

Office of the Secretary of State

Dennis Richardson
Secretary of State

Leslie Cummings
Deputy Secretary of State



Office of Small Business Assistance

Ruth Miles
Small Business Advocate
255 Capitol Street NE, Suite 151
Salem OR 97310
Toll-free: 844 469 5512
Fax: 503 986 2178

HB 3274 Testimony
Judiciary Committee – April 12, 2017

Chair Barker, members of the Committee. For the record, I am Ruth Miles, the Small Business Advocate for Secretary of State. I run the Secretary's Office of Small Business Assistance. As you know, the Office was created to help business owners who are caught in red tape with state agencies. I joke that I run with scissors.

Last year, my office began a rulemaking process at the request of the previous Secretary of State. Our purpose was to define "complaint" as that word is used in our statutes and clarify our procedures when a complaint is filed with our office regarding an executive branch state agency.

Our Rules Advisory Committee is a group of business owners and associations that represent a large swath of Oregon's small business community. When we met with them, they asked what part of a case (our investigation of a complaint) would be subject to public disclosure. We asked for an opinion from the Department of Justice to clarify the language found in ORS 56.203(4) – our current confidentiality statute.

In their opinion, DOJ offered two possible interpretations of this statute. The broad interpretation was that all of the conversations the Office has with state agencies and small businesses in the context of a case would be confidential and exempt from disclosure.

The narrow interpretation, which DOJ felt they could defend in a legal setting, was that all of the conversations that the Office has with state agencies and small businesses in the context of a case *are* subject to public disclosure – that *nothing* was confidential.

This came as a surprise to our office, so we began a conversation about clarifying this language. Given that we were well past the agency's filing deadline when we received the DOJ opinion, Representatives McKeown and Gomberg stepped forward to introduce HB 3274.

Our office and agency are concerned that there be no unintended consequences from the language of this bill. In particular, we wanted to ensure that records currently subject to public disclosure not be made exempt simply because they were part of the conversation of a case.

For instance, if a construction contractor licensed by the CCB files a complaint regarding that agency with the Office of Small Business Assistance, their license record, any debt owed to the agency, or any enforcement actions should not become exempt from disclosure by the agency simply because they are part of a complaint. Thus, you have the -4 amendment in front of you.

We've worked on the language to make sure that it is written tightly enough to achieve this goal and that it is clear enough to be understood by state agencies and the small businesses we work with every day.

This provides a high level view of the events that bring us before you today. If I can help by answering any questions or providing context, I'm happy to do so.