

# D R A F T

## 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.

## A BILL FOR AN ACT

1  
2 Relating to the Public Records Advisory Council; creating new provisions;  
3 amending ORS 192.461, 192.481 and 192.483; and declaring an emergency.

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

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

6 192.461. (1) The office of the Public Records Advocate is created **as an**  
7 **independent office in the executive department.**

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

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

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

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

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

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

6 (8)(a) The State Archivist may furnish office facilities and provide ad-  
7 ministrative support to the Public Records Advocate.

8 (b) If the State Archivist declines to furnish office facilities and provide  
9 administrative support to the Public Records Advocate, the Oregon Depart-  
10 ment of Administrative Services shall furnish office facilities and provide  
11 administrative support to the advocate.

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

13 192.481. (1) The Public Records Advisory Council is created.

14 (2) The Public Records Advisory Council consists of:

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

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

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

19 (d) A representative of the news media who is a member in good standing  
20 of a professional journalism association and who is appointed by the Gover-  
21 nor;

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

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

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

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

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

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

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

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

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

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

12 [(3)] (4) At any time when the office of Public Records Advocate is va-  
13 cant:

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

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

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

23 [(d)] (c) The individual who had vacated the office of Public Records  
24 Advocate may participate in deliberations and vote on the slate of nominees  
25 unless the individual vacated the office for reasons described in ORS 192.461  
26 (4).

27 [(4)] (5) The appointment of a member of the council described in sub-  
28 section (2)(d) to (j) of this section is subject to confirmation by the Senate  
29 in the manner prescribed in ORS 171.562 and 171.565.

30 [(5)] (6) A member of the council described in subsection (2)(d), (e) or (j)  
31 of this section is entitled to compensation and expenses as provided in ORS

1 292.495.

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

5 [(7)] (8) A majority of the voting members of the council constitutes a  
6 quorum for the transaction of business.

7 [(8)] (9) The council shall meet at least once every six months. The  
8 council also may meet at other times and places specified by the call of the  
9 chair or of a majority of the members of the council.

10 [(9)] (10) All public bodies, as defined in ORS 192.311, shall assist the  
11 council in the performance of its duties and, to the extent permitted by laws  
12 relating to confidentiality, furnish such information, including public re-  
13 cords, and advice as the members of the council consider necessary to per-  
14 form their duties.

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

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

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

20 192.483. (1) The Public Records Advisory Council created under ORS  
21 192.481 shall periodically perform all of the following:

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

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

26 (B) Determining fee estimates and imposing or waiving fees under ORS  
27 192.324; and

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

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

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

3 (d) Make recommendations on changes in law, policy or practice that  
4 could enhance transparency in public process and government, and facilitate  
5 rapid dissemination of public records to requesters.

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

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

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

16 (4) The council may adopt rules governing the operations of the office of  
17 the Public Records Advocate, including but not limited to rules establishing  
18 procedures for the conduct of facilitated dispute resolution under ORS  
19 192.464. The council shall consider efficiencies and the preference for a pol-  
20 icy of transparency and openness in government in this state in adopting  
21 rules under this subsection.

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

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

27 **SECTION 5. This 2020 Act being necessary for the immediate pres-**  
28 **ervation of the public peace, health and safety, an emergency is de-**  
29 **clared to exist, and this 2020 Act takes effect on its passage.**