

Requested by Senator THATCHER

**PROPOSED AMENDMENTS TO
SENATE BILL 500**

1 On page 1 of the printed bill, delete lines 5 through 25 and delete pages
2 2 through 4 and insert:

3 **“SECTION 1.** ORS 192.461 is amended to read:

4 “192.461. (1) The office of the Public Records Advocate is created **as an**
5 **independent office within the executive department, separate and dis-**
6 **tinct from any other state agency.**

7 “(2) The Public Records Advocate shall be appointed by the [*Governor*
8 *from among a panel of three qualified individuals nominated by the*] Public
9 Records Advisory Council under ORS 192.481 [*and shall be confirmed by the*
10 *Senate in the manner prescribed in ORS 171.562 and 171.565*].

11 “(3) The Public Records Advocate shall be a member in good standing of
12 the Oregon State Bar.

13 “(4) The term of office of the Public Records Advocate shall be four years,
14 except that the advocate may be removed for cause by the [*Governor or upon*
15 *motion of the*] Public Records Advisory Council [*with the consent of the Gov-*
16 *ernor*]. A determination to remove for cause may be appealed as a contested
17 case proceeding under ORS chapter 183.

18 “(5) The advocate may be reappointed to consecutive terms.

19 “(6) The Public Records Advocate is in the [*unclassified*] **exempt** service.

20 “(7)(a) **The Public Records Advocate shall select, appoint and fix the**
21 **compensation of a Deputy Public Records Advocate. The Deputy Public**

1 **Records Advocate shall be a member in good standing of the Oregon**
2 **State Bar.**

3 **“(b) The Public Records Advocate may delegate to the Deputy**
4 **Public Records Advocate any authority, power or duty to act possessed**
5 **by the Public Records Advocate except the power to delegate set forth**
6 **in this paragraph.**

7 **“(c) If the position of the Public Records Advocate becomes vacant,**
8 **the Deputy Public Records Advocate shall serve as the acting Public**
9 **Records Advocate until a new Public Records Advocate has been ap-**
10 **pointed.**

11 **“(8)(a) The Public Records Advocate may hire and fix the compen-**
12 **sation of [one or more deputy advocates or] other professional staff to assist**
13 **in performing the duties assigned to the Public Records Advocate.**

14 **“(b) Officers and employees of the office of the Public Records Ad-**
15 **vocate are in the exempt service.**

16 **“(9) The Public Records Advocate may seek out office facilities and**
17 **administrative support from other state agencies or local public**
18 **bodies. State agencies shall assist the advocate. Local public bodies**
19 **may assist the advocate.**

20 *“(8)(a) The State Archivist may furnish office facilities and provide ad-*
21 *ministrative support to the Public Records Advocate.]*

22 *“(b) If the State Archivist declines to furnish office facilities and provide*
23 *administrative support to the Public Records Advocate, the Oregon Department*
24 *of Administrative Services shall furnish office facilities and provide adminis-*
25 *trative support to the advocate.]*

26 **“SECTION 2.** ORS 192.481 is amended to read:

27 **“192.481. (1) The Public Records Advisory Council is created.**

28 **“(2) The Public Records Advisory Council consists of:**

29 **“(a) The Secretary of State or a designee of the Secretary of State;**

30 **“(b) The Attorney General or a designee of the Attorney General;**

1 “(c) The Director of the Oregon Department of Administrative Services
2 or a designee of the director;

3 “(d) A representative of the news media who is a member in good standing
4 of a professional journalism association and who is appointed by the Gover-
5 nor;

6 “(e) Two additional representatives of the news media who are appointed
7 by the Governor;

8 “(f) A representative of the cities of this state who is appointed by the
9 Governor;

10 “(g) A representative of the counties of this state who is appointed by the
11 Governor;

12 “(h) A representative of the special districts of this state who is appointed
13 by the Governor;

14 “(i) A representative of the public sector workforce who is appointed by
15 the Governor;

16 “(j) A member of the public who is appointed by the Governor;

17 “(k) A Senator who is appointed by the President of the Senate and who
18 serves as an ex officio nonvoting member;

19 “(L) A Representative who is appointed by the Speaker of the House of
20 Representatives and who serves as an ex officio nonvoting member; and

21 “(m) [*Except as provided in subsection (3) of this section,*] The Public Re-
22 cords Advocate[, *who shall serve as chair of the council*].

23 “**(3) The council shall elect a chairperson and a vice chairperson,**
24 **who each shall serve in that capacity for a two-year term, or until**
25 **their membership on the council ends, whichever is of shorter dura-**
26 **tion. A chairperson or vice chairperson may be reelected to their po-**
27 **sitions.**

28 “[~~(3)~~] **(4)** At any time when the office of Public Records Advocate is va-
29 cant:

30 “[*a*] *The Secretary of State or a designee of the Secretary of State shall*

1 *serve as the acting chair of the Public Records Advisory Council;*]

2 “[*(b)*] **(a)** The council shall convene at the time and place designated by
3 the [*acting chair*] **chairperson** but within 30 days of the vacancy of the of-
4 fice of Public Records Advocate;

5 “[*(c)*] **(b)** The council shall take up [*only*] the question of the [*nomination*
6 *of three qualified individuals for the Governor to consider for appointment*
7 *under ORS 192.461 as*] **process, selection and appointment of a new**
8 Public Records Advocate; and

9 “[*(d)*] **(c)** The individual who had vacated the office of Public Records
10 Advocate may participate in deliberations and vote on the slate of nominees
11 unless the individual vacated the office for reasons described in ORS 192.461
12 (4).

13 “[*(4)*] **(5)** The appointment of a member of the council described in sub-
14 section (2)(d) to (j) of this section is subject to confirmation by the Senate
15 in the manner prescribed in ORS 171.562 and 171.565.

16 “[*(5)*] **(6)** A member of the council described in subsection (2)(d), (e) or (j)
17 of this section is entitled to compensation and expenses as provided in ORS
18 292.495.

19 “[*(6)*] **(7)** The members of the council described in subsection (2)(d) to (L)
20 of this section shall each serve two-year terms and may be reappointed to
21 successive terms.

22 “[*(7)*] **(8)** A majority of the voting members of the council constitutes a
23 quorum for the transaction of business.

24 “[*(8)*] **(9)** The council shall meet at least once every six months. The
25 council also may meet at other times and places specified by the call of the
26 [*chair*] **chairperson** or of a majority of the members of the council.

27 “[*(9)*] **(10)** All public bodies, as defined in ORS 192.311, shall assist the
28 council in the performance of its duties and, to the extent permitted by laws
29 relating to confidentiality, furnish such information, including public re-
30 cords, and advice as the members of the council consider necessary to per-

1 form their duties.

2 “(11)(a) **The council may support or oppose legislation relating to**
3 **public records law.**

4 “(b) **The council may request that one or more legislators introduce**
5 **legislation relating to public records law.**

6 “**SECTION 3.** ORS 192.483 is amended to read:

7 “192.483. (1) The Public Records Advisory Council created under ORS
8 192.481 shall periodically perform all of the following:

9 “(a) Survey state agency and other public body practices and procedures
10 for:

11 “(A) Receiving public records requests, identifying the existence of re-
12 cords responsive to the requests and gathering and disclosing responsive re-
13 cords;

14 “(B) Determining fee estimates and imposing or waiving fees under ORS
15 192.324; and

16 “(C) Determining and applying exemptions from required disclosure of
17 public records.

18 “(b) Examine practices similar to those described in paragraph (a) of this
19 subsection in other jurisdictions.

20 “(c) Identify inefficiencies and inconsistencies in application of the public
21 records law that impede transparency in public process and government.

22 “(d) Make recommendations on changes in law, policy or practice that
23 could enhance transparency in public process and government, and facilitate
24 rapid dissemination of public records to requesters.

25 “(e) Make recommendations on the role of the Public Records Advocate
26 as facilitator in disputes between custodians of public records and public
27 record requesters.

28 “(2) No later than December 1 of each even-numbered year, the council
29 shall submit to the Governor, and to the Legislative Assembly in the manner
30 provided by ORS 192.245, a report that describes the findings of the council

1 since the council’s last report. The report may include recommendations for
2 legislation.

3 “(3) The council or the Public Records Advocate may prepare reports and
4 studies more frequently than required under subsection (2) of this section.

5 “(4) The council may adopt rules governing the operations of the office
6 of the Public Records Advocate, including but not limited to rules estab-
7 lishing procedures for the conduct of facilitated dispute resolution under
8 ORS 192.464. The council shall consider efficiencies and the preference for
9 a policy of transparency and openness in government in this state in adopt-
10 ing rules under this subsection.

11 “(5) **The Public Records Advocate shall serve as the custodian of all**
12 **council records.**

13 “**SECTION 4. (1) The Public Records Advocate Fund is established**
14 **in the State Treasury, separate and distinct from the General Fund.**
15 **Interest earned by the Public Records Advocate Fund shall be credited**
16 **to the Public Records Advocate Fund.**

17 “(2) **The Public Records Advocate Fund shall consist of moneys ap-**
18 **propriated or otherwise transferred to the fund by the Legislative As-**
19 **sembly and interest earnings of the fund.**

20 “(3) **Moneys in the Public Records Advocate Fund are continuously**
21 **appropriated to the Public Records Advocate for the purpose of fund-**
22 **ing the operations of the office of the Public Records Advocate and the**
23 **Public Records Advisory Council.**

24 “**SECTION 5. Any actions taken by the Public Records Advisory**
25 **Council before the effective date of this 2021 Act to recruit and appoint**
26 **a Public Records Advocate are hereby ratified and affirmed.**

27 “**SECTION 6.** Section 3, chapter 107, Oregon Laws 2019, is amended to
28 read:

29 “**Sec. 3.** Notwithstanding [*section 8 (6), chapter 728, Oregon Laws 2017*]
30 **ORS 192.481 (7):**

1 “(1) The following members of the Public Records Advisory Council shall
2 serve a three-year term that commenced on January 1, 2018:

3 “(a) The member appointed under [section 8 (2)(d), chapter 728, Oregon
4 Laws 2017] **ORS 192.481 (2)(d)**.

5 “(b) One of the members appointed under [section 8 (2)(e), chapter 728,
6 Oregon Laws 2017] **ORS 192.481 (2)(e)**.

7 “(c) The member appointed under [section 8 (2)(g), chapter 728, Oregon
8 Laws 2017] **ORS 192.481 (2)(g)**.

9 “(d) The member appointed under [section 8 (2)(i), chapter 728, Oregon
10 Laws 2017] **ORS 192.481 (2)(i)**.

11 “(e) The member appointed under [section 8 (2)(L), chapter 728, Oregon
12 Laws 2017] **ORS 192.481 (2)(L)**.

13 “(2) The following members of the council shall serve a four-year term
14 that commenced on January 1, 2018:

15 “(a) One of the members appointed under [section 8 (2)(e), chapter 728,
16 Oregon Laws 2017] **ORS 192.481 (2)(e)**.

17 “(b) The member appointed under [section 8 (2)(f), chapter 728, Oregon
18 Laws 2017] **ORS 192.481 (2)(f)**.

19 “(c) The member appointed under [section 8 (2)(h), chapter 728, Oregon
20 Laws 2017] **ORS 192.481 (2)(h)**.

21 “(d) The member appointed under [section 8 (2)(j), chapter 728, Oregon
22 Laws 2017] **ORS 192.481 (2)(j)**.

23 “(e) The member appointed under [section 8 (2)(k), chapter 728, Oregon
24 Laws 2017] **ORS 192.481 (2)(k)**.

25 **“SECTION 7. This 2021 Act being necessary for the immediate**
26 **preservation of the public peace, health and safety, an emergency is**
27 **declared to exist, and this 2021 Act takes effect on its passage.”**
28