

HB 2051-1
(LC 418)
3/14/19 (DJ/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Oregon State Police)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2051**

1 On page 1 of the printed bill, line 2, after “ORS” insert “192.345 and”.

2 On page 2, delete lines 38 through 45 and insert:

3 “(4) The contents of tips reported to the tip line may be disclosed only
4 as allowed under ORS 192.345 (41), except that:

5 “(a) Personally identifiable information may be disclosed only as provided
6 in this section; and

7 “(b) Personally identifiable information and other information reported
8 through the tip line may be disclosed to the following persons for the pur-
9 pose of follow-up contact to obtain or provide further information:

10 “(A) Tip line staff;

11 “(B) A school district, education service district, community college, pri-
12 vate school that provides educational services to kindergarten through grade
13 12 students, career school or public university;

14 “(C) A service provider; or

15 “(D) Law enforcement.”.

16 On page 3, delete lines 1 through 3.

17 After line 16, insert:

18 “**SECTION 2.** ORS 192.345 is amended to read:

19 “192.345. The following public records are exempt from disclosure under
20 ORS 192.311 to 192.478 unless the public interest requires disclosure in the
21 particular instance:

1 “(1) Records of a public body pertaining to litigation to which the public
2 body is a party if the complaint has been filed, or if the complaint has not
3 been filed, if the public body shows that such litigation is reasonably likely
4 to occur. This exemption does not apply to litigation which has been con-
5 cluded, and nothing in this subsection shall limit any right or opportunity
6 granted by discovery or deposition statutes to a party to litigation or po-
7 tential litigation.

8 “(2) Trade secrets. ‘Trade secrets,’ as used in this section, may include,
9 but are not limited to, any formula, plan, pattern, process, tool, mechanism,
10 compound, procedure, production data, or compilation of information which
11 is not patented, which is known only to certain individuals within an or-
12 ganization and which is used in a business it conducts, having actual or
13 potential commercial value, and which gives its user an opportunity to ob-
14 tain a business advantage over competitors who do not know or use it.

15 “(3) Investigatory information compiled for criminal law purposes. The
16 record of an arrest or the report of a crime shall be disclosed unless and only
17 for so long as there is a clear need to delay disclosure in the course of a
18 specific investigation, including the need to protect the complaining party
19 or the victim. Nothing in this subsection shall limit any right constitu-
20 tionally guaranteed, or granted by statute, to disclosure or discovery in
21 criminal cases. For purposes of this subsection, the record of an arrest or the
22 report of a crime includes, but is not limited to:

23 “(a) The arrested person’s name, age, residence, employment, marital sta-
24 tus and similar biographical information;

25 “(b) The offense with which the arrested person is charged;

26 “(c) The conditions of release pursuant to ORS 135.230 to 135.290;

27 “(d) The identity of and biographical information concerning both com-
28 plaining party and victim;

29 “(e) The identity of the investigating and arresting agency and the length
30 of the investigation;

1 “(f) The circumstances of arrest, including time, place, resistance, pursuit
2 and weapons used; and

3 “(g) Such information as may be necessary to enlist public assistance in
4 apprehending fugitives from justice.

5 “(4) Test questions, scoring keys, and other data used to administer a li-
6 censing examination, employment, academic or other examination or testing
7 procedure before the examination is given and if the examination is to be
8 used again. Records establishing procedures for and instructing persons ad-
9 ministering, grading or evaluating an examination or testing procedure are
10 included in this exemption, to the extent that disclosure would create a risk
11 that the result might be affected.

12 “(5) Information consisting of production records, sale or purchase records
13 or catch records, or similar business records of a private concern or enter-
14 prise, required by law to be submitted to or inspected by a governmental
15 body to allow it to determine fees or assessments payable or to establish
16 production quotas, and the amounts of such fees or assessments payable or
17 paid, to the extent that such information is in a form that would permit
18 identification of the individual concern or enterprise. This exemption does
19 not include records submitted by long term care facilities as defined in ORS
20 442.015 to the state for purposes of reimbursement of expenses or determining
21 fees for patient care. Nothing in this subsection shall limit the use that can
22 be made of such information for regulatory purposes or its admissibility in
23 any enforcement proceeding.

24 “(6) Information relating to the appraisal of real estate prior to its ac-
25 quisition.

26 “(7) The names and signatures of employees who sign authorization cards
27 or petitions for the purpose of requesting representation or decertification
28 elections.

29 “(8) Investigatory information relating to any complaint filed under ORS
30 659A.820 or 659A.825, until such time as the complaint is resolved under ORS

1 659A.835, or a final order is issued under ORS 659A.850.

2 “(9) Investigatory information relating to any complaint or charge filed
3 under ORS 243.676 and 663.180.

4 “(10) Records, reports and other information received or compiled by the
5 Director of the Department of Consumer and Business Services under ORS
6 697.732.

7 “(11) Information concerning the location of archaeological sites or ob-
8 jects as those terms are defined in ORS 358.905, except if the governing body
9 of an Indian tribe requests the information and the need for the information
10 is related to that Indian tribe’s cultural or religious activities. This ex-
11 emption does not include information relating to a site that is all or part
12 of an existing, commonly known and publicized tourist facility or attraction.

13 “(12) A personnel discipline action, or materials or documents supporting
14 that action.

15 “(13) Information developed pursuant to ORS 496.004, 496.172 and 498.026
16 or ORS 496.192 and 564.100, regarding the habitat, location or population of
17 any threatened species or endangered species.

18 “(14) Writings prepared by or under the direction of faculty of public ed-
19 ucational institutions, in connection with research, until publicly released,
20 copyrighted or patented.

21 “(15) Computer programs developed or purchased by or for any public
22 body for its own use. As used in this subsection, ‘computer program’ means
23 a series of instructions or statements which permit the functioning of a
24 computer system in a manner designed to provide storage, retrieval and ma-
25 nipulation of data from such computer system, and any associated documen-
26 tation and source material that explain how to operate the computer
27 program. ‘Computer program’ does not include:

28 “(a) The original data, including but not limited to numbers, text, voice,
29 graphics and images;

30 “(b) Analyses, compilations and other manipulated forms of the original

1 data produced by use of the program; or

2 “(c) The mathematical and statistical formulas which would be used if the
3 manipulated forms of the original data were to be produced manually.

4 “(16) Data and information provided by participants to mediation under
5 ORS 36.256.

6 “(17) Investigatory information relating to any complaint or charge filed
7 under ORS chapter 654, until a final administrative determination is made
8 or, if a citation is issued, until an employer receives notice of any citation.

9 “(18) Specific operational plans in connection with an anticipated threat
10 to individual or public safety for deployment and use of personnel and
11 equipment, prepared or used by a public body, if public disclosure of the
12 plans would endanger an individual’s life or physical safety or jeopardize a
13 law enforcement activity.

14 “(19)(a) Audits or audit reports required of a telecommunications carrier.
15 As used in this paragraph, ‘audit or audit report’ means any external or
16 internal audit or audit report pertaining to a telecommunications carrier, as
17 defined in ORS 133.721, or pertaining to a corporation having an affiliated
18 interest, as defined in ORS 759.390, with a telecommunications carrier that
19 is intended to make the operations of the entity more efficient, accurate or
20 compliant with applicable rules, procedures or standards, that may include
21 self-criticism and that has been filed by the telecommunications carrier or
22 affiliate under compulsion of state law. ‘Audit or audit report’ does not mean
23 an audit of a cost study that would be discoverable in a contested case pro-
24 ceeding and that is not subject to a protective order; and

25 “(b) Financial statements. As used in this paragraph, ‘financial
26 statement’ means a financial statement of a nonregulated corporation having
27 an affiliated interest, as defined in ORS 759.390, with a telecommunications
28 carrier, as defined in ORS 133.721.

29 “(20) The residence address of an elector if authorized under ORS 247.965
30 and subject to ORS 247.967.

1 “(21) The following records, communications and information submitted
2 to a housing authority as defined in ORS 456.005, or to an urban renewal
3 agency as defined in ORS 457.010, by applicants for and recipients of loans,
4 grants and tax credits:

5 “(a) Personal and corporate financial statements and information, in-
6 cluding tax returns;

7 “(b) Credit reports;

8 “(c) Project appraisals, excluding appraisals obtained in the course of
9 transactions involving an interest in real estate that is acquired, leased,
10 rented, exchanged, transferred or otherwise disposed of as part of the project,
11 but only after the transactions have closed and are concluded;

12 “(d) Market studies and analyses;

13 “(e) Articles of incorporation, partnership agreements and operating
14 agreements;

15 “(f) Commitment letters;

16 “(g) Project pro forma statements;

17 “(h) Project cost certifications and cost data;

18 “(i) Audits;

19 “(j) Project tenant correspondence requested to be confidential;

20 “(k) Tenant files relating to certification; and

21 “(L) Housing assistance payment requests.

22 “(22) Records or information that, if disclosed, would allow a person to:

23 “(a) Gain unauthorized access to buildings or other property;

24 “(b) Identify those areas of structural or operational vulnerability that
25 would permit unlawful disruption to, or interference with, services; or

26 “(c) Disrupt, interfere with or gain unauthorized access to public funds
27 or to information processing, communication or telecommunication systems,
28 including the information contained in the systems, that are used or operated
29 by a public body.

30 “(23) Records or information that would reveal or otherwise identify se-

1 curity measures, or weaknesses or potential weaknesses in security measures,
2 taken or recommended to be taken to protect:

3 “(a) An individual;

4 “(b) Buildings or other property;

5 “(c) Information processing, communication or telecommunication sys-
6 tems, including the information contained in the systems; or

7 “(d) Those operations of the Oregon State Lottery the security of which
8 are subject to study and evaluation under ORS 461.180 (6).

9 “(24) Personal information held by or under the direction of officials of
10 the Oregon Health and Science University or a public university listed in
11 ORS 352.002 about a person who has or who is interested in donating money
12 or property to the Oregon Health and Science University or a public uni-
13 versity, if the information is related to the family of the person, personal
14 assets of the person or is incidental information not related to the donation.

15 “(25) The home address, professional address and telephone number of a
16 person who has or who is interested in donating money or property to a
17 public university listed in ORS 352.002.

18 “(26) Records of the name and address of a person who files a report with
19 or pays an assessment to a commodity commission established under ORS
20 576.051 to 576.455, the Oregon Beef Council created under ORS 577.210 or the
21 Oregon Wheat Commission created under ORS 578.030.

22 “(27) Information provided to, obtained by or used by a public body to
23 authorize, originate, receive or authenticate a transfer of funds, including
24 but not limited to a credit card number, payment card expiration date,
25 password, financial institution account number and financial institution
26 routing number.

27 “(28) Social Security numbers as provided in ORS 107.840.

28 “(29) The electronic mail address of a student who attends a public uni-
29 versity listed in ORS 352.002 or Oregon Health and Science University.

30 “(30) The name, home address, professional address or location of a person

1 that is engaged in, or that provides goods or services for, medical research
2 at Oregon Health and Science University that is conducted using animals
3 other than rodents. This subsection does not apply to Oregon Health and
4 Science University press releases, websites or other publications circulated
5 to the general public.

6 “(31) If requested by a public safety officer, as defined in ORS 181A.355:

7 “(a) The home address and home telephone number of the public safety
8 officer contained in the voter registration records for the officer.

9 “(b) The home address and home telephone number of the public safety
10 officer contained in records of the Department of Public Safety Standards
11 and Training.

12 “(c) The name of the public safety officer contained in county real prop-
13 erty assessment or taxation records. This exemption:

14 “(A) Applies only to the name of the public safety officer and any other
15 owner of the property in connection with a specific property identified by the
16 officer in a request for exemption from disclosure;

17 “(B) Applies only to records that may be made immediately available to
18 the public upon request in person, by telephone or using the Internet;

19 “(C) Applies until the public safety officer requests termination of the
20 exemption;

21 “(D) Does not apply to disclosure of records among public bodies as de-
22 fined in ORS 174.109 for governmental purposes; and

23 “(E) May not result in liability for the county if the name of the public
24 safety officer is disclosed after a request for exemption from disclosure is
25 made under this subsection.

26 “(32) Unless the public records request is made by a financial institution,
27 as defined in ORS 706.008, consumer finance company licensed under ORS
28 chapter 725, mortgage banker or mortgage broker licensed under ORS
29 86A.095 to 86A.198, or title company for business purposes, records described
30 in paragraph (a) of this subsection, if the exemption from disclosure of the

1 records is sought by an individual described in paragraph (b) of this sub-
2 section using the procedure described in paragraph (c) of this subsection:

3 “(a) The home address, home or cellular telephone number or personal
4 electronic mail address contained in the records of any public body that has
5 received the request that is set forth in:

6 “(A) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance,
7 release, satisfaction, substitution of trustee, easement, dog license, marriage
8 license or military discharge record that is in the possession of the county
9 clerk; or

10 “(B) Any public record of a public body other than the county clerk.

11 “(b) The individual claiming the exemption from disclosure must be a
12 district attorney, a deputy district attorney, the Attorney General or an as-
13 sistant attorney general, the United States Attorney for the District of
14 Oregon or an assistant United States attorney for the District of Oregon, a
15 city attorney who engages in the prosecution of criminal matters or a deputy
16 city attorney who engages in the prosecution of criminal matters.

17 “(c) The individual claiming the exemption from disclosure must do so by
18 filing the claim in writing with the public body for which the exemption from
19 disclosure is being claimed on a form prescribed by the public body. Unless
20 the claim is filed with the county clerk, the claim form shall list the public
21 records in the possession of the public body to which the exemption applies.
22 The exemption applies until the individual claiming the exemption requests
23 termination of the exemption or ceases to qualify for the exemption.

24 “(33) The following voluntary conservation agreements and reports:

25 “(a) Land management plans required for voluntary stewardship agree-
26 ments entered into under ORS 541.973; and

27 “(b) Written agreements relating to the conservation of greater sage
28 grouse entered into voluntarily by owners or occupiers of land with a soil
29 and water conservation district under ORS 568.550.

30 “(34) Sensitive business records or financial or commercial information

1 of the State Accident Insurance Fund Corporation that is not customarily
2 provided to business competitors. This exemption does not:

3 “(a) Apply to the formulas for determining dividends to be paid to em-
4 ployers insured by the State Accident Insurance Fund Corporation;

5 “(b) Apply to contracts for advertising, public relations or lobbying ser-
6 vices or to documents related to the formation of such contracts;

7 “(c) Apply to group insurance contracts or to documents relating to the
8 formation of such contracts, except that employer account records shall re-
9 main exempt from disclosure as provided in ORS 192.355 (35); or

10 “(d) Provide the basis for opposing the discovery of documents in liti-
11 gation pursuant to the applicable rules of civil procedure.

12 “(35) Records of the Department of Public Safety Standards and Training
13 relating to investigations conducted under ORS 181A.640 or 181A.870 (6),
14 until the department issues the report described in ORS 181A.640 or 181A.870.

15 “(36) A medical examiner’s report, autopsy report or laboratory test report
16 ordered by a medical examiner under ORS 146.117.

17 “(37) Any document or other information related to an audit of a public
18 body, as defined in ORS 174.109, that is in the custody of an auditor or audit
19 organization operating under nationally recognized government auditing
20 standards, until the auditor or audit organization issues a final audit report
21 in accordance with those standards or the audit is abandoned. This ex-
22 emption does not prohibit disclosure of a draft audit report that is provided
23 to the audited entity for the entity’s response to the audit findings.

24 “(38)(a) Personally identifiable information collected as part of an elec-
25 tronic fare collection system of a mass transit system.

26 “(b) The exemption from disclosure in paragraph (a) of this subsection
27 does not apply to public records that have attributes of anonymity that are
28 sufficient, or that are aggregated into groupings that are broad enough, to
29 ensure that persons cannot be identified by disclosure of the public records.

30 “(c) As used in this subsection:

1 “(A) ‘Electronic fare collection system’ means the software and hardware
2 used for, associated with or relating to the collection of transit fares for a
3 mass transit system, including but not limited to computers, radio commu-
4 nication systems, personal mobile devices, wearable technology, fare instru-
5 ments, information technology, data storage or collection equipment, or other
6 equipment or improvements.

7 “(B) ‘Mass transit system’ has the meaning given that term in ORS
8 267.010.

9 “(C) ‘Personally identifiable information’ means all information relating
10 to a person that acquires or uses a transit pass or other fare payment me-
11 dium in connection with an electronic fare collection system, including but
12 not limited to:

13 “(i) Customer account information, date of birth, telephone number,
14 physical address, electronic mail address, credit or debit card information,
15 bank account information, Social Security or taxpayer identification number
16 or other identification number, transit pass or fare payment medium balances
17 or history, or similar personal information; or

18 “(ii) Travel dates, travel times, frequency of use, travel locations, service
19 types or vehicle use, or similar travel information.

20 “(39)(a) If requested by a civil code enforcement officer:

21 “(A) The home address and home telephone number of the civil code
22 enforcement officer contained in the voter registration records for the offi-
23 cer.

24 “(B) The name of the civil code enforcement officer contained in county
25 real property assessment or taxation records. This exemption:

26 “(i) Applies only to the name of the civil code enforcement officer and
27 any other owner of the property in connection with a specific property
28 identified by the officer in a request for exemption from disclosure;

29 “(ii) Applies only to records that may be made immediately available to
30 the public upon request in person, by telephone or using the Internet;

1 “(iii) Applies until the civil code enforcement officer requests termination
2 of the exemption;

3 “(iv) Does not apply to disclosure of records among public bodies as de-
4 fined in ORS 174.109 for governmental purposes; and

5 “(v) May not result in liability for the county if the name of the civil code
6 enforcement officer is disclosed after a request for exemption from disclosure
7 is made under this subsection.

8 “(b) As used in this subsection, ‘civil code enforcement officer’ means an
9 employee of a public body, as defined in ORS 174.109, who is charged with
10 enforcing laws or ordinances relating to land use, zoning, use of rights-of-
11 way, solid waste, hazardous waste, sewage treatment and disposal or the
12 state building code.

13 “(40) Audio or video recordings, whether digital or analog, resulting from
14 a law enforcement officer’s operation of a video camera worn upon the
15 officer’s person that records the officer’s interactions with members of the
16 public while the officer is on duty. When a recording described in this sub-
17 section is subject to disclosure, the following apply:

18 “(a) Recordings that have been sealed in a court’s record of a court pro-
19 ceeding or otherwise ordered by a court not to be disclosed may not be dis-
20 closed.

21 “(b) A request for disclosure under this subsection must identify the ap-
22 proximate date and time of an incident for which the recordings are re-
23 quested and be reasonably tailored to include only that material for which
24 a public interest requires disclosure.

25 “(c) A video recording disclosed under this subsection must, prior to dis-
26 closure, be edited in a manner as to render the faces of all persons within
27 the recording unidentifiable.

28 **“(41) The contents of tips reported to a tip line, as defined in ORS**
29 **339.329. However, personally identifiable information, as defined in**
30 **ORS 339.329, is not subject to public interest balancing under this**

1 **section and remains exempt from disclosure except as provided in ORS**
2 **339.329.”.**

3 In line 17, delete “2” and insert “3”.

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