

LC 591
2019 Regular Session
16500-008
9/13/18 (DJ/ps)

D R A F T

SUMMARY

Prohibits use of privately hosted electronic mail to conduct public business. Provides exceptions and authorizes Secretary of State to establish other exceptions by rule.

Requires each state agency to adopt written policy establishing penalties for violation of prohibition on use of private electronic mail to conduct public business. Requires agency to obtain approval of State Archivist before policy can take effect.

Prohibition becomes operative January 1, 2020.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to use of private electronic mail; and prescribing an effective date.

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

4 **SECTION 1. Sections 2 to 4 of this 2019 Act are added to and made**
5 **a part of ORS 192.005 to 192.170.**

6 **SECTION 2. For the purpose of protecting public access to public**
7 **records, it is the policy of this state that state employees and public**
8 **officials not conduct public business using privately hosted electronic**
9 **mail.**

10 **SECTION 3. (1) A state employee or public official may not use**
11 **privately hosted electronic mail to conduct public business via elec-**
12 **tronic mail.**

13 **(2) Subsection (1) of this section does not apply, and a state em-**
14 **ployee or public official may use privately hosted electronic mail to**
15 **conduct public business, under the following circumstances:**

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 (a) If the state employee or public official sends a copy of all elec-
2 tronic mail sent from or received by the privately hosted electronic
3 mail account of the state employee or public official, including all at-
4 tachments, to a state electronic mail account within a reasonable
5 amount of time; or

6 (b) If the privately hosted electronic mail account is used to access
7 additional services offered by the privately hosted electronic mail ser-
8 vice, and:

9 (A) The user name, password and any other applicable multifactor
10 authentication requirements are available to multiple state employees
11 so that they can access the privately hosted electronic mail account
12 consistently with the policy established under section 2 of this 2019
13 Act;

14 (B) No electronic mail in the privately hosted electronic mail ac-
15 count is deleted or otherwise destroyed due to an auto-delete function
16 or otherwise; and

17 (C) All electronic mail sent from or received by the privately hosted
18 electronic mail account, including all attachments, is forwarded to a
19 designated state electronic mail account within a reasonable amount
20 of time.

21 (3) The Secretary of State may by rule:

22 (a) Establish other exceptions to the prohibition on the use of pri-
23 vately hosted electronic mail by state employees or public officials to
24 conduct public business; and

25 (b) Provide guidance on what constitutes a reasonable amount of
26 time to transmit electronic mail from a privately hosted electronic
27 mail account to a state electronic mail account under subsection (2)
28 of this section, except that 24 hours between the receipt or trans-
29 mission of electronic mail from the privately hosted electronic mail
30 account and delivery to the state electronic mail account is a reason-
31 able amount of time.

1 **SECTION 4.** (1) Each state agency shall adopt a written policy that
2 establishes penalties for violating section 3 of this 2019 Act. The
3 agency shall file the written policy and any subsequent amendment to
4 the written policy with the State Archivist. A state agency's written
5 policy or amendment to that policy does not take effect until approved
6 by the State Archivist.

7 (2) A state agency shall report all violations of the agency's policy
8 to the State Archivist within 60 days of the date of the violation.

9 **SECTION 5.** Section 3 of this 2019 Act becomes operative on Janu-
10 ary 1, 2020.

11 **SECTION 6.** This 2019 Act takes effect on the 91st day after the date
12 on which the 2019 regular session of the Eightieth Legislative Assem-
13 bly adjourns sine die.

14
