



March 11, 2019

Majority Leader Jennifer Williamson, Chair  
House Committee on Judiciary  
Oregon State Legislature

Re: HB 2353

Chair Williamson and Members of the Committee:

HB 2353 is intended to ensure compliance with the Oregon Legislature's wishes adopted in 2017, while addressing an inequitable situation that remains in the records law so crucial to informing Oregonians.

In 2017, SB 481 was a recipe for agency-requester communication to ensure public trust. It required agencies that are sufficiently staffed make reasonable efforts to provide public records as soon as practicable. If records could not be provided in 15 business days, the law called for the agency to provide an estimate of when the records could be provided.

The consensus-based law drew wide support, and passed the Legislature overwhelmingly. It shunned the hard deadlines adopted in other states, and shielded small or overwhelmed agencies from its requirements.

Unfortunately, our members, as well as members of the public, continue to see requests ignored by certain cities, counties, school districts and state agencies. When this occurs, the offending agencies face no meaningful consequence for ignoring the Legislature's will.

Meanwhile, members of the public requesting records bear the significant cost of enforcing this law: the time and energy spent following up with agencies, researching the law, and writing petitions to the district attorneys and attorney general staff who decide such appeals.

Placing the cost on the public to enforce such an important law, when agencies face no consequence for violating it, does not seem equitable.

HB 2353 preserves the advances of SB 481 while layering upon the existing framework the discretion for local DAs, the AG, and judges to levy a fine, if deemed appropriate, for undue delay. The fine could be as much as \$200 (plus attorney fees, if applicable) to reimburse the requester, under an amendment that's ready to go.

Based on local government input, we adapted our original proposal to shun the stricter per-day delay penalties that are the law in Washington state. We believe the bill represents a pragmatic but important step forward in ensuring public trust and achieving the Legislature's intent in 2017. Thank you for your consideration of our testimony.

-Nick Budnick, board member, Oregon Territory Society of Professional Journalists. Co-chair, OTSPJ Freedom of Information Committee