



HOUSE OF REPRESENTATIVES

Chair Riley, Vice-Chair Girod, members of the committee:

It has been an honor to participate and further the work of the state's Sunshine Committee, Public Records Advisory Council (PRAC), and the Society of Professional Journalists over the last few years. Today, I am pleased to bring HB 2353 for your consideration, which I submitted in collaboration with the Society of Professional Journalists, partly in response to a gap identified in the end-of-2018 PRAC biennial report.

In the 2017 legislative session, SB 481 was requested by Attorney General Rosenblum to make the state's public records request policy more manageable and to create a stronger system of accountability. This legislation, which passed both chambers unanimously, was a positive step forward to ensure greater transparency and efficiency.

Despite the passage of SB 481, journalists and the public continue to see requests ignored or significantly delayed. I bring HB 2353 for your consideration today, because more can be done to ensure that the timelines set by SB 481 are taken seriously.

ORS 192.329(5) sets well-balanced deadlines. It requires that public bodies must complete a response within fifteen business days or, at very least, provide the requester with an estimated date of completion. But subsection (6) creates a very big exception to these requirements, stating that these timelines do not apply if compliance would be "impracticable" for a variety of reasons. The subsection (5) provision permitting an estimated date of completion in lieu of a full response, though, is already a meaningful enough allowance for an agency that is facing understaffing, a very broad request, a large volume of requests, or other challenges. The inclusion of subsection (6) is unnecessary and entirely undercuts the requirements in subsection (5). In practice, subsection (6) is often cited by agencies as a reason for not responding (or even providing an estimated date of completion) within the fifteen-business day timeline. These delays can have serious impacts for requesters. Delays in obtaining police reports, for example, can make it difficult for victims to obtain insurance payments, limit the damage of identity theft, pursue civil litigation, take precautions to protect their personal safety, or vindicate their rights in a variety of other venues."

When drafting HB 2353, we made the conscious effort to avoid one-size fits all approaches out of the recognition that this legislation would apply to public entities to varying sizes and capacities. To reiterate, the intent of HB 2353 bill is to use the same 'undue delay' standard contained in SB 481, including the 'safety valve' that provides some protection for small or overwhelmed agencies (ORS 192.329 (5)). Moreover, I want to clarify that a penalty is not required by the legislation but is instead a possibility at the discretion of the Attorney General, district attorney, or the court. Should a penalty be applied, cities do maintain the right of appeal. I believe we have struck a good balance between recognizing the need for possible accommodations while still working to promote greater government transparency.



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Members of the committee, I am pleased to say that this is largely a consensus bill. After many conversations, we were able to reach a point where the DA's are comfortable with this bill while still encouraging prompt responses to public records requests. HB 2353 preserves the progress of SB 481 while adding, through the adopted -4 amendment, discretion for local DA's, the Attorney General, and the courts to levy a fine for undue delay. Moreover, based on local government input, we did not adopt the stricter per-day delay penalties that are the law in Washington state. The bill passed unanimously out of the House Judiciary Committee with a do pass with amendments recommendation, as well as through the House Chamber unanimously.

Thank you for your consideration and continuing to build upon the public records transparency work done in 2017.

Thank you for your consideration.

State Representative Karin Power

