

Sunshine Committee Special Projects Subcommittee Recommendations regarding pending legislation:

The proposed legislation of SB 1576 and HB 4092 have impacts on the public dissemination of potentially confidential, proprietary or trade secret information submitted to the government in some fashion.

SB 1576 is in regard to stewardship programs for mattress supply chain companies. It requires business in the mattress industry to register with the DEQ and submit stewardship program plans to DEQ for approval. There is a caveat in the bill that the DEQ “may not disclose any confidential proprietary information” that DEQ receives. This language muddies the public records law by not tying this requirement to any existing public records law exemptions for disclosure, and does not even define what is considered proprietary or confidential. To the extent the intent of the bill is to allow free submission of information from the private sector to the DEQ, those goals should be tied back to existing record exemptions under the law. The language should also contain a clear definition of what they intend to be protected as confidential or proprietary.

HB 4092 similarly intends to protect potentially confidential or proprietary geospatial data submitted to the Broadband Advisory Council. The language in the proposed bill adds an additional exemption to public disclosure in ORS 192.355(45) specific to proprietary information submitted that is subject to a nondisclosure agreement. The Sunshine Committee exists primarily to reduce the number of exemptions under the public records law and accordingly cannot endorse a bill that adds additional exemptions. To the extent the bill is attempting to induce the free submission of critical data that may be sensitive, we recommend that it be tied to existing exemptions under the law, rather than specific add-on amendments to ORS 192.355.