



April 25, 2017

Testimony of Society of Professional Journalists, Oregon Territory
Chapter on HB 2101

Chair Williamson, Committee members, my name is Nick Budnick and I represent the Oregon Territory Chapter of the Society of Professional Journalists. Thank you for hearing our testimony today.

SPJ has been told that in light of some recent productive conversations, you have been asked that a vote on this bill be postponed. We appreciate Rep. Huffman's openness to discussing and improving this bill, and we would respectfully second that request.

By granting a little more time to perfect an amendment, the Rules Committee would have a unique opportunity before it to ensure the public's trust and protect public access to vital information.

The Oregon Public Records Law was adopted in 1973 to increase transparency and rebuild people's trust in government. Since then, it has become the unsung hero of an informed public. It lets Oregonians learn about things like school administrators' high tolerance for toxic lead in our children's drinking water. It lets us learn how state agencies failed to tell us about the air pollution in our neighborhood, and how foster and elder care providers are failing to protect their most vulnerable clients. It lets us learn whether our local police chief engaged in a cover-up of an accidental shooting, officer misconduct or worse.

With transparency comes accountability, and without this landmark law the public would have few tools to combat secrecy or verify just what their government is doing.

HB 2101 proposes to give the Legislature the massive responsibility of reviewing and rewriting a critical and highly sensitive portion of this law. Specifically, this bill would open the door to amending any of the more than 500 exemptions from the law that state and local governments can cite to withhold records from the public.

When it comes to these exemptions, a seemingly innocuous change of a few words in an ORS can have a dramatic and direct effect on the public's access to important information that impacts their daily lives.

Other states such as Maine, Washington, Tennessee, New York and Virginia have tackled the exact same task of updating and rewriting this portion of their law. SPJ considers it highly significant that in those states, leaders have opted to give the public a seat at the table as their records laws are revamped.

SPJ strongly prefers that HB 2101 take advantage of a very similar process. A Sunshine Committee would make recommendations but leave the Legislature in its central decision-making role. It would provide diverse, broad-based front-end deliberation to produce recommendations on how the law can best be updated and improved. Using this process as other states have done ensures credibility and transparency.

If you haven't read the testimony from Toby Nixon, a former Washington state lawmaker who writes about the positive impact of the Washington Sunshine Committee, I recommend that you do.

As envisioned by SPJ, the Sunshine Committee would work similarly to what Nixon describes. A Sunshine Committee provides a resource for lawmakers and other elected officials while allowing the extra level of vetting that this delicate and crucial law deserves.

Without a Sunshine Committee, HB 2101 would put Oregon in the incongruous position of rewriting the records law while relying solely on a legislative committee whose behind-the-scenes workings are largely exempt from this law, its records withheld from Oregonians.

I would like to take the time to respond to the criticism leveled in one piece of testimony in which it is suggested that by making nonbinding recommendations to the Legislature, a Sunshine Committee would somehow erode lawmaker accountability. SPJ would respectfully point out that advisory bodies have operated in Oregon for much of the state's history, often making recommendations. Elected officials remain accountable.

The criticism in this piece of testimony further suggests that because a Sunshine Committee as envisioned by SPJ would merely augment the legislative process and preserve intact the confidentiality enjoyed by Legislative Counsel staff, that it somehow has no value. In reality, the Sunshine Committee would offer the public a clear window into the important early stages of how Oregonians' records law is being reviewed, vetted and updated, while recommendations are issued. As has been proven in Washington and elsewhere, that front-end transparency and extra deliberation is of tremendous value to the public and to its elected leaders.

The value and public trust that a Sunshine Committee would bring is why you see broad-based support for this concept among Republicans and Democrats, and from a variety of groups that understand the importance of transparency. Those groups represent tens of thousands of Oregonians and include Food & Water Watch, the Portland NAACP, OSPIRG, the Native Species Project, Neighbors for Clean Air, the Eastside Portland Air Coalition, the Alliance for Democracy, the climate action group 350PDX, and others. The group Open Oregon, the statewide freedom-of-information coalition whose honorary chair is Gov. Kate Brown, also supports a Sunshine Committee.

SPJ appreciates the time that Rep. Huffman and Secretary of State Dennis Richardson have taken to explore this idea. They have been receptive and even supportive of a Sunshine Committee, although details are still under discussion.

SPJ believes Oregonians deserve the same public window into the rewrite of their records law that leaders in other states have provided their constituents. We believe that that change to this bill would create the best platform for future success.

Thank you for your time. I'm happy to answer any questions.