



# The Public Records Advisory Council Supports the Passage of 2023 SB 417

## OVERVIEW

- The Public Records Advisory Council (the Council) was created by SB 106 (2017) and is a deep bench of bipartisan public records experts who represent state and local governments, the news media, and the public.
- The Council studies and makes recommendations identifying inefficiencies and inconsistencies in application of the public records law that impede transparency.

## BACKGROUND

- As written, Oregon's public records law is one of transparency, access, and disclosure. However, uncertainty about what constitutes appropriate cost for providing records, and best practices for when and for whom to waive costs in the public interest, can lead to confusion and frustration amongst records custodians and requesters.
- Therefore, having identified records costs as the primary issue of concern among Council members and stakeholders, the Council's Legislative Subcommittee held 22 meetings over the course of a year and heard testimony from members of the public, government employees, journalists, and guests from other states, ultimately drafting a proposal that offers practical, incremental improvements supported by a broad range of stakeholders and building upon existing requirements under Oregon's Public Records Law.

### SB 417, as introduced on behalf of the Council:

- **Preserves** discretion over fee waivers while prioritizing requests in the public interest; Public bodies must grant fees waivers when in the public interest (as defined in current law) unless public interest is outweighed by substantial prejudice or prevention of public body's ability to carry out other functions - waiver is then limited; Requests from news media (as clearly defined) are in the public interest; and Public body is required to explain denial of waiver in writing.
- **Clarifies** recoverable costs by defining actual cost as search, duplication, and review; Requires tasks to be done in the least expensive manner reasonably possible, and at the rate of the lowest-paid employee capable of performing each task; and Permits public bodies to recover fees for work done by unpaid volunteers.
- **Helps** requesters understand public body's process by updating the existing statutory requirement that a public body must post its fee schedule in a public place; Public body may only collect fees for records requests if the policy is posted; and Public bodies must work in good faith with a requester to narrow a request, including by responding when a requester seeks an explanation of the fee amount proposed.

### CONCLUSION - SB 417:

- **Builds** on existing requirements and practices.
- The **throughline** is increased transparency and communication, including through common definitions and clear requirements for public bodies.
- Public bodies still retain **broad discretion** when responding to requests and can continue producing records without disruption.

Questions? Please contact **Todd Albert**, Public Records Advocate, at [todd.albert@pra.oregon.gov](mailto:todd.albert@pra.oregon.gov) or 503-871-9036