

**Enrolled**  
**House Bill 4135**

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown)

CHAPTER .....

AN ACT

Relating to fulfilling public records requests for electronic records; creating new provisions; amending ORS 291.039; and declaring an emergency.

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

**SECTION 1.** ORS 291.039 is amended to read:

291.039. (1) The office of the State Chief Information Officer is established in the Oregon Department of Administrative Services for the purpose of directing, coordinating and overseeing state information technology and telecommunications in accordance with ORS 291.038 and other statutes, rules and policies that govern the state's or state agencies' budgeting, planning, acquiring, managing, overseeing and using telecommunications and information technology.

(2) The Governor shall appoint the State Chief Information Officer, who serves at the pleasure of the Governor. The State Chief Information Officer may adopt rules in accordance with ORS chapter 183 to exercise and carry out the duties, functions and powers committed to the State Chief Information Officer under ORS 291.038 and other statutes, rules or policies that commit functions to the State Chief Information Officer.

(3) The State Chief Information Officer must be a person who, by training and experience, is well qualified to:

(a) Perform the duties that the Governor specifies; and

(b) Carry out the functions specified in ORS 291.038 and in other statutes, rules or policies that commit functions to the State Chief Information Officer.

(4)(a) The State Chief Information Officer shall:

(A) Serve as the Governor's chief advisor concerning information resources, information technology, information systems, geographic information systems, information systems security and telecommunications.

(B) Implement and maintain an information technology governance program for the executive department.

(C) Adopt rules, policies and standards for budgeting, planning, acquiring, installing, operating and overseeing telecommunications and information technology for the executive department.

(D) Review and make recommendations to the Governor and the Legislative Assembly concerning state agency information technology budget requests.

(E) Adopt plans, rules, policies and standards for the executive department concerning geographic information systems and geographic data.

(F) Adopt state information systems security plans, rules, policies and standards for the executive department.

(G) Assess state agencies each biennium to evaluate compliance with the State Chief Information Officer's rules, policies and standards and provide results of the assessments to the Governor and to the Joint Legislative Committee on Information Management and Technology.

(H) Develop and promote training programs in information technology, information systems security, geographic information systems, enterprise architecture and project and portfolio management.

(I) Enhance sharing and coordination among federal, tribal, regional, state government and local government entities in this state with respect to geographic information systems and geographic data.

(J) Oversee information technology and telecommunications procurements as provided in ORS 279A.050 (7).

(K) Conduct a market analysis each biennium to determine whether the state data center is the most effective and efficient method for providing information technology and information resources to state agencies and other users. In conducting the market analysis, the State Chief Information Officer shall consider best practices and trends among federal, state and local government entities and the extent to which new or emerging technologies affect how the state provides information technology and information resources. The State Chief Information Officer shall provide the results of the analysis to the Governor and to the Joint Legislative Committee on Information Management and Technology and may recommend changes in the information technology and information resources that the state data center provides or in methods that the state data center uses to provide information technology and information resources.

(L) Identify information technology services that the State Chief Information Officer recommends for design, delivery and management as enterprise or shared information technology services and, each biennium, report to the Governor and the Joint Legislative Committee on Information Management and Technology concerning the status of new enterprise or shared information technology services.

(M) Adopt or update each biennium an Enterprise Information Resources Management Strategy for the state. In addition to the functions described in ORS 184.477, the Enterprise Information Resources Management Strategy must provide for integrating statewide technology initiatives, ensuring compliance with information technology rules, policies and standards, promoting coordination, consolidation and alignment of information resources and technologies and effectively managing the state's and state agencies' information technology portfolios. In developing the Enterprise Information Resources Management Strategy, the State Chief Information Officer shall consult with and consider advice and suggestions from the department, state agencies and local governments, from private sector information technology experts, from the Legislative Fiscal Officer, from the Joint Legislative Committee on Information Management and Technology or from individual members of the Legislative Assembly that the President of the Senate and the Speaker of the House of Representatives appoint for the purpose of consulting with the State Chief Information Officer under this subsection.

(N) Identify and recommend to the Governor, within the State Chief Information Officer's biennial budget request, resources that are necessary to implement the Enterprise Information Resources Management Strategy.

**(O) Develop standards, protocols and procedures for executive department agencies to use in searching for and identifying requested public records that are retained in electronic form and to use in fulfilling public records requests that seek records in electronic form.**

(b) As used in this subsection:

(A) "Executive department" has the meaning given that term in ORS 174.112, except that "executive department" does not include the Secretary of State in performing the duties of the constitutional office of Secretary of State or the State Treasurer in performing the duties of the constitutional office of State Treasurer.

(B) "Geographic data" means digital data that consist of geographic or projected map coordinate values, identification codes and associated descriptive data to locate and describe boundaries or features on, above or below the surface of the earth, demographic data or related data.

(C) "Geographic information system" means hardware, software, and data for capturing, managing, analyzing and displaying geographic data.

(D) "Information system" means computers, hardware, software, storage media, networks, operational procedures and processes used in collecting, processing, storing, sharing or distributing information within, or with any access beyond ordinary public access to, the state's shared computing and network infrastructure.

(E) "State government" has the meaning given that term in ORS 174.111.

(5) The State Chief Information Officer may:

(a) Organize and reorganize the office of the State Chief Information Officer in the manner the State Chief Information Officer considers necessary to conduct the work of the office of the State Chief Information Officer properly.

(b) Divide the office of the State Chief Information Officer into administrative programs, units or sections and appoint an individual to administer each program, unit or section that the State Chief Information Officer establishes under this subsection. The individual the State Chief Information Officer appoints serves at the pleasure of the State Chief Information Officer and must be well qualified by technical training and experience in the functions the individual will perform. The State Chief Information Officer's actions under this paragraph are subject to ORS chapter 240.

(c) Appoint subordinate officers and employees of the office of the State Chief Information Officer, prescribe the officers' and employees' duties and fix compensation for the officers and employees. The State Chief Information Officer's actions under this paragraph are subject to ORS chapter 240.

(d) Delegate to an employee of the office of the State Chief Information Officer or to another individual any duty, function or power that the State Chief Information Officer may exercise or perform under ORS 291.038 or under other statutes, rules or policies that commit functions to the State Chief Information Officer. For the purpose of performing an official act in the State Chief Information Officer's name, the State Chief Information Officer may delegate a duty, function or power by means of an interagency agreement, an intergovernmental agreement in accordance with ORS chapter 190 or a contract. An official act that an individual performs in the name of the State Chief Information Officer under a delegation from the State Chief Information Officer under this paragraph is an official act of the State Chief Information Officer.

**SECTION 2. (1) As used in this section, "executive department" has the meaning given that term in ORS 174.112, except that "executive department" does not include the Secretary of State in performing the duties of the constitutional office of Secretary of State or the State Treasurer in performing the duties of the constitutional office of State Treasurer.**

**(2) The Oregon Department of Administrative Services shall coordinate the efforts of each executive department agency for which the department is the custodian of the public records of the agency that are retained in electronic form, in fulfilling public records requests made of the agency.**

**(3) The department shall provide technical assistance to each executive department agency for which the department is not the custodian of the public records of the agency that are retained in electronic form, in fulfilling public records requests made of the agency.**

**(4) When an executive department agency is aware that the same public records request has been made of itself and one or more other executive department agencies, the agency shall consult with the department prior to producing records in order to ensure consistency between agencies in the production of records.**

**(5) In providing coordination and technical assistance under this section, the department shall apply the standards, protocols and procedures that the State Chief Information Officer develops under ORS 291.039 (4)(a)(O).**

**SECTION 3. Section 2 of this 2016 Act becomes operative January 1, 2017.**

**SECTION 4.** The State Chief Information Officer and the Oregon Department of Administrative Services may adopt rules to implement the provisions of ORS 291.039 (4)(a)(O), as amended by section 1 of this 2016 Act, and section 2 of this 2016 Act, including but not limited to rules establishing procedures for compiling public records that are stored in electronic form.

**SECTION 5.** This 2016 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect on its passage.

**Passed by House February 25, 2016**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate February 29, 2016**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2016

**Approved:**

.....M.,....., 2016

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2016

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Jeanne P. Atkins, Secretary of State