



Oregon Public Broadcasting
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March 13, 2025

Senator Kayse Jama, Chair
Senate Committee on Rules
900 Court St. NE
Salem, OR 97301

Chair Jama and Members of the Committee,

Thank you for the opportunity to submit testimony concerning SB 555. Oregon Public Broadcasting (OPB) is reluctantly opposed to the legislation and we respectfully request that you decline to proceed with this bill at this time, as it has not been submitted to proper established review committees – a necessary step to get this policy right.

OPB is a non-profit, public service media organization supported by 150,000 member households across the region. Serving Oregon for more than 100 years, OPB is proud to offer robust journalism to our state, with services spanning from news reporting to coverage of arts, culture, community, history, and science.

The broad right of access to public records and public business is a cornerstone of our work, and we view our public service to include vigorous advocacy on behalf of all Oregonians to defend the principle of open government. **For that reason, we respectfully urge you to oppose SB 555.**

Simply put, this is a secrecy bill, one that has not undergone the proper established processes for vetting the weighty choice to withhold previously public records from public access. Established review committees serve a vital purpose, and we firmly believe bills such as this should follow that process.

In 2017, working with the Attorney General's Public Records Law Reform Task Force, the Oregon legislature passed a series of sweeping and significant reforms to Oregon Public



Records Law. The impetus for the legislation was clear: the public’s right to transparency and access to public business are a cornerstone of our democracy, and preserving that right is paramount. The legislature sought overall to ensure that public access processes provided true, effective, accessible openness. Oregon courts have long recognized that the ORPL is a disclosure law, and that laws withholding records should be applied with care. To this end, as part of that broad reform, the legislature created the Oregon Sunshine Committee, and tasked it with reviewing the hundreds of exemptions to the public’s right of access “with the goal of creating a more transparent government.”

When the 2017 Legislature established the Sunshine Committee, they recognized that secrecy bills operate in a complex area of law, and that they implicate broad and often non-obvious segments of the Oregon public interested in public records—as well as those interested in the general presumptive right of public access. Because the law and policy here require care and serious stakeholder analysis, dedicated review processes are vital to evaluate public records issues to ensure that proposals are sound in structure and policy. By creating this committee, the legislature recognized that laws withholding records need to be done the right way, with due deliberation and care. This also conserves legislative resources, as dedicated experts are tasked with meaningful review before a bill reaches a legislative committee.

Particularly in the last several years, we have observed a worrisome trend of secrecy bills skipping the Sunshine Committee altogether and being submitted straight to the legislature when public bodies sought to expand secrecy laws. 2024’s HB 4031, 2025’s HB 2533 and SB 555 are all examples of recent legislation affecting public records that have not gone through the Sunshine Committee process. All of these bills have suffered from shorter process, less deliberation, and less participation by interested Oregonians. There are likely to be unintended consequences as a result of these bills skipping the designated procedure.

We believe that the questions, discussion and concerns raised by legislators and witnesses during the March 12 hearing underline the need for more analysis and care here. We understand that personal privacy of research participants is a primary concern for proponents of the bill. To that end, the bill seems seriously overbroad, and too discretionary in its permission system. This kind of confidentiality is likely to be addressed already in current exemptions and confidentiality provisions within the ORPL relating to



personal privacy.¹ Where proponents are concerned about information that was obtained under a promise of confidentiality, existing exemptions also may cover those materials.² To the extent that existing exemptions may not cover this information, there may be good reasons for that determination in existing law.

This debate highlights the wisdom of the 2017 Legislature's creation of the Sunshine Committee and Legislative Counsel subcommittee in the Public Records Law. They recognized the difficulty of striking the appropriate balance between governmental transparency and those few situations where an exemption is warranted. If the goal here is to use a scalpel, we should seek the proper expert to wield it – in this case, that expert is the Sunshine Committee. If additional protections are needed, it is clear that the Sunshine Committee procedure is the way to ensure it is done right

As an organization deeply invested in government secrecy policy, we are often struck by the broad swath of interested Oregonians who are left out when only a select group of stakeholders are at the table for legislative deliberations. SB 555 itself concerns legislative research that has been open to inspection until now. OPB can imagine various ways these valuable records could support our mission, but we are hardly well suited to represent the interested public as a whole. The March 12 hearing highlighted just two interested stakeholders, who each raised independent unintended consequences to a bill this broad. It is easy to imagine a wide array of Oregonians, from university researchers to policy analysts, from citizen advocates to historians, from community groups to ambitious students, who likely have interest in retaining access to such research. It is hard to say for sure how this bill would impact them all, because it has not undergone the full established process to vet records secrecy bills.

We believe that these kinds of challenges led to the enactment of the Sunshine Committee in the first place, and we urge the Legislature to recommit to that process. A good start would be to decline to approve SB 555 at this time, and to refer it instead to that

Specifically, ORS 192.355(2)(a) already exempts “[i]nformation of a personal nature such as but not limited to that kept in a personal, medical or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance.” This exemption is unconditional, meaning it requires a higher showing of public interest need than many of the familiar “conditional” exemptions in the ORPL.

² See ORS 192.345(4)



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established review. After such review, this committee, our organization, and the interested public as a whole would be in a much better position to assess whether this proposal is truly the right choice for Oregon.

Respectfully,

Rachel Smolkin

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President & CEO, Oregon Public Broadcasting