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April 8, 2019

To: House Committee on Judiciary,
House Democratic Leader Jennifer Williamson, Chair

Re: **HB 3399** - Change the defendant in a public records suit to the records - **Oppose**

Thank you for your work for the public on government transparency issues.

Since 1997, members of the public and government officials have cooperatively led Open Oregon, a member of the National Freedom of Information Coalition, which stands for the people's access to their government's open meetings and open records. As you may know, transparency in government is one of the most universally popular issues among Oregonians.

While we do not question the good intentions of HB 3399, we worry that it will have unintended consequences. These consequences could include an increased number of challenges to Attorney General or District Attorney decisions on public records disputes, a lessened chance of seekers winning those fights and a complication in how attorneys fees are recouped in the event of victory. There seem to be other, less dramatic solutions to the stated problem of successful record appellants becoming defendants in court. Also, while it may not solve every problem, there are several attorneys and First Amendment funds that are willing to take on litigation in these cases pro bono or in anticipation of winning legal costs. Open Oregon has not received any complaints about the practice of suing record seekers in recent memory. We also wonder how record seekers will be notified under this proposed system that their successful petition is being appealed to the courts.

Open Oregon would urge more time and study on this proposed policy to ensure that these potential consequences are mitigated.

Thank you for providing the opportunity for public debate on this proposal.

Shasta Kearns Moore
President, Open Oregon
A National Freedom of Information Coalition chapter

cc: Open Oregon Board
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