

MALHEUR ENTERPRISE

The Voice of Malheur County

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WRITTEN TESTIMONY

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HOUSE BILL 2353 as amended

Oregon Senate Committee on Business and General Government

Across Oregon, citizens are expected to comply with laws imposed by county and city governments. They are expected to know and obey laws of everything from noxious weeds to hosting bee colonies to nuisance noises. If citizens violate the laws, cities and counties can and do impose fees, no matter how poor the citizen or how misunderstanding they might be of the law.

There is no justification for local governments to not obey disclosure requirements of the Oregon Public Records Law. If any entity ought to be readily following the law, it is government officials. The Public Records Law has been on the books in this state for nearly 50 years. There is no mystery the law is intended to provide citizens ready and relatively painless access to information about their government. But citizens are often on their own. In contrast, government agencies have deep resources if they have any question about their obligation under the law. Local governments have publicly paid lawyers that they can call on at will for help. They have associations – funded by public money – to which they can turn to for expertise.

The provisions of House Bill 2353 provide no significant impediment to local government. Officials may worry that their agencies will face punishment for conduct they aren't clear about. The law is clear. There is no ambiguity. Public agencies have certain deadlines to meet in disclosing the records. At their request, reforms to the public records law in 2017 provided local government several escape ramps to legally defer compliance. Now, government officials object to being held accountable as they hold citizens accountable. They object to any fine or fee reduction even if they are not following the law. They apparently want disobedience to be pain free.

But there is a cost-free way to avoid any fine and it's what citizens are expected to do to avoid being fined for, say, illegally parking an RV: Comply with the law.

Most government agencies and public officials do. They are diligent, they are responsive and they work dutifully with journalists and with citizens. It is in the instance of public officials who want to treat government work as their private business, who don't want to be bothered with disclosure, that this law addresses. A

\$200 fine would only be imposed in the instance of a meaningful violation. No government agency faces the prospect of a penalty for missing a deadline by a day.

In my 45 years as an investigative reporter, I have relied on access to public records to report on matters large and small to the public. There are many officials who appreciate the spirit of the public records law and mean to uphold it. But not all do, and let me share two recent instances.

In the city of Ontario, a city councilor delayed producing emails related to a controversial marijuana initiative, insisting emails sent in his duty as a public official weren't government record. He ultimately relented, producing the records when it became clear that such a view conflicted with established law in Oregon.

From a Malheur County agency, my newspaper sought emails related to \$26 million public project. The request was made Feb. 11 of this year. The county's economic development department raised no concerns the documents were confidential. It didn't say it was short staffed. It didn't say it needed more time. It simply didn't address the request – week after week, obstructing access to important information. Nearly two months later, and only with the intervention of the district attorney, were the records released. Two months. That's the sort of conduct that warrants a \$200 fine – a reminder the law is to be obeyed, not ignored.

I urge you to support this measure whose goal is not to punish public agencies but rather to ensure citizens get the information to which they have a legal right. I have little doubt that simply having this fine on the books will be incentive enough for those who operate outside the law to more willingly comply. If citizens can be fined for tall weeds and noisy bees, then the government that serves them should face the consequence of a fine too for not following the law.