

## SB 1506 STAFF MEASURE SUMMARY

### Senate Committee On General Government and Emergency Preparedness

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**Prepared By:** C. Ross, Counsel

**Meeting Dates:** 2/10, 2/12

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#### WHAT THE MEASURE DOES:

Changes appointment and removal of the Public Records Advocate (the Advocate) by the Governor, to appointment and removal by the Public Records Advisory Council (the Council). Changes employment status of Advocate from unclassified to exempt service. Provides for election of Council Chair and Vice Chair by Council membership, rather than designating Advocate as Chair outright. Removes obsolete provisions. Authorizes Council to support or oppose legislation, and to seek introduction of legislation by legislators. Specifies that Advocate is custodian of Council records. Authorizes Council activity prior to effective date to fill Advocate vacancy. Declares emergency, effective on passage.

*Fiscal "lite."*

*No revenue impact.*

#### ISSUES DISCUSSED:

- How to insulate the Advocate
- How to maintain oversight and accountability of the Advocate
- Inequity of access to public records
- Value of trainings provided by office of the Advocate, especially to smaller, local entities
- History of work to achieve consensus on originating legislation (Senate Bill 106 (2017)) and deviating from it
- Fiscal impact; fee-based and other models of self sufficiency
- Additional/future considerations

#### EFFECT OF AMENDMENT:

*[-1 amendment dated January 30, 2020]* Restores original provisions governing Advocate appointment and removal process. Makes the Advocate a nonvoting, ex-officio member of the Council and its executive director. Changes language providing for election of a Council Chair and Vice Chair, to an election of two cochairs: one representing public records requesters and one representing public bodies. Modifies authorization to support or oppose proposed legislation to permit the Advocate to make recommendations to the Council, and for the Council to act on its own motion. Changes requirement for Council to report to the Governor and Legislature every other year, to reporting to the Legislature as the Council deems appropriate. Removes authorization for Council activity prior to effective date and removes emergency clause.

*No fiscal impact.*

*No revenue impact.*

#### BACKGROUND:

The position of Public Records Advocate (the Advocate) and the Public Records Advisory Council (the Council) were created by the Legislature in 2017, via enactment of Senate Bill 106. Senate Bill 106 was one of a trio of companion measures introduced that year, concerned with public records.

In Oregon, as elsewhere, government records are available to the public unless they are exempt from disclosure. Laws that govern access navigate an inherent tension between principles of government transparency and rights

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of privacy. Each public body in Oregon maintains its own records and handles requests for access. The majority of public records requests are satisfied without controversy, but a certain number involve complexities that are not always capable of simple or rapid resolution. Conflicts can arise between those seeking information, those in possession of information, and those who are the subject of the information. When a custodian of records asserts that an exemption applies, denying a request for access, the assertion may be challenged and the parties may become involved in an appeal process. The office of Public Records Advocate and the Public Records Advisory Council were created to improve communications and conflict resolution between seekers and holders of public records.

Senate Bill 1506 makes a number of adjustments to the office of the Advocate and the organization of the Council: it specifies the Advocate's appointment and removal by the Council rather than the Governor; changes the Advocate's employment status from unclassified to exempt; provides for the election of a Chair and Vice Chair by Council membership (rather than designating the Advocate as Chair outright); authorizes the Council to seek, support or oppose legislation; and it makes the Advocate the custodian of Council records.