

LC 258
2023 Regular Session
16500-001
10/18/22 (DJ/ps)

D R A F T

SUMMARY

Updates definitions and terminology used in public records law pertaining to records retention. Removes references to obsolete technology.

A BILL FOR AN ACT

Relating to public records; amending ORS 7.010, 8.125, 192.001, 192.005, 192.050, 192.060, 192.105, 192.130, 260.255 and 357.825.

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

SECTION 1. ORS 192.001 is amended to read:

192.001. (1) The Legislative Assembly finds that:

(a) The records of the state and its political subdivisions are so interrelated and interdependent that the decision as to what records are retained or destroyed is a matter of statewide public policy.

(b) The interest and concern of citizens in public records recognizes no jurisdictional boundaries and extends to such records wherever they may be found in Oregon.

(c) As local programs become increasingly intergovernmental, the state and its political subdivisions have a responsibility to ensure orderly retention and destruction of all public records, whether current or noncurrent, and to ensure the preservation of public records of value for **legal**, administrative, [*legal*] **fiscal, tribal cultural or historical** [*and research*] purposes.

(2) The purpose of ORS 192.005 to 192.170 and 357.805 to 357.895 is to provide direction for the retention or destruction of public records in Oregon

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 in order to ensure the retention of records essential to meet the needs of the
2 Legislative Assembly, the state, its political subdivisions and its citizens,
3 insofar as the records affect the administration of government, legal rights
4 and responsibilities, and the accumulation of information of value for re-
5 search purposes of all kinds, and in order to ensure the prompt destruction
6 of records without continuing value. All records not included in types de-
7 scribed in this subsection shall be destroyed in accordance with rules
8 adopted by the Secretary of State.

9 **SECTION 2.** ORS 192.005 is amended to read:

10 192.005. As used in ORS 192.005 to 192.170, unless the context requires
11 otherwise:

12 (1) "Archivist" means the State Archivist.

13 (2) "Photocopy" includes a photograph, microphotograph and any other
14 reproduction on paper or film in any scale.

15 (3) "Photocopying" means the process of reproducing, in the form of a
16 photocopy, a public record or writing.

17 (4) "Political subdivision" means a city, county, district or any other
18 municipal or public corporation in this state.

19 (5) "Public record":

20 (a) Means any information that:

21 (A) Is prepared, owned, used or retained by a state agency or political
22 subdivision;

23 (B) Relates to an activity, transaction or function of a state agency or
24 political subdivision; and

25 (C) Is necessary to satisfy the [*fiscal*,] legal, administrative, **fiscal, tribal**
26 **cultural** or historical policies, requirements or needs of the state agency or
27 political subdivision.

28 (b) Does not include:

29 (A) Records of the Legislative Assembly, its committees, officers and em-
30 ployees.

31 (B) Library and museum materials made or acquired and preserved solely

1 for reference or exhibition purposes.

2 (C) Records or information concerning the location of archaeological sites
3 or objects as those terms are defined in ORS 358.905.

4 (D) Extra copies of a document, preserved only for convenience of refer-
5 ence.

6 (E) A stock of publications.

7 (F) Messages on voice mail [*or on other telephone message storage and*
8 *retrieval systems*].

9 (G) Records of the Judicial Department or its officers and employees.

10 (H) Spoken communication that is not recorded.

11 (6) "State agency":

12 (a) Means any state officer, department, board or commission created by
13 the Constitution or statutes of this state.

14 (b) Does not include:

15 (A) The Legislative Assembly or its committees, officers and employees;
16 or

17 (B) The Judicial Department or its officers and employees.

18 **SECTION 3.** ORS 192.050 is amended to read:

19 192.050. A state agency or political subdivision may, with the approval
20 of the proper budgetary authority, cause any public records in its official
21 custody to be photocopied or captured by digital imaging system, as in the
22 case of original filings or recordings, or recorded by [*means of analog or*
23 *digital audio and video tape technology*] **audio or video technology**. Each
24 photocopy, digital image [*and analog or digital audio and video tape*], **audio**
25 **recording and video recording** shall be made in accordance with the ap-
26 propriate standard as determined by the State Archivist. Every such repro-
27 duction shall be deemed an original; and a transcript, exemplification or
28 certified copy of any such reproduction shall be deemed a transcript,
29 exemplification or certified copy, as the case may be, of the original.

30 **SECTION 4.** ORS 192.060 is amended to read:

31 192.060. All photocopies, digital images [*and analog or digital audio and*

1 *video tapes*], **audio recordings and video recordings** made under ORS
2 192.040 and 192.050 shall be properly indexed and [*placed in conveniently ac-*
3 *cessible files*] **filed so as to facilitate access and retrieval**. Each roll of
4 microfilm shall be deemed a book or volume and shall be designated and
5 numbered and provision shall be made for preserving, examining and using
6 the same.

7 **SECTION 5.** ORS 192.105 is amended to read:

8 192.105. (1) Except as otherwise provided by law, the State Archivist may
9 grant to public officials of the state or any political subdivision specific or
10 continuing authorization for the retention or disposition of public records
11 that are in their custody, after the records have been in existence for a
12 specified period of time. In granting such authorization, the State Archivist
13 shall consider the value of the public records for legal, administrative, **fis-**
14 **cal, tribal cultural or historical** [*or research*] purposes and shall establish
15 rules for procedure for the retention or disposition of the public records.

16 (2)(a) The State Archivist shall provide instructions and forms for ob-
17 taining authorization. Upon receipt of an authorization or upon the effective
18 date of the applicable rule, a state official who has public records in custody
19 shall destroy or otherwise dispose of those records that are older than the
20 specified period of retention established by the authorization or rule. An of-
21 ficial of a local government may destroy such records if such destruction is
22 consistent with the policy of the local government. No record of accounts
23 or financial affairs subject to audit shall be destroyed until released for de-
24 struction by the responsible auditor or representative of the auditor. If fed-
25 eral funds are involved, records retention requirements of the United States
26 Government must be observed. Each state agency and political subdivision
27 shall designate a records officer to coordinate its records management pro-
28 gram and to serve as liaison with the State Archivist. The county records
29 officers for the purposes of ORS 192.001, 192.050, 192.060, 192.105, 192.130,
30 357.825, 357.835 and 357.875 shall be those officers identified in ORS 205.110.
31 The State Archivist shall require periodic reports from records officers about

1 records management programs. The State Archivist may require state agency
2 records designated as inactive by the State Archivist to be transferred to the
3 State Records Center, pending the availability of space.

4 (b) The State Archivist shall determine which parts of a public record are
5 acceptable for admission to the State Records Center and may require the
6 state agency or governing body to cause the unacceptable part to be removed
7 before the record is submitted to the State Records Center.

8 (3) Authorizations granted prior to January 1, 1978, by any state agency,
9 the State Archivist, or any board of county commissioners, to state agencies,
10 schools, school districts, soil and water conservation districts, or county of-
11 ficials and offices shall remain in effect until they are adopted or amended
12 by the State Archivist.

13 (4) This section does not apply to legislative records, as defined in ORS
14 171.410.

15 **SECTION 6.** ORS 192.130 is amended to read:

16 192.130. If the State Archivist determines that any public records of a
17 state agency or political subdivision in the official custody of the State
18 Archivist prove to have insufficient **legal**, administrative, [*legal or*
19 *research*] **fiscal, tribal cultural or historical** value to warrant permanent
20 preservation, the State Archivist shall submit a statement or summary
21 thereof to the records officer of the state agency or political subdivision, or
22 successor agency or body, certifying the type and nature thereof and giving
23 prior notification of the destruction.

24 **SECTION 7.** ORS 357.825 is amended to read:

25 357.825. (1) The State Archivist may negotiate for, acquire and receive
26 public records, writings and illustrative materials of value or interest for
27 legal, administrative, **fiscal, tribal cultural or historical** [*or research*]
28 purposes. The State Archivist is constituted official custodian of all such
29 records, writings or materials deposited in, acquired for, or transferred upon
30 requisition by the State Archivist to the custody of the State Archivist for
31 the state archives.

1 (2) The State Archivist shall adopt rules for state agencies and guidelines
2 for local governments relating to the physical care to be afforded public re-
3 cords and the means of public access to public records consistent with their
4 physical safety.

5 (3) The State Archivist by rule shall describe or designate state public
6 records that are to be considered inactive.

7 **SECTION 8.** ORS 7.010 is amended to read:

8 7.010. (1) The records of the circuit courts include a register and jury
9 register.

10 (2) The record of the Supreme Court and the Court of Appeals is a reg-
11 ister.

12 (3) All references in this chapter to the clerk or court administrator re-
13 late to the office of the clerk or court administrator of the appropriate trial
14 or appellate court.

15 (4) Minimum record retention schedules and standards for all records of
16 the state courts and the administrative offices of the state courts may be
17 prescribed by the State Court Administrator pursuant to ORS 8.125. The
18 State Court Administrator shall ensure that the minimum record retention
19 schedules and standards prescribed under ORS 8.125 conform with policies
20 and standards established by the State Archivist under ORS 192.105, 357.825
21 and 357.835 (1) for public records valued for legal, administrative, **fiscal,**
22 **tribal cultural or historical** [*or research*] purposes.

23 **SECTION 9.** ORS 8.125 is amended to read:

24 8.125. The State Court Administrator shall, to the extent directed by the
25 Chief Justice of the Supreme Court:

26 (1) Assist the Chief Justice in exercising administrative authority and
27 supervision under ORS 1.002.

28 (2) Consistent with applicable provisions of law and rules made there-
29 under:

30 (a) Supervise the personnel plan for officers, other than judges, and em-
31 ployees of the courts of this state who are state officers or employees.

1 (b) Prescribe the form and content and supervise the preparation of con-
2 solidated budgets, for submission to the Legislative Assembly, applicable to
3 expenditures made and revenues received by the state in respect to the courts
4 of this state.

5 (c) Supervise an accounting system for the recording, monitoring and au-
6 diting of expenditures made and revenues received by the state in respect to
7 the courts of this state.

8 (d) Establish and maintain inventory records of property of the state in
9 the custody or control of the courts of this state or any judge, other officer
10 or employee thereof.

11 (3) Conduct a continuing survey of the administrative methods and ac-
12 tivities, records, business and facilities of the courts of this state and make
13 recommendations to the Chief Justice based on the survey.

14 (4) Collect and compile statistical and other data relating to the courts
15 of this state and municipal courts, including the caseload, workload, per-
16 formance, status, management, expenses and revenues of those courts, and
17 make reports on the business and condition of those courts.

18 (5) Establish and supervise a statewide public information service con-
19 cerning the courts of this state.

20 (6) Establish and supervise education programs for judges, other officers
21 and employees of the courts of this state and municipal courts pertinent to
22 the performance of the functions of those judges, other officers and employ-
23 ees.

24 (7) Provide to the judges, other officers and employees of the courts of
25 this state, to attorneys and to the public appropriate assistance services re-
26 lating to the administration and management of the courts of this state.

27 (8) Prepare and maintain a continuing long-range plan for improvement
28 and future needs of the courts of this state.

29 (9) Supervise and maintain the law libraries of the judicial department
30 of government of this state, including the State of Oregon Law Library, and
31 excluding county law libraries except as provided in ORS 9.825.

1 (10) Enter into contracts on behalf of the Judicial Department, including
2 but not limited to financing agreements entered into pursuant to ORS
3 283.087.

4 (11) Prescribe minimum retention schedules and standards for all records
5 of the state courts and the administrative offices of the state courts, in-
6 cluding but not limited to minimum retention schedules and standards for
7 registers, dockets, indexes, files, citations, notes, audio records, video re-
8 cords, stenographic records, exhibits, jury records and fiscal and adminis-
9 trative documents, whether maintained in paper, micrographic, electronic or
10 other storage form. The State Court Administrator shall ensure that the
11 minimum record retention schedules and standards prescribed under this
12 subsection conform with policies and standards established by the State
13 Archivist under ORS 192.105, 357.825 and 357.835 (1) for public records valued
14 for legal, administrative, **fiscal, tribal cultural or historical** [*or research*]
15 purposes.

16 **SECTION 10.** ORS 260.255 is amended to read:

17 260.255. (1) Except as provided in subsection (2) of this section, a filing
18 officer shall preserve each statement filed with the officer under ORS
19 260.057, 260.076, 260.083, 260.112 or 260.118, or an accurate copy of it, for at
20 least six calendar years.

21 (2) The Secretary of State shall maintain all data filed electronically un-
22 der ORS 260.057 on the Internet for at least six calendar years after the date
23 the secretary first makes the data available. After six calendar years, if the
24 data are not maintained on the Internet, the secretary shall retain and dis-
25 pose of the data in a manner prescribed by the State Archivist. The State
26 Archivist shall consider the value of the data for legal, administrative, **fis-**
27 **cal, tribal cultural or historical** [*or research*] purposes and shall establish
28 rules for procedures for the retention and disposition of data described in
29 this section.

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