



**Testimony of Kimberly McCullough, Policy Director
In Support of HB 2353 and HB 2431
House Judiciary Committee
March 13, 2019**

Chair Williamson and Members of the Committee:

The American Civil Liberties Union of Oregon¹ supports HB 2353 and HB 2431, which will provide accountability for public records law compliance by public bodies and agencies in Oregon.

Open government is a cornerstone of democracy. It enables the public and the press to play a watchful role in curbing wasteful government spending and guarding against corruption and misconduct. It permits the people to be engaged in their governance. Indeed, openness is a prerequisite for trust, which has often been in short supply in Oregon and across the country. **This is the core value of our public records and open meetings laws.**

In 2017, Oregon sought to improve responsiveness to public records requests by adopting timeliness standards. These standards were put into place by SB 481, which passed by overwhelming majorities in both the Senate and the House. These standards lack the rigidity found in many other states, providing Oregon agencies that are understaffed or overwhelmed by numerous records requests with some flexibility to meet deadlines.

Despite the reasonable requirements set out in our timeliness standards, however, we are still hearing reports from public records requesters about delays and non-responsiveness to public records requests by certain public bodies. HB 2353 and HB 2431 are reasonable steps to address this problem.

HB 2353 will allow district attorneys, the Attorney General, and judges to levy a fine (up to \$200) against public bodies for undue delay in responding to public records requests. This will serve to deter noncompliance and provide some reimbursement to the

¹ The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonpartisan, nonprofit organization dedicated to preservation and enhancement of civil liberties and civil rights, with more than 45,000 members and supporters statewide.

public records requester for the time and energy needed to enforce this important law. HB 2353 also provides for attorney fees if applicable, although attorneys are rarely engaged during an initial appeal on public record requests.

HB 2431 will require state agencies to publicly report basic information about how many public requests they receive, how long it takes to respond to requests, and how fee waivers and reductions are handled. This information is not currently being tracked, making it difficult to assess the weak points in our system. By shedding light on the way public records are being handled by state agencies, Oregon's Public Records Advocate, this body, and other stakeholders will be in a better position to design and recommend appropriate and responsive policy.

By keeping its actions open to scrutiny, government can show the public that it has nothing to hide, while helping to cast light on inappropriate or unlawful activity when it does occur. As explained by United States Supreme Court Justice Louis Brandeis, "Sunlight is...the best of disinfectants." ²

For these reasons, the ACLU of Oregon urges you to support HB 2353 and HB 2431. Please feel free to contact us if you have any questions, comments, or concerns.

² Louis D. Brandeis, *Other People's Money and How the Bankers Use It*, 92 (1914), New York, Frederick A. Stokes Co.