**First Proposed Exemption**

(1) The following public records of any public body that, as a primary function of the public body, is regularly engaged in selling goods or services to private individuals or enterprises are exempt from public disclosure to the extent that they are not customarily provided to business competitors and would cause a competitive disadvantage for the public body:

(a) sensitive business records;

(b) commercial information;

(c) financial information.

(2) The exemption created by subsection (1) of this subsection shall apply to the City of Klamath Falls to the extent it is acting solely in connection with the ownership and operation of the Klamath Cogeneration Project.

(3) The exemption created by subsection (1) of this section does not apply:

(a) to cost of service studies used in the development or review of generally-applicable electricity rate schedules;

(b) to formulas used by the State Accident Insurance Fund Corporation to determine dividends paid to insured employers;

(c) to executed contracts to which the public body is a party, unless there is a separate statutory basis for exempting the contracts from public disclosure;

(d) to records pertaining to transactions of the public body that are subject to a competitive procurement

(e) if the public interest requires disclosure in the particular instance.

Changes from five existing exemptions:

* Does not specifically list OHSU or Oregon Corrections Enterprises but relies on general character of public body.
* Universal application of public interest test and competitive harm requirement. Currently only SAIF’s records are subject to the public interest test, and only electricity providers’ records are subject to the competitive disadvantage requirement.
* No explicit protection for competitive interests of utilities’ retail electricity customers (legitimate confidentiality for private entities should still be protected by trade secret provisions).
* Makes executed contracts specifically subject to disclosure; current exemptions only mention some SAIF contracts as expressly subject to disclosure.
* Exception for records pertaining to transactions governed by competitive procurement process (not addressed by current exemptions).
* Potentially broader application to electric utilities.
* Does not specifically mention Corrections Enterprises capital development plans.

Existing exemptions being combined:

192.501(34) Sensitive business records or financial or commercial information of the State Accident Insurance Fund Corporation that is not customarily provided to business competitors. This exemption does not: (a) Apply to the formulas for determining dividends to be paid to employers insured by the State Accident Insurance Fund Corporation; (b) Apply to contracts for advertising, public relations or lobbying services or to documents related to the formation of such contracts; (c) Apply to group insurance contracts or to documents relating to the formation of such contracts, except that employer account records shall remain exempt from disclosure as provided in ORS 192.502 (35); or (d) Provide the basis for opposing the discovery of documents in litigation pursuant to the applicable rules of civil procedure.

192.502(22) Sensitive business records or financial or commercial information of the Oregon Health and Science University that is not customarily provided to business competitors.

192.502(26) Sensitive business, commercial or financial information furnished to or developed by a public body engaged in the business of providing electricity or electricity services, if the information is directly related to a transaction described in ORS 261.348, or if the information is directly related to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and disclosure of the information would cause a competitive disadvantage for the public body or its retail electricity customers. This subsection does not apply to cost-of-service studies used in the development or review of generally applicable rate schedules.

192.502(27) Sensitive business, commercial or financial information furnished to or developed by the City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085 and disclosure of the information would cause a competitive disadvantage for the Klamath Cogeneration Project. This subsection does not apply to cost-of-service studies used in the development or review of generally applicable rate schedules.

192.502(30) Sensitive business records, capital development plans or financial or commercial information of Oregon Corrections Enterprises that is not customarily provided to business competitors.

**Second Proposed Exemption**

To protect the ability of the state to achieve positive outcomes for the state, the following records are temporarily exempt from public disclosure:

(1) Writings prepared by or under the direction of faculty of public educational institutions, in connection with research, until publicly released, copyrighted or patented, unless the public interest requires earlier disclosure in the particular instance.

(2) Information relating to the appraisal of real estate prior to its acquisition or sale, until the transaction is completed, unless the public interest requires earlier disclosure in the particular instance.

(3) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the Public Employees Retirement Fund and the Industrial Accident Fund, for a period of up to 90 days after the end of the calendar quarter.

(4) Information related to a transportation project proposed under ORS 367.800 to 367.824, including but not limited to the project’s design, management, financing and other details, until: (a) The department shares the information with a local government, metropolitan planning organization or area commission on transportation under ORS 367.804(3)(c); or (b) The department completes its evaluation of the proposed project and has selected the proposal for negotiation of an agreement.

(5) Records of or submitted to the State Treasurer, the Oregon Investment Council or the agents of the treasurer or the council relating to active or proposed publicly traded investments under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or liquidation of the investments. For the purposes of this subsection: (a) The exemption does not apply to: (A) Information in investment records solely related to the amount paid directly into an investment by, or returned from the investment directly to, the treasurer or council; or (B) The identity of the entity to which the amount was paid directly or from which the amount was received directly. (b) An investment in a publicly traded investment is no longer active when acquisition, exchange or liquidation of the investment has been concluded.

Changes from five existing exemptions:

* No substantive changes.

Existing exemptions being combined:

192.501 (6) Information relating to the appraisal of real estate prior to its acquisition.

192.501(14) Writings prepared by or under the direction of faculty of public educational institutions, in connection with research, until publicly released, copyrighted or patented.

192.502(14) (a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the treasurer, council or board relating to actual or proposed investments under ORS chapter 293 or 348 in a privately placed investment fund or a private asset including but not limited to records regarding the solicitation, acquisition, deployment, exchange or liquidation of the investments including but not limited to: (A) Due diligence materials that are proprietary to an investment fund, to an asset ownership or to their respective investment vehicles. (B) Financial statements of an investment fund, an asset ownership or their respective investment vehicles. (C) Meeting materials of an investment fund, an asset ownership or their respective investment vehicles. (D) Records containing information regarding the portfolio positions in which an investment fund, an asset ownership or their respective investment vehicles invest. (E) Capital call and distribution notices of an investment fund, an asset ownership or their respective investment vehicles. (F) Investment agreements and related documents. (b) The exemption under this subsection does not apply to: (A) The name, address and vintage year of each privately placed investment fund. (B) The dollar amount of the commitment made to each privately placed investment fund since inception of the fund. (C) The dollar amount of cash contributions made to each privately placed investment fund since inception of the fund. (D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the treasurer, council or board from each privately placed investment fund. (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the treasurer, council or board. (F) The net internal rate of return of each privately placed investment fund since inception of the fund. (G) The investment multiple of each privately placed investment fund since inception of the fund. (H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end basis to each privately placed investment fund. (I) The dollar amount of cash profit received from each privately placed investment fund on a fiscal year-end basis.

192.502(15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

367.804(5) Except as provided in subsection (6) of this section:

(a) Information related to a transportation project proposed under ORS 367.800 to 367.824, including but not limited to the project’s design, management, financing and other details, is exempt from disclosure under ORS 192.410 to 192.505 until:

(A) The department shares the information with a local government, metropolitan planning organization or area commission on transportation under subsection (3)(a)(C) of this section; or

(B) The department completes its evaluation of the proposed project and has selected the proposal for negotiation of an agreement.

(b) After the department has either shared the information described in paragraph (a) of this subsection with a local government, metropolitan planning organization or area commission on transportation, or has completed its evaluation of the proposed project, the information is subject to disclosure under ORS 192.410 to 192.505.