



Chair Jama, Vice-chair Bonham, Members of the committee:

Thank you for hearing this legislation. My name is Nick Budnick and I'm a board member and Sunshine Chair for the Greater Oregon Society of Professional Journalists. We represent journalists across the state of Oregon. We urge your support of fee reform and this bill to address the biggest problem area in the records law.

This bill addresses a conundrum: The Oregon Legislature over the years has repeatedly and overwhelmingly affirmed that transparency is a core function of our government.

And yet, unlike in other states, the fees provision of Oregon law allows agencies to charge all costs to requesters in ways that do not acknowledge either the benefits of transparency or public officials' obligation to be transparent. It allows agencies to do so even when a particular request is clearly in the public interest to be fulfilled, and disclosure is not just an obligation but a benefit to our society.

You may recall when journalists at The Oregonian used public records to expose tax credit fraud that directly led to two public corruption indictments and allowed the Oregon Department of Justice to [recoup \\$13 million for Oregonians](#). DOJ [directly credited the reporters as well as the records law for these good things happening](#). Examples of how transparency benefits us all are countless.

Unfortunately, we know from our members that excessive records fees in Oregon are often charged in ways that obstruct the provision of public-service journalism, even as many agencies decline to help the requester narrow those requests in the public interest.

**When agencies defend the status quo in Oregon law, they in effect are defending the right to deny any public-interest requester a fee waiver — while charging costs that are excessive. Current law provides little ability to challenge excessive fees or negotiate cheaper ways to go about things if an agency prefers secrecy. As a result, fee estimates can have the effect of denying disclosure, contrary to the Legislature's and the law's well-established intent.**

It not just reporters flagging this problem. Since 2011, Oregon state officials, state advisory councils and task forces and other state bodies have repeatedly flagged the records-fee portion of the state law as a major problem.

Unfortunately, in the last 14 years, proposed reforms crafted based on public meetings, task forces, work groups and advisory councils repeatedly have been shot down once they hit the Legislature. That's despite the fact that these reform bills have tried to honor the Legislature's intent for transparency in Oregon and have been based on lengthy processes aimed at compromise and

reasonableness.

In 2022 the Oregon state Public Records Advisory Council hosted a lengthy series of public meetings to craft a bill with local government representatives, only to face opposition from local agencies when it was introduced.

Faced with this situation, then-Majority Leader, Sen. Kate Lieber in early 2023 asked the Oregon Society of Professional Journalists and government agencies to form a work group with other stakeholders to address the public's longstanding concerns about the law's status quo. Our work benefitted from technical support from the Oregon Department of Justice under then-Attorney General Ellen Rosenblum as well as other government and media attorneys.

The resulting bill is a compromise and includes many changes to current law requested by government officials. The major elements of the bill are as follows:

- It establishes more of an expectation that records requests deemed to be made in the public interest are provided for free or reduced cost.
- To address public agency concerns, this bill moves most local public records appeals from individual county district attorneys — who often lack experience in this complicated area of law — to the Oregon Attorney General, which has significant experience in this area of law. This change creates major efficiencies and saves money for Oregon government. To make this change possible, the bill includes simple safeguard language to deter the conflicts of interest that have been an issue at DOJ in years past.
- In recognition that certain commercial data requesters are using the law in ways more focused on generating large profits than the public good, public bodies requested that this bill allow agencies to charge those particular companies higher fees. This revenue could subsidize improvements in public records efficiencies as well as the provision of public-interest waivers.

Of note, several years ago the Legislative Counsel's office adopted a fee waiver policy designed to save government time and money. It used waivers for public-interest requesters in ways that made compliance with the law less time-consuming and costly.

Used properly, fee waivers save government money. But many local governments lack the training or the leadership to apply the law in that way. This bill would encourage agencies to embrace best practices and work with requesters in the public interest as the Legislature intends.

In closing, we'll just state the obvious: Transparency is important to Oregonians. Public opinion survey after survey has shown it.

Thank you for your service to the public, and thank you for considering this bill.

Nick Budnick, board member, Greater Oregon Society of Professional Journalists