



SENATE BILL 315 AND PUBLIC RECORDS

Prepared for: House Committee on Judiciary
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Re: Senate Bill 315 and Current Public
Records Laws

LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

Under Oregon's public records laws, every person has the right to inspect any nonexempt public record of any public body in the state.¹

Q: Who does a public body include?

A: A public body is defined to include, "every state officer, agency, department, division, bureau, board and commission; every county and city governing body, school district, special district, municipal corporation, and any board, department, commission, council, or agency thereof; and any other public agency of this state."²

Q: What does a public record include?

A: A public record is "any writing that contains information relating to the conduct of the public's business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics." Entities that function in an equivalent manner to a public body may have records relevant to those governmental functions that are subject to public records laws. Additionally, entities who contract with public bodies may have records of that interaction subject to public records laws if those records are in the custody of a public body.

Q: Are records relating to public airports considered public records? *

A: Yes, if the airport is an arm of a public body, such as a county or city-administered airfield. Additionally, the records between the publicly run airport and the businesses who use the airport may be subject to public records disclosure if the airport has custody of the records and no exemptions apply.

Q: What exemptions might apply to public airport records?

A: The Attorney General maintains a list of the public records exemptions found throughout statute. See <https://justice.oregon.gov/PublicRecordsExemptions/>. Many exemptions to the requirement to disclose public records are found in ORS 192.345 and ORS 192.355.

- ORS 192.345 conditional exemptions:

¹ ORS 192.314(1).

² ORS 192.311(4).

The exemptions found in ORS 192.345 are conditional exemptions in that they are exempt unless public interest requires disclosure in a particular instance. These include trade secrets³.

Trade secrets include, but are not limited to, “any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within an organization and which is used in a business it conducts, having actual or potential commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.” Trade secrets may be disclosable under public records laws if the public interest requires disclosure in a particular instance.

Whether information developed at a UAS test range is a trade secret, and whether the public interest requires its disclosure, is a question that might generate litigation.

- ORS 192.355 non-conditional exemptions:

The exemptions found in ORS 192.355 are usually unconditional in that they do not require a balance of public interest in the disclosure, however, several of the exemptions in this statute offer an avenue for disclosure, often similar to the public interest test in ORS 192.345.

One exemption in ORS 192.355(8) prohibits disclosure under state law of records that are prohibited from disclosure by federal law. Aviation records may fall within this exemption. Several exemptions exist for financial and business-related documents of Oregon public bodies, such as sensitive business, financial, or commercial records held by OHSU⁴ and sensitive business or financial information submitted to public bodies by private entities for tax credits, grants, loans, or economic development support⁵.

If a public airport is holding information that is required to be confidential or not disclosable by a federal entity, such as the FAA, it is not disclosable under Oregon law.

If an airport is holding information on grants or loans from a private entity made to the airport or its governing body, those records are exempt from disclosure.

Q: What Does Senate Bill 315 Do?

A: Senate Bill 315 creates a new exemption within the non-conditional exemptions in ORS 192.355 for information related to unmanned aircraft systems operated at a UAS

³ ORS 192.345(2).

⁴ ORS 192.355(21).

⁵ ORS 192.355(17).

*Exemptions may also exist for data sent to the Federal Aviation Administration that are not covered here.

test range if disclosure of the information would cause a competitive disadvantage to the test range or its users. The protected information would include business, commercial, financial, operational, and research data generated by ownership or operation of a UAS test range. The measure does not include a public interest test, but only protects information that would create a competitive disadvantage. The exemption would only apply to information held by publicly run airports or test ranges.