

**From:** [Charlie Fisher](#)  
**To:** [Kron Michael C](#)  
**Subject:** Fwd: Recommendations, legislative subcommittee of Oregon Sunshine Committee  
**Date:** Wednesday, February 5, 2020 3:15:39 PM  
**Attachments:** [SB 1505 as Introduced.pdf](#)  
[Open Government Impact Statement Measure SB 1505 .pdf](#)  
[SB 1505 — Email from BOLI.pdf](#)  
[SB 1506 - One Pager.pdf](#)  
[Open Government Impact Statement Measure- SB 1506 .pdf](#)  
[SB 1506 as introduced.pdf](#)  
[Editorial- Oregon should not retreat on...blic records advocate - oregonlive.com.pdf](#)

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Michael,

See below for two recommendations to the Sunshine Committee for our meeting on Monday.  
See you then!

Charlie

----- Forwarded message -----

From: **Brent Walth** <[bwalth@uoregon.edu](mailto:bwalth@uoregon.edu)>  
Date: Tue, Feb 4, 2020 at 4:10 PM  
Subject: Recommendations, legislative subcommittee of Oregon Sunshine Committee  
To: Charlie Fisher ([cfisher@ospirg.org](mailto:cfisher@ospirg.org)) <[cfisher@ospirg.org](mailto:cfisher@ospirg.org)>

Charlie,

Here's the statement we discussed during the legislative subcommittee meeting. Please feel free to edit however you see fit. Apologizes in advance for any typos or dropped words.

I've also attached relevant documents.

Best,

Brent

—Brent

The Legislative Subcommittee of the Oregon Sunshine Committee on Feb. 3, 2020, recommended that full Oregon Sunshine Committee take the following actions at its next meeting:

- Recommend against passage of Senate Bill 1505, as introduced. The measure seeks to exempt from disclosure any details of settlements between the Office of the Senate President and certain former employees of that office.
- Recommend passage Senate Bill 1506, as introduced, which would create the office of Public Records Advocate as an independent office.

Background

The Legislative Subcommittee has previously limited its recommendations to topic

areas previously discussed by the full Committee. In this case, the two issues raised by these bills are not among topics the committee has discussed. However, the legislative subcommittee believes making recommendations on both bills, as introduced, goes to the heart of the Sunshine Committee's charge to "make recommendations on changes in existing law, policy and practice to enhance transparency and facilitate rapid fulfillment of public records requests made to public bodies." [192.511(3)(c)]

Background for discussion:

#### SB 1505

Sunshine Committee members have generally agreed that the Oregon Legislature should not create new public-records exemptions without sound policy reasons for doing so. Senate Bill 1505 would create a special public-records exemption that would unconditionally exempt settlement agreements that might occur from future complaints filed with the state Bureau of Labor and Industries. Under current law, settlements involving public bodies in Oregon cannot be confidential with the exception of certain situations. [ORS 17.095 and 36.230]. The bill appears to create an exemption without any clear public policy reason for doing so.

Attachments:

- Senate Bill 1505 as introduced.pdf
- Open Government Impact Statement Measure SB 1505.pdf
- SB 1505 — Email from BOLI.pdf

#### Senate Bill 1506

Senate Bill 1506 establishes the Public Records Advocate as an independent office and clarifies the accountability of the Advocate to the Oregon Public Records Advisory Council. This measure, proposed by the Council, seeks to strengthen the role of the Public Records Advocate.

Attachments:

- Senate Bill 1506 as introduced. pdf
- Open Government Impact Statement Measure- SB 1506. pdf
- SB 1506 - One Pager.pdf
- Editorial- Oregon should not retreat on public records advocate - oregonlive.com.pdf

End

**[Brent Walth](#)**

**Assistant Professor**

**University of Oregon School of Journalism and Communication**

**Co-Director, [The Catalyst Journalism Project](#)**

**Co-Coordinator, [Charles Snowden Program for Excellence in Journalism](#)**

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**[Charlie Fisher](#)**

State Director

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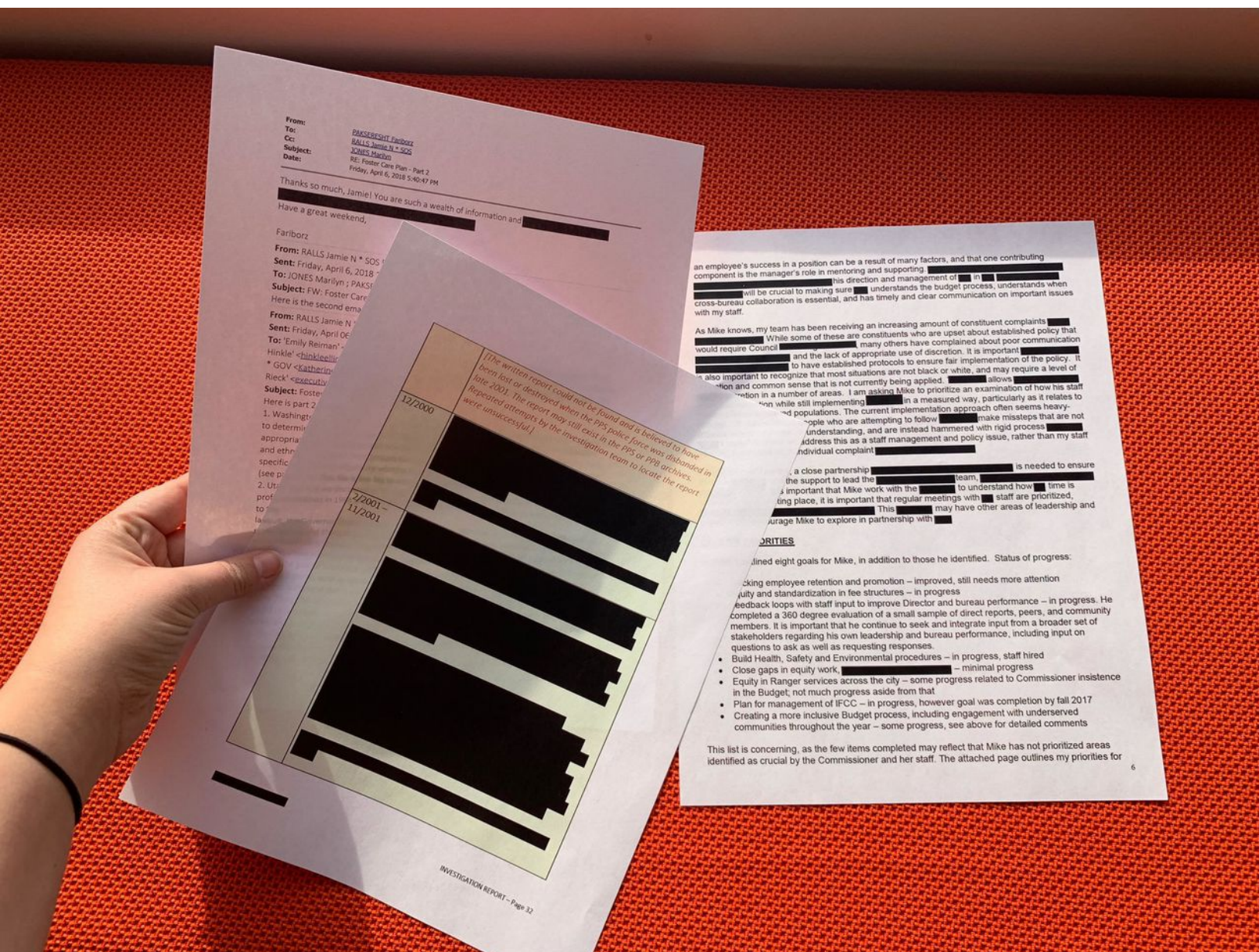
[www.ospirg.org/](http://www.ospirg.org/) [cfisher@ospirg.org](mailto:cfisher@ospirg.org)

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Opinion

# Editorial: Oregon should not retreat on independence for public records advocate

Posted Jan 26, 2020



- Records requested by The Oregonian/OregonLive from the Oregon Department of Human Services, Portland Public Schools, and the City of Portland that were all redacted. Bethany Barnes, staff Bethany Barnes, staff

206  
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## By The Oregonian Editorial Board

Ginger McCall's parting gift to Oregon was a crash course in the importance of independence.

McCall, Oregon's first public records advocate, resigned last year after just 18 months on the job, citing pressure from the governor's general counsel to adopt stances that supported the governor's agenda – not the public interest as her office's name would suggest. Her courageous decision, delivered with the records to back up her claims, motivated the public records

Unfortunately, not everyone on the committee absorbed the lesson.

The committee passed recommendations for a draft bill that legislators will consider next month. But one committee member, who dissented from the group, is seeking an amendment that would eviscerate the bill, cutting the reforms sought by the committee, including establishing independence for the public records advocate. The member, Oregon League of Cities lobbyist Scott Winkels, urged that legislators hold off on decoupling the position from the governor's office, questioning whether the change would mean a lack of accountability for the advocate.

His worries, however, are obscenely misplaced. Oregonians shouldn't worry about a lack of accountability for an independent advocate, who would still report to the 13-member public records council of governmental representatives, journalists and non-voting legislators. Rather, the real problem lies with state and local agencies that have routinely escaped accountability for refusing to share records of government business with the public. As The Oregonian/OregonLive, other media organizations and many members of the public have shown ad nauseum, governmental bodies routinely drag out their responses to requests. They often demand thousands of dollars before releasing documents that they have decided are sensitive – whether or not they actually are. And some governmental bodies have even sued when ordered by the state attorney general or a district attorney to turn over documents.

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If you have questions about the opinion section, [email Helen Jung](#), opinion editor, or call 503-294-7621.

Yet those records, once received, often yield news stories and investigations that unquestionably serve the public. For example, after The Oregonian/OregonLive exposed Portland Public Schools' decades of mishandling of sexual misconduct allegations against a longtime educator, the district revised its policies, adopted new training and advocated for state-level changes to make sure such failures don't occur again. These are the kinds of benefits and reforms that get lost when agencies can evade scrutiny.



Independence is critical for an advocate to be able to fearlessly lobby for proposals that can change Oregon's secretive culture. An advocate who serves the public, rather than an elected official, can more fairly mediate disputes between agencies and requestors over release of a record. And a strong vote in favor of independence will help Oregon recruit the next good-governance champion that Oregonians need.

Advertisement

Oregon has already lost a dedicated public servant with McCall's resignation, though she remains invested in these reforms. She telephonically attended a meeting last week of the public records council, encouraging members to stay the course on the changes they are seeking.

When legislators take up the legislation put forward by the council, they should think about the example that McCall set. They should recall that Gov. Kate Brown, after McCall's resignation, now supports separating the position from her office's supervision. They should remember the support that Oregonians throughout the state showed McCall and the cause of independence.

But most of all, they should recognize that the status quo doesn't serve the public. Legislators must demonstrate that they do.

- *The Oregonian/OregonLive Editorial Board*

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## Open Government Impact Statement

80th Oregon Legislative Assembly  
2020 Regular Session

## Measure: SB 1506

Only impacts on Original or Engrossed  
Versions are Considered Official

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Prepared by: Cameron D. Miles  
Date: 1/31/2020

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### SUMMARY

Establishes Public Records Advocate as independent office within executive department. Authorizes Public Records Advisory Council to appoint advocate. Authorizes council to support or oppose legislation relating to public records law and to request legislators to introduce legislation relating to public records law. Ratifies and affirms actions taken by council before effective date of Act to recruit and appoint advocate.

Declares emergency, effective on passage.

### OPEN GOVERNMENT IMPACT

Legislative Counsel has not adopted standards for drafting measures that establish exemptions from disclosure of public records.

This measure changes how the Public Records Advocate is appointed and removed from office. Currently, the Public Records Advocate is appointed by the Governor, from a panel of three individuals nominated by the Public Records Advisory Council, and confirmed by the Senate. The Public Records Advocate can be removed by the Governor for cause or upon motion of the council with the consent of the Governor. Under this measure the Public Records Advocate would be appointed by the council without Senate confirmation. Only the council would be able to remove the Public Records Advocate for cause.

This measure also allows the council to elect a chair and vice chair rather than making the Public Records Advocate the ex-officio chair. It allows the council to request legislators to introduce legislation relating to public records and to support or oppose legislation relating to public records. Finally, the measure makes the Public Records Advocate the custodian of council records.

This measure does not impact public interests in disclosure that would be served if public records were subject to mandatory disclosure.





## Open Government Impact Statement

80th Oregon Legislative Assembly  
2020 Regular Session

## Measure: SB 1505

Only impacts on Original or Engrossed  
Versions are Considered Official

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Prepared by: Cameron D. Miles  
Date: 1/31/2020

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### SUMMARY

Allows certain former employees of office of President of Senate who were separated or terminated from employment due to certain unlawful conduct to file complaint with Commissioner of Bureau of Labor and Industries within one year after passage of Act. Authorizes commissioner to accept and investigate complaints received. Requires commissioner, upon finding of substantial evidence, to take steps to settle matter. Requires commissioner to notify Legislative Administration Committee each time settlement agreement has been reached.

Provides complainants with right to bring civil action for relief within one year after commissioner dismisses complaint.

Establishes Settlement Funds Account, separate and distinct from General Fund. Continuously appropriates moneys in account to Legislative Administration Committee to transfer funds to Commissioner of Bureau of Labor and Industries in \$100,000 increments for payment of up to eight settlements payable under settlement agreements entered into pursuant to Act.

Requires Commissioner of Bureau of Labor and Industries to provide to each member of Legislative Assembly report that summarizes details of each payment for settlement and indicates whether commissioner has received more than eight complaints.

Declares emergency, effective on passage.

### OPEN GOVERNMENT IMPACT

Legislative Counsel has not adopted standards for drafting measures that establish exemptions from disclosure of public records.

This measure exempts from public disclosure terms or conditions of a settlement agreement, entered into pursuant to this measure, that reveal the identity of a person to whom the settlement is paid.

If the public records were instead subject to mandatory disclosure under public records law, the public could gain information related to individuals receiving a settlement under this measure.

**RE: Question about SB 1505 for the**

Smith, Jenny <jenny.smith@state.or.us>

Tue 2/4/2020 3:15 PM

To: Brent Walth <bwalth@uoregon.edu>

Hi Brent,

Under almost all circumstances, BOLI case settlements are not confidential. They are subject to public record.

It is our understanding that this bill and the lines you referenced would not preclude these settlements from being public record, but may require redaction of victims' names. This is how certain sensitive cases have been handled in the past as well.

Please let me know if you have any additional questions.

Jenny

---

Jenny Smith (she/her)

Strategic Communications Director

[Oregon Labor and Industries](#)

Office: 971-673-0841

Cell: 503-805-3853

[jenny.smith@state.or.us](mailto:jenny.smith@state.or.us)



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**From:** Brent Walth [mailto:bwalth@uoregon.edu]

**Sent:** Tuesday, February 4, 2020 2:59 PM

**To:** Smith, Jenny <smithjm@boli.state.or.us>

**Subject:** Question about SB 1505 for the

Hi Jenny,

Thanks for talking with me yesterday about [SB 1505](#). You asked for my question writing — sorry it's taken me a bit to get that question to you.

As I mentioned yesterday, I'm a member of the [Oregon Sunshine Committee](#), which is charged with examining public records disclosure exemptions and seeking ways to increase government transparency in Oregon. On behalf of the committee, I have a question about Senate Bill 1505. The bill allows certain former employees of the Legislature to file complaints with the Bureau of Labor and Industries. As we understand it, settlements in such cases involving BOLI and a public agency would under normal circumstances be a public record. Is this correct? Is it also correct that the public records exemption in Senate Bill 1505 would prevent BOLI from releasing any settlements that result under this bill? (See lines 14-17 on page 2 of the bill as introduced.)

Thanks in advance for any help your agency can offer.

Best,

Brent Walth

[Brent Walth](#)

Assistant Professor

University of Oregon School of Journalism and Communication

Co-Director, [The Catalyst Journalism Project](#)

Co-Coordinator, [Charles Snowden Program for Excellence in Journalism](#)

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# Senate Bill 1505

Sponsored by Senator BOQUIST (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows certain former employees of office of President of Senate who were separated or terminated from employment due to certain unlawful conduct to file complaint with Commissioner of Bureau of Labor and Industries within one year after passage of Act. Authorizes commissioner to accept and investigate complaints received. Requires commissioner, upon finding of substantial evidence, to take steps to settle matter. Requires commissioner to notify Legislative Administration Committee each time settlement agreement has been reached.

Provides complainants with right to bring civil action for relief within one year after commissioner dismisses complaint.

Establishes Settlement Funds Account, separate and distinct from General Fund. Continuously appropriates moneys in account to Legislative Administration Committee to transfer funds to Commissioner of Bureau of Labor and Industries in \$100,000 increments for payment of up to eight settlements payable under settlement agreements entered into pursuant to Act.

Requires Commissioner of Bureau of Labor and Industries to provide to each member of Legislative Assembly report that summarizes details of each payment for settlement and indicates whether commissioner has received more than eight complaints.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to complaints involving former employees of the office of the President of the Senate; and declaring an emergency.

Whereas up to eight former employees of the office of the Senate President were separated or terminated from employment due to coercion, mistreatment or harassment; and

Whereas a Notice of Substantial Evidence Determination issued by the Bureau of Labor and Industries identified at least four additional female employees who were separated or terminated from employment due to abuse or harassment; and

Whereas a conciliation agreement entered into between the Bureau of Labor and Industries and the Legislative Assembly on March 5, 2019, did not include those eight employees as recipients to whom settlement was paid; and

Whereas the Commissioner of the Bureau of Labor and Industries awarded \$100,000 to each recipient under the settlement; now, therefore,

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. (1) Notwithstanding the time limitation for filing a complaint under ORS 659A.820, for a period of one year after the effective date of this 2020 Act, a person who was employed in the office of the President of the Senate and who was separated or terminated from employment as a result of unlawful conduct that constitutes discrimination, harassment or retaliation prohibited by ORS chapter 659A, at any time on or after January 1, 2015, and before the effective date of this 2020 Act, may file a complaint with the Commissioner of the Bureau of Labor and Industries in the same manner as provided by ORS 659A.820.**

**(2) A complaint authorized under subsection (1) of this section must be commenced**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 within one year from the effective date of this 2020 Act to be considered timely.

2 **SECTION 2.** (1)(a) The Commissioner of the Bureau of Labor and Industries shall have  
3 the authority to conduct investigations and resolve complaints filed under section 1 of this  
4 2020 Act to the extent provided under ORS 659A.830.

5 (b) The commissioner shall investigate a complaint filed under section 1 of this 2020 Act  
6 in the same manner as provided under ORS 659A.835.

7 (2) If, after the completion of an investigation under this section, the commissioner is-  
8 sues a finding of substantial evidence, the commissioner shall take immediate steps to settle  
9 the matter in the same manner as provided under ORS 659A.840, except that:

10 (a) The terms and conditions included in any settlement agreement entered into under  
11 this section may not impose more stringent terms or conditions than the terms or conditions  
12 included in any settlement agreement entered into on March 5, 2019, that arose out of com-  
13 plaints alleging conduct in violation of ORS chapter 659A.

14 (b) Notwithstanding the confidentiality limitations provided in ORS 17.095 and 36.230 or  
15 any other law governing confidentiality of settlements, the commissioner may not disclose  
16 any terms and conditions of a settlement agreement entered into under this section that  
17 reveal the identity of a person to whom the settlement is paid.

18 (c) The commissioner shall notify the Legislative Administration Committee each time a  
19 settlement agreement has been entered into under this section.

20 (d) Any moneys paid under a settlement agreement entered into under this section shall  
21 be paid in accordance with section 4 of this 2020 Act.

22 (3) Notwithstanding any provision of ORS chapter 183, a finding of substantial evidence  
23 under this section shall be final and is not subject to further administrative or judicial re-  
24 view.

25 **SECTION 3.** (1) Notwithstanding ORS 659A.880, if, after completion of an investigation  
26 of a complaint under section 2 of this 2020 Act, the Commissioner of the Bureau of Labor  
27 and Industries does not issue a finding of substantial evidence and dismisses the complaint  
28 filed under section 1 of this 2020 Act, the commissioner shall send written notice of the dis-  
29 missal to the complainant by mail, along with a notice that the complainant may bring a civil  
30 action for damages against the Legislative Assembly within one year after the date of mail-  
31 ing of the notice and that any right to bring an action under this subsection will be lost if  
32 the action is not commenced within one year after the date of mailing of the notice.

33 (2) A person seeking to file an action against the Legislative Assembly under this section:

34 (a) May not bring an action until after the person has filed a compliant under section 1  
35 of this 2020 Act and the commissioner has completed an investigation under section 2 of this  
36 2020 Act and failed to issue a finding of substantial evidence.

37 (b) Shall file a notice of claim within 180 days of the date of the mailing of the notice  
38 under subsection (1) of this section in the manner proved by ORS 30.275.

39 (c) May bring the action in the manner provided by ORS 659A.885 and recover the same  
40 relief as provided by ORS 659A.885 (3) for unlawful practices.

41 (3) Notwithstanding any time limitation for the commencement of an action provided in  
42 ORS 30.275 (9) or 659A.875, an action under this section must be commenced not later than  
43 one year after the date of mailing of the notice under subsection (1) of this section.

44 **SECTION 4.** (1) There is established for the Legislative Assembly a Settlement Funds  
45 Account, separate and distinct from the General Fund. The Settlement Funds Account shall

1 consist of moneys appropriated by the Legislative Assembly under section 7 of this 2020 Act.

2 (2) Moneys credited to the account are continuously appropriated to the Legislative Ad-  
3 ministration Committee to be used solely for the purpose of transferring funds to the Com-  
4 missioner of the Bureau of Labor and Industries, in increments of \$100,000, to pay up to eight  
5 separate settlements payable to persons who filed a complaint under section 1 of this 2020  
6 Act and who entered a settlement agreement under section 2 of this 2020 Act.

7 (3)(a) Within 30 days after the Legislative Administration Committee has received notice  
8 from the commissioner that a settlement agreement has been entered into under section 2  
9 of this 2020 Act, the committee shall transfer an amount equal to \$100,000 to the commis-  
10 sioner for payment for settlement.

11 (b) The Legislative Administration Committee may transfer funds to the commissioner  
12 for payments for settlement only after the commissioner has issued a finding of substantial  
13 evidence and the commissioner has notified the committee that a settlement agreement has  
14 been entered into under section 2 of this 2020 Act.

15 (4) Payments for settlement made by the commissioner under this section shall be lim-  
16 ited to eight separate settlements. Each settlement payment may not exceed \$100,000.

17 (5) The Legislative Administration Committee shall transfer to the General Fund any  
18 moneys remaining in the account after the payments for settlement under this section have  
19 been made.

20 SECTION 5. Not later than 30 days after the Commissioner of the Bureau of Labor and  
21 Industries has issued a payment for settlement to a person from the Settlement Funds Ac-  
22 count under section 4 of this 2020 Act, the commissioner shall, subject to the confidentiality  
23 requirements under section 2 of this 2020 Act, provide to each member of the Legislative  
24 Assembly a report that summarizes the details of the settlement agreement and indicates  
25 whether the commissioner has received more than eight complaints under section 1 of this  
26 2020 Act.

27 SECTION 6. The Commissioner of the Bureau of Labor and Industries shall adopt any  
28 rules necessary to administer and enforce the provisions of sections 1, 2 and 3 of this 2020  
29 Act.

30 SECTION 7. In addition to and not in lieu of any other appropriation, there is appropri-  
31 ated to the Legislative Administration Committee, for the biennium ending June 30, 2021, out  
32 of the General Fund, the amount of \$800,000, which shall be paid into the Settlement Funds  
33 Account established under section 4 of this 2020 Act to be expended for the purposes de-  
34 scribed in section 4 of this 2020 Act.

35 SECTION 8. This 2020 Act being necessary for the immediate preservation of the public  
36 peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect  
37 on its passage.



# The Public Records Advisory Council supports the passage of SB 1506

## Overview

SB 1506:

- Changes the way that the Public Records Advocate is hired
- Declares the independence of the Advocate's office within the Executive Branch
- Broadens the Council's authority to weigh in on legislation relating to public records law
- Creates a system of electing council leadership instead of the Advocate acting as de facto chair

## Background

- The Office of the Public Records Advocate and the Public Records Advisory Council were created by Senate Bill 106 (2017).
  - The Public Records Advocate mediates disputes between public records requestors and public bodies, provides free training on public records laws and best practices, and leads the Public Records Advisory Council.
- The Council works with the Advocate and the State Archives Division to study and make recommendations concerning the Advocate's role, as well as practices, procedures, exemptions, and fees related to public records.

## Conclusion

- SB 1506 enshrines the Office of the Public Records Advocate as independent within the Executive Branch.
- This bill would allow the Public Records Advisory Council to recruit and appoint a successful candidate to be Oregon's next Public Records Advocate. The law as currently written allows the Council to recruit for and pass along three names to the Governor.
- Right now ORS 192.483(1)(d) says that the Council "shall periodically . . . [m]ake recommendations on changes in law, policy or practice that could enhance transparency in public process and government, and facilitate rapid dissemination of public records to requesters." However, the statute is silent on how or to whom the recommendations should be made. The new language allows the Council to directly request the introduction of legislation through legislators, rather than proposing legislation only through the Governor's process. The new process would allow the Council to definitively pursue an independent legislative process.

The Council would appreciate your support on this important proposal to ensure the independence of the Advocate and the Council's work.

## Questions? Please contact:

**Stephanie Clark**, State Archivist and Public Records Advisory Council Chair, at [stephanie.clark@oregon.gov](mailto:stephanie.clark@oregon.gov) or 503-378-8161

**Todd Albert**, Acting Public Records Advocate, at [todd.albert@oregon.gov](mailto:todd.albert@oregon.gov) or 503-986-2212

# Senate Bill 1506

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on General Government and Emergency Preparedness for Representative Karin Power and Senator Kim Thatcher for Public Records Advisory Council)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes Public Records Advocate as independent office within executive department. Authorizes Public Records Advisory Council to appoint advocate. Authorizes council to support or oppose legislation relating to public records law and to request legislators to introduce legislation relating to public records law. Ratifies and affirms actions taken by council before effective date of Act to recruit and appoint advocate.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to the Public Records Advisory Council; creating new provisions; amending ORS 192.461, 192.481 and 192.483; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 192.461 is amended to read:

192.461. (1) The office of the Public Records Advocate is created **as an independent office in the executive department**.

(2) The Public Records Advocate shall be appointed by the [*Governor from among a panel of three qualified individuals nominated by the*] Public Records Advisory Council under ORS 192.481 [*and shall be confirmed by the Senate in the manner prescribed in ORS 171.562 and 171.565*].

(3) The Public Records Advocate shall be a member in good standing of the Oregon State Bar.

(4) The term of office of the Public Records Advocate shall be four years, except that the advocate may be removed for cause by the [*Governor or upon motion of the*] Public Records Advisory Council [*with the consent of the Governor*]. A determination to remove for cause may be appealed as a contested case proceeding under ORS chapter 183.

(5) The advocate may be reappointed to consecutive terms.

(6) The Public Records Advocate is in the [*unclassified*] **exempt** service.

(7) The Public Records Advocate may hire one or more deputy advocates or other professional staff to assist in performing the duties assigned to the Public Records Advocate.

(8)(a) The State Archivist may furnish office facilities and provide administrative support to the Public Records Advocate.

(b) If the State Archivist declines to furnish office facilities and provide administrative support to the Public Records Advocate, the Oregon Department of Administrative Services shall furnish office facilities and provide administrative support to the advocate.

**SECTION 2.** ORS 192.481 is amended to read:

192.481. (1) The Public Records Advisory Council is created.

(2) The Public Records Advisory Council consists of:

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.



(a) The Secretary of State or a designee of the Secretary of State;

(b) The Attorney General or a designee of the Attorney General;

(c) The Director of the Oregon Department of Administrative Services or a designee of the director;

(d) A representative of the news media who is a member in good standing of a professional journalism association and who is appointed by the Governor;

(e) Two additional representatives of the news media who are appointed by the Governor;

(f) A representative of the cities of this state who is appointed by the Governor;

(g) A representative of the counties of this state who is appointed by the Governor;

(h) A representative of the special districts of this state who is appointed by the Governor;

(i) A representative of the public sector workforce who is appointed by the Governor;

(j) A member of the public who is appointed by the Governor;

(k) A Senator who is appointed by the President of the Senate and who serves as an ex officio nonvoting member;

(L) A Representative who is appointed by the Speaker of the House of Representatives and who serves as an ex officio nonvoting member; and

(m) *[Except as provided in subsection (3) of this section,]* The Public Records Advocate, *who shall serve as chair of the council*].

**(3) The council shall elect a chair and a vice chair, who each shall serve in that capacity for a two-year term, or until their membership on the council ends, whichever is of shorter duration. A chair or vice chair may be reelected to their positions.**

*[(3)] (4)* At any time when the office of Public Records Advocate is vacant:

*[(a) The Secretary of State or a designee of the Secretary of State shall serve as the acting chair of the Public Records Advisory Council;]*

*[(b)] (a)* The council shall convene at the time and place designated by the *[acting]* chair but within 30 days of the vacancy of the office of Public Records Advocate;

*[(c)] (b)* The council shall take up only the question of the *[nomination of three qualified individuals for the Governor to consider for appointment under ORS 192.461 as]* **process and selection of a new** Public Records Advocate; and

*[(d)] (c)* The individual who had vacated the office of Public Records Advocate may participate in deliberations and vote on the slate of nominees unless the individual vacated the office for reasons described in ORS 192.461 (4).

*[(4)] (5)* The appointment of a member of the council described in subsection (2)(d) to (j) of this section is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

*[(5)] (6)* A member of the council described in subsection (2)(d), (e) or (j) of this section is entitled to compensation and expenses as provided in ORS 292.495.

*[(6)] (7)* The members of the council described in subsection (2)(d) to (L) of this section shall each serve two-year terms and may be reappointed to successive terms.

*[(7)] (8)* A majority of the voting members of the council constitutes a quorum for the transaction of business.

*[(8)] (9)* The council shall meet at least once every six months. The council also may meet at other times and places specified by the call of the chair or of a majority of the members of the council.

*[(9)] (10)* All public bodies, as defined in ORS 192.311, shall assist the council in the performance

1 of its duties and, to the extent permitted by laws relating to confidentiality, furnish such informa-  
2 tion, including public records, and advice as the members of the council consider necessary to per-  
3 form their duties.

4 **(11)(a) The council may support or oppose legislation relating to public records law.**

5 **(b) The council may request that one or more legislators introduce legislation relating**  
6 **to public records law.**

7 **SECTION 3.** ORS 192.483 is amended to read:

8 192.483. (1) The Public Records Advisory Council created under ORS 192.481 shall periodically  
9 perform all of the following:

10 (a) Survey state agency and other public body practices and procedures for:

11 (A) Receiving public records requests, identifying the existence of records responsive to the re-  
12 quests and gathering and disclosing responsive records;

13 (B) Determining fee estimates and imposing or waiving fees under ORS 192.324; and

14 (C) Determining and applying exemptions from required disclosure of public records.

15 (b) Examine practices similar to those described in paragraph (a) of this subsection in other ju-  
16 risdictions.

17 (c) Identify inefficiencies and inconsistencies in application of the public records law that im-  
18 pede transparency in public process and government.

19 (d) Make recommendations on changes in law, policy or practice that could enhance transpar-  
20 ency in public process and government, and facilitate rapid dissemination of public records to re-  
21 questers.

22 (e) Make recommendations on the role of the Public Records Advocate as facilitator in disputes  
23 between custodians of public records and public record requesters.

24 (2) No later than December 1 of each even-numbered year, the council shall submit to the Gov-  
25 ernor, and to the Legislative Assembly in the manner provided by ORS 192.245, a report that de-  
26 scribes the findings of the council since the council's last report. The report may include  
27 recommendations for legislation.

28 (3) The council or the Public Records Advocate may prepare reports and studies more frequently  
29 than required under subsection (2) of this section.

30 (4) The council may adopt rules governing the operations of the office of the Public Records  
31 Advocate, including but not limited to rules establishing procedures for the conduct of facilitated  
32 dispute resolution under ORS 192.464. The council shall consider efficiencies and the preference for  
33 a policy of transparency and openness in government in this state in adopting rules under this  
34 subsection.

35 **(5) The Public Records Advocate shall serve as the custodian of all council records.**

36 **SECTION 4. Any actions taken by the Public Records Advisory Council before the effec-**  
37 **tive date of this 2020 Act to recruit and appoint a Public Records Advocate are hereby rati-**  
38 **fied and affirmed.**

39 **SECTION 5. This 2020 Act being necessary for the immediate preservation of the public**  
40 **peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect**  
41 **on its passage.**