b)</i></p> <p>The public body may not include in a fee established under paragraph (a) of this subsection the cost of time spent by an attorney for the public body in determining the application of the provisions of ORS 192.311</p>	<p><i>p.2, line 29</i></p> <p><i>Strikes this clause</i></p> <p><i>p. 2, line 39</i></p> <p><i>Keeps this clause</i></p>	<p><i>p. 2, line 25</i></p> <p><i>Keeps this clause</i></p> <p><i>p. 2, line 29</i></p> <p><i>Keeps this clause</i></p>
Least-cost methods	<p><i>Case law, In Defense of Animals, has found (AG Manual, footnote 111:</i></p>	<p><i>p. 2, line 31</i></p>	<p><i>Not included</i></p>

	<p>fees were not reasonable where OHSU could not justify why professional staff were needed to redact basic information such as company names</p> <p><i>No mention of volunteers</i></p> <p><i>Volunteer work likely ineligible for reimbursement.</i></p>	<p>The public body shall conduct the activities described in paragraph (a) of this subsection in the least expensive manner reasonably possible. In determining costs, the public body may not charge more than the hourly rate of compensation of the lowest-paid employee capable of performing the activities described in paragraph (a) of this subsection.</p> <p><i>p. 2, line 35</i></p> <p>If an unpaid volunteer is available or used to perform the activities described in paragraph (a) of this subsection, the public body may establish a fee for the time spent by the volunteer that does not exceed the applicable minimum hourly wage under the laws of this state.</p>	<p><i>Case law remains</i></p> <p><i>Not included</i></p> <p><i>Volunteer work likely ineligible for reimbursement.</i></p>
<p>Charging for non-responsive search</p>	<p><i>AG's manual, note 106:</i></p> <p>Public bodies may charge for search time even if they fail to locate any records responsive to the request or even if the records located are subsequently</p>	<p><i>p. 2, line 28</i></p> <p>Costs associated with reviewing a public record may be recovered by the public body even if the public record is ultimately not disclosed to a requester.</p>	<p><i>No mention</i></p> <p><i>Existing AG interpretation applies.</i></p>

	determined to be exempt from disclosure.		
Request for fee justification	<i>Not included.</i>	<p><i>p. 3, line 1</i></p> <p>A requester who has received a notification of the estimated amount of the fee under this paragraph may request an explanation from the public body as to the basis for the fee. If an explanation is requested, the public body shall provide an explanation to the requester of the estimated costs for completing the public body's response to the request that is in sufficient detail to permit a reasonable person to understand the amount and purpose of each component of the estimated fee. The public body shall work in good faith with a requester who seeks to narrow a request in order to reduce a fee.</p> <p><i>p. 3, line 8</i></p> <p>If a requester seeks an explanation for the basis of the</p>	<p><i>p. 3, line 7</i></p> <p><i>Same as PRAC bill</i></p> <p><i>p. 3, line 16</i></p> <p>If a requester seeks an explanation for the basis of the</p>

		<p>fee under this paragraph, <u>the obligation of the public body to complete its response to the request is not suspended until the public body supplies an explanation to the requester that satisfies the requirements of this paragraph.</u></p>	<p>fee under this paragraph, <u>the public body shall respond as soon as is practicable but in no event later than five business days from the date the requester seeks an explanation, unless the requester consents to an extension offered by the public body. The period of time between when a requester seeks an explanation for the basis for the fee and the response by the public body may not be taken into account in determining when a public body is obligated to respond to a requester under ORS 192.329.</u></p>
<p>Reasons govt “may” waive fees</p>	<p>ORS 192.324(5)</p> <p>The custodian of a public record <u>may furnish</u> copies without charge or at a substantially reduced fee <u>if the custodian determines that the waiver or reduction of fees is in the public interest</u> because making the record available primarily benefits the general public.</p>	<p><i>p. 3, line 16</i></p> <p>The custodian of a public record <u>may for any reason</u> furnish copies without charge or at a substantially reduced fee. Factors the custodian <u>may take into account</u> in determining to waive or reduce fees include, but are not limited to:</p> <p>(A) The cost of collecting the fee exceeding the amount of the fee;</p>	<p><i>Not included</i></p>

		<p>(B) The policy of the custodian to routinely waive fees;</p> <p>(C) The requester demonstrating indigence to the custodian; or</p> <p>(D) The request being for public records that primarily concern the requester.</p>	
<p>Reasons govt “shall” waive fees</p>	<p><i>Not included</i></p>	<p><i>p. 3, line 25</i></p> <p><u>The custodian of a public record shall furnish copies without charge if the custodian determines that disclosure is in the public interest</u> because disclosure of the record primarily benefits the general public, <u>except that the custodian may limit the portion of fees that are waived if the custodian determines that the public interest in disclosure is outweighed by substantial prejudice to the custodian or because waiver will prevent the custodian from being able to carry out the other functions the custodian is charged with performing.</u></p>	<p><i>p. 4, line 4</i></p> <p>A requester may request a waiver or a substantial reduction of the fee associated with the public records request <u>on the basis that the waiver or substantial reduction is in the public interest.</u> <u>If the custodian determines that waiver or substantial reduction of the fee is in the public interest, the custodian shall grant the waiver</u> or substantial reduction of the fee.</p> <p>The custodian shall weigh all relevant factors in determining whether a waiver or substantial reduction of a fee is in the public</p>

		<p>A request by a <u>representative of the news media</u> shall be assumed to be in the public interest <u>unless</u> the custodian demonstrates that, in the particular instance, the request is not in the public interest.</p> <p>A request by a commercial entity who is not a representative of the news media may not be considered a request made in the public interest.</p>	<p>interest and, in the case of a substantial reduction of a fee, the amount by which to reduce the fee. The factors to be weighed under this paragraph include, but are not limited to:</p> <ul style="list-style-type: none"> • Whether the request is in the public interest because disclosure primarily benefits the general public; • Whether a <u>requester is a member of the news media</u>, without regard to whether the request benefits the general public; • Whether the requester has the ability to meaningfully disseminate the requested information; • Whether waiving or substantially reducing the fee would create an articulable and substantial burden on the public body; and • Whether, if fulfillment of the request would create an articulable and substantial burden on the public body, the requester
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			and the public body have worked together in good faith to attempt to reduce the burden on the public body.
Definition of news media	<i>Not included</i>	<p><i>p. 1, line 15</i></p> <p>“News” means information that is about current events or that would be of current interest to the public.</p> <p>“News media” or “news media entity” means:</p> <ul style="list-style-type: none"> • A television or radio station that disseminates news; • The publisher of a periodical that disseminates news, whether through print publication or through electronic dissemination. <p>“Representative of the news media” means:</p> <ul style="list-style-type: none"> • Any person that gathers information of potential interest to a segment of the public, uses editorial skill to turn information 	<i>Not included</i>

		<p>into a distinct work and who distributes that work to an audience.</p> <p>A freelance journalist unaffiliated with news media entities, if the journalist can demonstrate a reasonable expectation or prior history of publication through news media, including but not limited to a publication contract with one or more news media entities.</p>	
<p>Explanation of denial of waiver</p>	<p><i>Not included</i></p>	<p><i>p. 3, line 36</i></p> <p>If the custodian of a public record determines that a request is not in the public interest or that the public interest in disclosure is outweighed by substantial prejudice or will prevent the custodian from carrying out the other functions the custodian is charged with performing, <u>the custodian shall provide the reason for this determination to the requester in writing.</u></p>	<p><i>p. 4, line 27</i></p> <p>If the public body denies a request for a waiver or substantial reduction of the fee associated with the public records request, <u>the public body shall provide a written explanation of the denial.</u></p>

<p>Appeals powers</p>	<p><i>ORS 192.324(6)</i></p> <p>A requester who believes <u>that there has been an unreasonable denial of a fee waiver or fee reduction</u> may petition the Attorney General or the district attorney in the same manner as a requester who petitions when inspection of a public record is denied under ORS 192.311. The Attorney General, the district attorney and the court have the same authority in instances <u>when a fee waiver or reduction is denied</u> as when inspection of a public record is denied.</p> <p><i>Nothing further</i></p>	<p><i>p. 3, line 41</i></p> <p>A requester who believes <u>that a public body has failed to comply with subsection (6) of this section</u> may petition the Attorney General or the district attorney in the same manner as a requester who petitions when inspection of a public record is denied under ORS 192.311 to 192.478. The Attorney General, the district attorney and the court have the same authority in instances <u>when a public body has failed to comply with subsection (6) of this section</u> as when inspection of a public record is denied.</p> <p><i>Nothing further</i></p>	<p><i>p. 4, line 30</i></p> <p>A requester who believes <u>that there has been an unreasonable denial of a fee waiver or fee reduction</u> may petition the Attorney General or the district attorney to challenge the denial of a fee waiver or fee reduction in the same manner as a requester who petitions when inspection of a public record is denied under ORS 192.311 to 192.478. The Attorney General, the district attorney and the court have the same authority in instances <u>when a fee waiver or reduction is denied</u> as when inspection of a public record is denied.</p> <p><i>p. 5, line 7</i></p> <p><u>The authority of the Attorney General, the district attorney or the court includes the authority to order a fee waiver or reduction, either in a particular amount or percentage of reduction, or with instruction to the custodian on</u></p>
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			<p><u>how to determine the particular amount or percentage of reduction.</u></p> <p>The Attorney General, the district attorney or the court <u>shall conduct a de novo review of the public body’s denial of a fee waiver</u> or fee reduction, weighing all relevant factors including, but not limited to, the factors described in subsection (6) of this section.</p> <p>The Attorney General or district attorney shall determine to wholly or partially grant or deny a petition made under this subsection <u>within 15 days of the date the petition is received by the Attorney General or district attorney, except that the 15-day time period may be extended by agreement between the petitioner and the public body.</u></p>
7-day deadline for appeal of denial	<p><i>ORS 192.411(1)</i></p> <p>Subject to ORS 192.401 (1) and 192.427, any person denied the</p>	<i>Same as statute</i>	<p><i>Same, but adds p. 9, line 3</i></p> <p>However, the seven-day period may be extended by agreement</p>

	<p>right to inspect or to receive a copy of any public record of a state agency may petition the Attorney General to review the public record to determine if it may be withheld from public inspection. Except as provided in ORS 192.401 (2), the burden is on the agency to sustain its action. Except as provided in ORS 192.401 (2), the Attorney General shall issue an order denying or granting the petition, or denying it in part and granting it in part, <u>within seven days from the day the Attorney General receives the petition.</u></p>		<p>between the petitioner and the state agency.</p>
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