

April 10, 2017

To: House Committee on Rules
Representative Jennifer Williamson, Chair

Re: HB 2101 – Sunsets certain exemptions from disclosure for public records – **Support with Comments**

Open Oregon applauds your interest to encourage the review of the more than 550 exemptions to Oregon Public Records Law. While we are supportive of reviewing exemptions, we believe this bill would be strengthened by expressly providing for front-end public debate regarding exemptions.

Open Oregon, a 501(c)(3) non-profit organization, is the state's only Freedom of Information Coalition. We assist and educate the general public, students, educators, public officials, media and legal professionals to understand and exercise their rights to open government and their rights and responsibilities under the Oregon Public Meetings and Records laws.

Our board includes advocates for transparency from all disciplines, including those who have closely observed the Attorney General Public Records Law Reform Task Force in its work for the last year and beyond. While we appreciate the spirit of HB 2101, we are concerned rushing it to law as written may lead to unintended outcomes.

Our primary concern revolves around the creation of a legislative subcommittee designated for the task of rewriting exemptions. Because a legislative subcommittee would be staffed by legislative counsel, its communications would be exempt under attorney-client privilege, through ORS 173.230. As a result, Open Oregon believes that HB2101 would not foster the degree of public involvement and debate that exemption review calls for nor the transparency we believe you intended. We believe such a structure would have the unintended consequence of leading to more secrecy rather than less.

While HB 2101 provides that the governor's advisory council – created by SB 106 – would represent the interests of the public with regard to review of exemptions, we do not believe that this is an appropriate role for the executive branch, or any other branch of government, to play in this process.

Alternatively, Open Oregon urges you to consider the creation of a Sunshine Committee with full representation of the press and public, as well as all branches of government, law enforcement and regional interests to review exemptions to Oregon Public Records Law. Without this small but significant revision to HB 2101, we do not believe that the legislation would increase transparency in Oregon and would be unable to support the bill as written.

For examples of broad Sunshine Coalitions that represent the public in review of transparency efforts, we urge you to look to Maine's Right To Know Advisory Committee, and offer the following links as examples of structures that work to foster full public review of exemptions to the Oregon Public Records Law.


<http://www.maine.gov/legis/opla/RTKmembers111516.pdf>

<http://maine.gov/foaa/advisory/index.htm>

<http://www.maine.gov/legis/opla/RTKPublicrecsExcepSumNov410.pdf>

We stand ready to assist you in crafting an exemption review process that broadens transparency for Oregon, and offer the resources of our board members and their considerable expertise in revising HB 2101 so that it best meets the goals of improving government access for all Oregonians.

Thank you for the opportunity to discuss this legislation.



Lisa Phipps
Open Oregon President

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Policy Coordinator

CC: Rep. John E. Huffman