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Senator Chuck Riley, Chair  
Senator Fred Girod, Vice Chair  
Senate Committee on Business and General Government  
900 Court Street NE  
Salem, OR 97301

RE: House Bill 2353

Dear Senators,

I am the City Recorder for the City of Salem. One of my duties is to act as the Records Custodian for City of Salem Records. Part of that duty includes handling public record requests. The City of Salem receives over 1000 public records requests each month. Many requests are simple and handled within a day or two. Other requests are often vague, seek voluminous records, and require substantial review to ensure the City is in compliance with state and federal privacy, copyright, and other laws. Responding to these requests takes time and resources. With ever-tightening budgets, local governments can ill-afford to be assessed fines when deemed unresponsive under the nebulous standards set under HB 2353. I strongly oppose House Bill 2353 for the following reasons:

1. There is no standard to determine if an agency is “unresponsive” or guilty of “undue delay.” While it allows a district attorney to order a fee waiver or fine an agency in the event they determine the agency was unresponsive or responded with undue delay, it does not provide a clear timeline or guidance for the DA’s to follow. That is problematic.
2. Lack of Judicial Review. The bill allows district attorneys to make their determination on the complaint, but the City has no recourse if they disagree as the bill does not allow for an appeal or due process hearing. Again, problematic.

3. By allowing a fine to be assessed, it provides a profit motive for requestors that will result in frivolous requests and complaints. The City of Salem and many local governments are facing serious budget constraints, which means staffing levels will decrease, making it harder for staff to respond to requests in a timely manner. This places an undue burden on the City, and creates a disincentive for individuals to cooperate with agencies on fulfilling requests.
  
4. Imposing new obligations on district attorneys to determine whether an agency has been "responsive," and whether to award a waiver or impose costs as a penalty, will result in an increased workload for district attorneys, and significantly increase the scope of the district attorneys' role beyond simply considering appeals of denials of public records requests.

Thank you for your consideration.

Sincerely,



Ruth Ann Stellmacher  
City Recorder