

Testimony in favor of SB 1077, Dash-1 Amendment

Steve Suo, journalist, on behalf of himself

Chair Jama, Vice Chair Bonham, members of the committee:

My name is Steve Suo, and I have worked for roughly 30 years as a professional journalist in Oregon. I introduce these comments for the record strictly on my own behalf. They do not represent a position taken by my employer.

I have been a governor-appointed member of the Oregon Public Records Advisory Council nearly since its inception. The Legislature established the PRAC in 2017 to recommend improvements to Oregon's public records law as needed. By statute, it includes representatives of state agencies, local government, the news media and the general public.

Late in 2021, the PRAC launched a series of public meetings spanning dozens of hours. The goal was to better understand the costs of disclosing documents in response to public records requests. What drives these costs? Who bears them?

We heard concerns from requesters, particularly members of the news media, and from public bodies that answer requests. We also heard about models used elsewhere. We learned that states as diverse as Connecticut and Kentucky – with roughly the same population as Oregon's but with less state and local revenue – waive many of the kinds of charges that are imposed on requesters here. We learned that federal agencies, under the Freedom of Information Act, impose almost no fees, even on commercial requesters from whom they are allowed. The administrative burden of collecting these fees as well as the longstanding culture of FOIA has simply led the government not to bother charging for records.

While some of us advocated for such a blanket, statutory waiver of fees, others in our group said public bodies needed to maintain discretion over who pays and who does not. So we focused on increasing the odds that when disclosure is in the public interest, fees will not dissuade a requester from proceeding. What we came up with was this: If a public body determines the request is in the public interest, and unless the public body can articulate a substantial burden created by a fee waiver, then a full or substantial fee waiver would be required. A requester would be allowed to contest the public body's determination, on appeal to a third party – the AG or DA as in other public records matters. This compromise approach, negotiated over the course of numerous public meetings, became Senate Bill 417 of 2023.

Despite the public process by which this legislation was developed, more opponents appeared once the bill was introduced. So a work group was formed in 2023 to include yet more stakeholders. We negotiated further to address concerns raised particularly by public bodies,

resulting in a proposed amendment drafted by legislative counsel. However, the session adjourned before this amendment could be adopted.

In 2024, the work group expanded further and considered other concerns raised by participants, particularly by the district attorneys. They proposed shifting the workload of hearing appeals of local government records denials or denials of fee waivers to the Attorney General. We also addressed concerns from public bodies about how fee waivers and fee appeals would be paid for. The fruit of all these efforts was the Dash-1 amendment now under consideration by the Rules Committee.

Let me extend my thanks to the committee for considering the proposed amendment. It was drafted to increase transparency and accountability for public bodies in Oregon while taking into consideration the cost to public bodies. It is not the legislation that any single interest would have written independently. It is a compromise that reflects hours upon hours of work and extensive give and take among parties with strongly held opinions. I would be happy to provide additional details in writing upon request.

Sincerely,

Steve Suo