

ALBERT Todd * PRA

From: Kron Michael C <michael.c.kron@doj.state.or.us>
Sent: Thursday, October 20, 2022 4:52 PM
To: Emily Harris; ALBERT Todd * PRA
Subject: DA/AG Appeals

Emily and Todd, Steve asked me to share my thoughts about including express language making the fee waiver issue appealable. Here they are! Please feel free to pass them along to the group.

Given that the current laws we would be changing do include such language, I think it makes sense to continue to include it. Our proposal amends this existing law:

(5) The custodian of a public record may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public.

The very next section in the existing law, which we have not proposed to change, says this:

(6) A requester who believes that there has been an unreasonable denial of a fee waiver or fee reduction 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 when a fee waiver or reduction is denied as when inspection of a public record is denied.

I think very minor changes to (6) would be appropriate, given the changes we are proposing:

(6) A requester who believes that ~~there has been an unreasonable denial of a fee waiver or fee reduction~~ **a public body has failed to comply with subsection (5) of this section** 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 ~~under this subsection in instances when a fee waiver or reduction is denied~~ as when inspection of a public record is denied.

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