

HB 2129 STAFF MEASURE SUMMARY

Carrier: Rep. Wallan

House Committee On Judiciary

Action Date: 01/30/23

Action: Do Pass.

Vote: 7-2-1-0

Yeas: 7 - Bynum, Chaichi, Conrad, Kropf, Lewis, Reynolds, Wallan

Nays: 2 - Morgan, Tran

Exc: 1 - Andersen

Fiscal: No fiscal impact

Revenue: No revenue impact

Prepared By: Patricia Pascone, LPRO Analyst

Meeting Dates: 1/23, 1/30

WHAT THE MEASURE DOES:

Creates exception to prohibition on use of communication obtained unlawfully, when the communication is a matter of public concern and the person did not participate in initially obtaining it.

ISSUES DISCUSSED:

- Confidentiality of executive sessions
- Use of recordings involving confidential meetings
- Court decisions define when something is a matter of public interest

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon prohibits persons from recording certain conversations without consent, and from using illegally recorded conversations. The statute currently provides no exception for persons who did not participate in the initial act of illegally recording a conversation about a matter of public concern.

The Supreme Court of the United States decided in 2001 that a similar federal law could not be enforced against a radio commentator who broadcast a phone call recorded by someone else without consent of the participants. The recorded phone call was a conversation between a union president and a union negotiator, discussing contract negotiations between teachers and a public school. The Court held that prohibiting the radio commentator's use of the recording was a violation of his free speech rights because the recording concerned a matter of public importance and the radio commentator had played no part in the initial illegal interception. That case made Oregon's law unenforceable in such circumstances.

House Bill 2129 would exempt from prosecution a person who receives or uses an illegally recorded communication about a matter of public importance, if the person did not participate in initially obtaining the recording.