



Feb. 20, 2024

Re: HB 4031, dash-1 amendment

Chair Nathanson, Members of the Committee:

The Greater Oregon Chapter of the Society of Professional Journalists strongly opposes the proposed -1 amendment at issue in today's hearing.

As we understand it, the legislation purports to address a recent Multnomah County District Attorney public records order that called for very limited and narrow disclosure of deidentified tax-related information in a manner that did not invade privacy.

As The Oregonian/OregonLive [recently noted](#), "The district attorney ordered that the city turn over the names of businesses subject to Portland's clean energy tax as well as the money each owed but 'in such a format as to not associate any individual business name with any dollar amount,' the ruling reads."

Unfortunately, in the name of addressing this situation, this bill appears to place a whole class of information off-limits to the public in a manner that appears to promote secrecy and subvert the public interest. The Oregon Legislature has previously soundly rejected such efforts to limit public disclosure.

Records law is extremely complex. This amendment is being introduced as the session is weeks away from its conclusion. Moreover, the Legislature has put in place institutions to assist it and help ensure appropriate vetting to protect the public's interests.

Our organization respectfully requests that, rather than approve this amendment, committee members instead ask the Attorney General's Sunshine Committee to review current and potential exemptions that apply to tax-related information so as to properly weigh the public interest involved and honor the intent of Oregonians' Public Records Law.

Amendment appears overbroad

The amendment appears to add a broad new exemption to the law without any provision to protect public-interest access to public information. Specifically, it completely exempts from disclosure "Taxpayer information in the possession of a local government or local service district, as those terms are defined in ORS 174.116. Taxpayer information described in this subsection shall be kept confidential. For purposes of this subsection, 'taxpayer information' means the amount of income, expense, deduction, exclusion or credit or any particulars, as defined in ORS 314.835, set forth or disclosed in any report or return required for the administration of the tax."

Because this language has not been vetted by the public or independent experts and is instead being considered in a brief session with scant time for public notice or review, we believe there is substantial potential for unintended consequences.

For instance, it is important for the public to know if the superintendent of public instruction, for instance, has paid their property taxes, which of course fund local schools. And it is important for the public to know who is paying their fair share of taxes that support crucial government functions.

For years, government entities have released the [names of people](#) who are behind on their property taxes as well as people who simply didn't pay their taxes. Such disclosure led to the recent revelation that cannabis companies [topped the list](#) of scofflaws.

Such information allows the public to assess tax fairness, fueling public trust in government and the tax system. The potential effect of this legislation on the disclosure of widely valued information merits full vetting.

Lawmakers should send this topic to the Attorney General's Oregon Sunshine Committee

A measured review of this issue by the Oregon Sunshine Committee would best honor the intent of the law and ensure appropriate access to ensure the public good.

In 2017, the Oregon Legislature set up the Oregon Sunshine Committee under the Attorney General's office to review the law's exemptions and protect transparency. The goal was to set up a resource for the Legislature to [consult for expertise](#)— preferably with specific ideas for legislation in advance of session to allow full vetting of "[future contemplated exemptions](#)." Lawmakers overwhelmingly approved [the bill](#), which also created Open Government Impact Statements to ensure ample public notice and debate regarding legislation related to the core government function of transparency.

That's a very different intent from what drove the establishment that year of the state Public Records Advisory Council; the council was appointed to work with the state Public Records Advocate to help support enforcement of and adherence to the law to promote transparency as well as review the "[practices and procedures](#)" employed by state and local government to apply the law. For instance, the Council spent much of the last two years trying to forge compromise on how to address public records fees charged by government, which are often onerous and [ill-serve the public](#).

In 2019, the Legislature asked the Attorney General's Sunshine Committee to examine and report back on the considerations involved in amending the records law while properly balancing transparency and privacy when it comes to personally identifiable information— which it did.

The Sunshine Committee is accustomed to holding hearings and working with the Legislature. It already reports to the Legislature regularly. It was set up by lawmakers to tackle precisely this sort of thing and is the appropriate body to take up this task.

Rachel Alexander

Sunshine Chair, Freedom of Information Committee Co-Chair of the Greater Oregon Society of Professional Journalists.