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HB 3274 Testimony  
Senate Committee on General Government and Accountability  
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Chair Riley, 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 originally created in 2013 to help business owners who are caught in red tape with state agencies. I joke that I run with scissors.

I'd like to address the summary for HB 3274. It describes the bill as an expansion of exemptions from public records law. In my view, this is actually a technical fix and not an expansion at all.

The original bill that created the Office of Small Business Assistance included a confidentiality clause that is currently found in ORS 56.203(4). It states that, "Writings and information provided to, and communications with, the Office of Small Business Assistance under subsection (2) of this section are confidential and exempt from disclosure under ORS 192.410 to 192.505, *except as necessary to prepare the report required under ORS 56.206.*" You can find this language on page two, lines 15 through 17 of the A-Engrossed bill. The intent of the language is clear. Or so I thought.

Last year, the Office was engaged in a rulemaking process to define the word "complaint" as it is used in statute, as well as to clarify our procedures when a complaint is received by the office. Our Rules Advisory Committee, a group of business owners and associations that represent a large swath of Oregon business, asked us what, if anything, would be subject to public disclosure.

We requested and received an opinion from Department of Justice. In their opinion, DOJ offered two possible interpretations of the current 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, 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 submitted to the Office as part of our investigation. To directly address this concern, the bill was amended in the House to include a sub (b) paragraph under section (4). You can find this specific language on page 2, lines 22 and 23 of the bill.

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