



## Written testimony of the Oregon Public Records Advocate in support of HB 2430

### Introduction

This written testimony is submitted by Ginger McCall, the Public Records Advocate for the State of Oregon, in her capacity as Chair of the Public Records Advisory Council, and in support of the passage of HB 2430.

### Overview of the Office of the Public Records Advocate

The Office of the Public Records Advocate was created as part of the public records reforms passed during the 2017 legislative session which also established the Public Records Advisory Council (hereafter “the Council”). The core duties of the Public Records Advocate are to mediate public records disputes between requestors and public bodies, conduct trainings on public records issues for government employees and the public, and to serve as chair of the Council.

### Overview of the Public Records Advisory Council

The Council is a nonpartisan body of public records experts comprised of members from various facets of state government, representatives of city, county, and special districts governments, and representatives of the media and the public at large. The Council’s multi-stakeholder composition was designed to ensure a balanced approach to public records reform.

The Council was created to:

- (1) Vet and propose public records reforms, such as HB 2430;
- (2) Provide oversight and guidance to the Public Records Advocate, including the formulation of Office policies and administrative rules; and
- (3) Gather information & conduct surveys about the operation of the public records law in Oregon.

### Overview of HB 2430

The Council is currently set to expire on January 1, 2021. HB 2430, which was unanimously agreed upon by the Council, would remove this sunset and ensure the continued existence of the Council. The public records reforms enacted by the Legislature in 2017 were an important first step. But further oversight and reforms are necessary to maintain the openness, transparency and access that were embodied in those 2017 changes.

Since the Council began meeting a little over a year ago, it has been very active. The Council interviewed candidates to be the first Public Records Advocate and recommended three

candidates to Governor Brown for her review. Since the Office of the Public Records Advocate opened in April 2018, the Council has met four times to assist and advise in setting up the Office. The Council has reviewed draft Administrative Rules for the Office, engaged in substantive feedback on the Office's training and other activities, agreed upon two legislative proposals, provided substantive feedback to the Department of Administrative Services on a draft public records fee policy, submitted its first biennial report to the Governor and Legislature, and drafted a survey on public records practices which has been distributed to public bodies across the state. The Council has frequently been a forum in which government officials and public records requesters could discuss ideas and collaborate on potential public records reforms.

Because of the Council's balanced composition, it is in a unique position to investigate and propose further public records reforms. The mix of voices represented on the Council allows the Council to make balanced proposals based on a broad array of experiences. The variety of stakeholder interests represented in the Council also allow it to vet ideas vigorously from the outset and craft proposals that are nuanced and represent the interests of media, the public, and state and local government. This helps to ensure the buy-in of all relevant parties before any policy proposals arrive at the Legislature.

To inform its policy proposals, the Council is also tasked with regularly gathering information on public records practices of government bodies across the state. This information gathering will inform not only the Council, but also the Legislature, the public, and government officials in leadership positions. The Council has already begun this process by distributing a survey to a diverse group of government offices. The Council has asked government offices to provide data regarding their processing of public records, availability of public records policies, and collection of fees. Once the survey responses are compiled, they will be shared with the public, the Governor, and the Legislature.

The Council is also an important oversight and guidance mechanism for the Public Records Advocate. As Advocate, I regularly report to the Council on the activities of my office and receive the Council's advice and feedback on those activities. Councilmembers have provided valuable feedback about budgetary concerns, efficiencies, and training practices. The Council's multi-stakeholder composition makes it a particularly valuable provider of feedback because I get the benefit of a variety of perspectives.

Additionally the Council is also responsible for adopting rules governing the operations of the office of the Public Records Advocate. This important responsibility is core to the function of the Office of the Public Records Advocate. Again, the Council's composition makes it uniquely well-positioned to create balanced and thoughtful rules.

Thus, to continue the reforms that began in 2017, it is important that the Council be renewed.

## HB 2430 - Background

- HB 2430 makes the Public Records Advisory Council permanent.
- HB 2430 preserves the Council's mixed stakeholder composition and sets staggered terms.
- HB 2430 preserves the important functions of the Council.
  - Making recommendations on changes to public records law and policy:
    - The Council leverages the experiences of people on all sides of the public records law, including experienced requesters and government officials.
    - The Council's mixed composition ensures that all interests are represented from the beginning and ideas are thoroughly vetted by requesters and government representatives.
  - Providing advice and oversight to the Office of the Public Records Advocate:
    - The Council is one of only two oversight mechanisms which may remove the Advocate.
    - The Council provides valuable expertise and advice which allows the Advocate to operate more effectively and efficiently.
    - The Council adopts rules governing the Office of the Public Records Advocate.
  - Gathering information & conducting surveys about the operation of the public records law:
    - The Council conducts regular surveys of public bodies to gather information about how they are processing public records requests, including how long processing takes, what kinds of fees are being charged, and what policies are in place.
    - The Council's survey gathers information from a variety of public bodies on the state and local level, across the state of Oregon.
    - The Council views the surveys as a business tool, the results of which will be shared with the Legislature, Governor, the public bodies, and the public to create accountability, inform all stakeholders about public records processes and performance, and inform future reform proposals.

## HB 2430 – Conclusion

Since its inception, the Council has selected candidates for consideration by the Governor and Legislature to be the first Public Records Advocate, developed a successful working relationship amongst its diverse members, and leveraged the experiences of all of its members to deliver the first biennial report to stakeholders about the current state of the public records law in Oregon, as well as developed the first-ever survey of public bodies regarding their public records practices, the results of which will be released shortly.

The continued existence of the Public Records Advisory Council is essential because the Council provides well-balanced policy proposals based on contributions from a wide array of recognized public records experts. The Council also provides advice and oversight for the Office of the Public Records and gathers necessary, and actionable, information about the function of public records law across Oregon. The Council would greatly appreciate your support on this important proposal.