Senate Bill 1506

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with presession 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

of its duties and, to the extent permitted by laws relating to confidentiality, furnish such information, including public records, and advice as the members of the council consider necessary to perform their duties.

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

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

SECTION 3. ORS 192.483 is amended to read:

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

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

(A) Receiving public records requests, identifying the existence of records responsive to the requests and gathering and disclosing responsive records;

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

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

(b) Examine practices similar to those described in paragraph (a) of this subsection in other jurisdictions.

(c) Identify inefficiencies and inconsistencies in application of the public records law that impede transparency in public process and government.

(d) Make 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.

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

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

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

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

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

SECTION 4. Any actions taken by the Public Records Advisory Council before the effective date of this 2020 Act to recruit and appoint a Public Records Advocate are hereby ratified and affirmed.

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