

Senate Bill 953

Sponsored by COMMITTEE ON JUDICIARY

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**.

Modifies exemption from public records disclosure of information about persons who donate money or property to Oregon Health and Science University so that exemption is same as exemption for persons who donate money or property to Oregon University System.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public records of Oregon Health and Science University; amending ORS 192.501; and
3 declaring an emergency.

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

5 **SECTION 1.** ORS 192.501 is amended to read:

6 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
7 unless the public interest requires disclosure in the particular instance:

8 (1) Records of a public body pertaining to litigation to which the public body is a party if the
9 complaint has been filed, or if the complaint has not been filed, if the public body shows that such
10 litigation is reasonably likely to occur. This exemption does not apply to litigation which has been
11 concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery
12 or deposition statutes to a party to litigation or potential litigation;

13 (2) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to,
14 any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or
15 compilation of information which is not patented, which is known only to certain individuals within
16 an organization and which is used in a business it conducts, having actual or potential commercial
17 value, and which gives its user an opportunity to obtain a business advantage over competitors who
18 do not know or use it;

19 (3) Investigatory information compiled for criminal law purposes. The record of an arrest or the
20 report of a crime shall be disclosed unless and only for so long as there is a clear need to delay
21 disclosure in the course of a specific investigation, including the need to protect the complaining
22 party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or
23 granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the
24 record of an arrest or the report of a crime includes, but is not limited to:

25 (a) The arrested person's name, age, residence, employment, marital status and similar bi-
26 ographical information;

27 (b) The offense with which the arrested person is charged;

28 (c) The conditions of release pursuant to ORS 135.230 to 135.290;

29 (d) The identity of and biographical information concerning both complaining party and victim;

30 (e) The identity of the investigating and arresting agency and the length of the investigation;

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 (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and
2 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives
3 from justice;
- 4 (4) Test questions, scoring keys, and other data used to administer a licensing examination,
5 employment, academic or other examination or testing procedure before the examination is given
6 and if the examination is to be used again. Records establishing procedures for and instructing
7 persons administering, grading or evaluating an examination or testing procedure are included in
8 this exemption, to the extent that disclosure would create a risk that the result might be affected;
- 9 (5) Information consisting of production records, sale or purchase records or catch records, or
10 similar business records of a private concern or enterprise, required by law to be submitted to or
11 inspected by a governmental body to allow it to determine fees or assessments payable or to estab-
12 lish production quotas, and the amounts of such fees or assessments payable or paid, to the extent
13 that such information is in a form which would permit identification of the individual concern or
14 enterprise. This exemption does not include records submitted by long term care facilities as defined
15 in ORS 442.015 to the state for purposes of reimbursement of expenses or determining fees for pa-
16 tient care. Nothing in this subsection shall limit the use which can be made of such information for
17 regulatory purposes or its admissibility in any enforcement proceeding;
- 18 (6) Information relating to the appraisal of real estate prior to its acquisition;
- 19 (7) The names and signatures of employees who sign authorization cards or petitions for the
20 purpose of requesting representation or decertification elections;
- 21 (8) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825,
22 until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under
23 ORS 659A.850;
- 24 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
25 663.180;
- 26 (10) Records, reports and other information received or compiled by the Director of the De-
27 partment of Consumer and Business Services under ORS 697.732;
- 28 (11) Information concerning the location of archaeological sites or objects as those terms are
29 defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and
30 the need for the information is related to that Indian tribe's cultural or religious activities. This
31 exemption does not include information relating to a site that is all or part of an existing, commonly
32 known and publicized tourist facility or attraction;
- 33 (12) A personnel discipline action, or materials or documents supporting that action;
- 34 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
35 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
36 cies;
- 37 (14) Writings prepared by or under the direction of faculty of public educational institutions, in
38 connection with research, until publicly released, copyrighted or patented;
- 39 (15) Computer programs developed or purchased by or for any public body for its own use. As
40 used in this subsection, "computer program" means a series of instructions or statements which
41 permit the functioning of a computer system in a manner designed to provide storage, retrieval and
42 manipulation of data from such computer system, and any associated documentation and source
43 material that explain how to operate the computer program. "Computer program" does not include:
- 44 (a) The original data, including but not limited to numbers, text, voice, graphics and images;
45 (b) Analyses, compilations and other manipulated forms of the original data produced by use of

1 the program; or

2 (c) The mathematical and statistical formulas which would be used if the manipulated forms of
3 the original data were to be produced manually;

4 (16) Data and information provided by participants to mediation under ORS 36.256;

5 (17) Investigatory information relating to any complaint or charge filed under ORS chapter 654,
6 until a final administrative determination is made or, if a citation is issued, until an employer re-
7 ceives notice of any citation;

8 (18) Specific operational plans in connection with an anticipated threat to individual or public
9 safety for deployment and use of personnel and equipment, prepared or used by a public body, if
10 public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a
11 law enforcement activity;

12 (19)(a) Audits or audit reports required of a telecommunications carrier. As used in this para-
13 graph, "audit or audit report" means any external or internal audit or audit report pertaining to a
14 telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an af-
15 filiated interest, as defined in ORS 759.010, with a telecommunications carrier that is intended to
16 make the operations of the entity more efficient, accurate or compliant with applicable rules, pro-
17 cedures or standards, that may include self-criticism and that has been filed by the telecommuni-
18 cations carrier or affiliate under compulsion of state law. "Audit or audit report" does not mean an
19 audit of a cost study that would be discoverable in a contested case proceeding and that is not
20 subject to a protective order; and

21 (b) Financial statements. As used in this paragraph, "financial statement" means a financial
22 statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.010,
23 with a telecommunications carrier, as defined in ORS 133.721;

24 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS
25 247.967;

26 (21) The following records, communications and information submitted to a housing authority
27 as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants
28 for and recipients of loans, grants and tax credits:

29 (a) Personal and corporate financial statements and information, including tax returns;

30 (b) Credit reports;

31 (c) Project appraisals;

32 (d) Market studies and analyses;

33 (e) Articles of incorporation, partnership agreements and operating agreements;

34 (f) Commitment letters;

35 (g) Project pro forma statements;

36 (h) Project cost certifications and cost data;

37 (i) Audits;

38 (j) Project tenant correspondence requested to be confidential;

39 (k) Tenant files relating to certification; and

40 (L) Housing assistance payment requests;

41 (22) Records or information that, if disclosed, would allow a person to:

42 (a) Gain unauthorized access to buildings or other property;

43 (b) Identify those areas of structural or operational vulnerability that would permit unlawful
44 disruption to, or interference with, services; or

45 (c) Disrupt, interfere with or gain unauthorized access to public funds or to information pro-

1 censing, communication or telecommunication systems, including the information contained in the
 2 systems, that are used or operated by a public body;

3 (23) Records or information that would reveal or otherwise identify security measures, or
 4 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
 5 protect:

6 (a) An individual;

7 (b) Buildings or other property;

8 (c) Information processing, communication or telecommunication systems, including the infor-
 9 mation contained in the systems; or

10 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
 11 evaluation under ORS 461.180 (6);

12 [(24) *Writings prepared by or under the direction of officials of Oregon Health and Science Uni-*
 13 *versity about a person and the person's potential interest in donating money or property to the uni-*
 14 *versity or about the person's actual donation unless disclosure is authorized by the person;*]

15 [(25)] **(24)** Personal information held by or under the direction of officials of the **Oregon Health**
 16 **and Science University or the Oregon University System** about a person who has or who is in-
 17 terested in donating money or property to the **university, the** system or [to] a state institution of
 18 higher education, if the information is related to the family of the person, personal assets of the
 19 person or is incidental information not related to the donation;

20 [(26)] **(25)** The home address, professional address and telephone number of a person who has
 21 or who is interested in donating money or property to the Oregon University System;

22 [(27)] **(26)** Records of the name and address of a person who files a report with or pays an as-
 23 sessment to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef
 24 Council created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030;

25 [(28)] **(27)** Information provided to, obtained by or used by a public body to authorize, originate,
 26 receive or authenticate a transfer of funds, including but not limited to a credit card number, pay-
 27 ment card expiration date, password, financial institution account number and financial institution
 28 routing number;

29 [(29)] **(28)** Social Security numbers as provided in ORS 107.840;

30 [(30)] **(29)** The electronic mail address of a student who attends a state institution of higher
 31 education listed in ORS 352.002 or Oregon Health and Science University; and

32 [(31)] **(30)** The name, home address, professional address or location of a person that is engaged
 33 in, or that provides goods or services for, medical research at Oregon Health and Science University
 34 that is conducted using animals other than rodents.

35 **SECTION 2.** ORS 192.501, as amended by section 3, chapter 807, Oregon Laws 2003, is amended
 36 to read:

37 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
 38 unless the public interest requires disclosure in the particular instance:

39 (1) Records of a public body pertaining to litigation to which the public body is a party if the
 40 complaint has been filed, or if the complaint has not been filed, if the public body shows that such
 41 litigation is reasonably likely to occur. This exemption does not apply to litigation which has been
 42 concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery
 43 or deposition statutes to a party to litigation or potential litigation;

44 (2) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to,
 45 any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or

1 compilation of information which is not patented, which is known only to certain individuals within
2 an organization and which is used in a business it conducts, having actual or potential commercial
3 value, and which gives its user an opportunity to obtain a business advantage over competitors who
4 do not know or use it;

5 (3) Investigatory information compiled for criminal law purposes. The record of an arrest or the
6 report of a crime shall be disclosed unless and only for so long as there is a clear need to delay
7 disclosure in the course of a specific investigation, including the need to protect the complaining
8 party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or
9 granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the
10 record of an arrest or the report of a crime includes, but is not limited to:

11 (a) The arrested person's name, age, residence, employment, marital status and similar bi-
12 ographical information;

13 (b) The offense with which the arrested person is charged;

14 (c) The conditions of release pursuant to ORS 135.230 to 135.290;

15 (d) The identity of and biographical information concerning both complaining party and victim;

16 (e) The identity of the investigating and arresting agency and the length of the investigation;

17 (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and

18 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives
19 from justice;

20 (4) Test questions, scoring keys, and other data used to administer a licensing examination,
21 employment, academic or other examination or testing procedure before the examination is given
22 and if the examination is to be used again. Records establishing procedures for and instructing
23 persons administering, grading or evaluating an examination or testing procedure are included in
24 this exemption, to the extent that disclosure would create a risk that the result might be affected;

25 (5) Information consisting of production records, sale or purchase records or catch records, or
26 similar business records of a private concern or enterprise, required by law to be submitted to or
27 inspected by a governmental body to allow it to determine fees or assessments payable or to estab-
28 lish production quotas, and the amounts of such fees or assessments payable or paid, to the extent
29 that such information is in a form which would permit identification of the individual concern or
30 enterprise. This exemption does not include records submitted by long term care facilities as defined
31 in ORS 442.015 to the state for purposes of reimbursement of expenses or determining fees for pa-
32 tient care. Nothing in this subsection shall limit the use which can be made of such information for
33 regulatory purposes or its admissibility in any enforcement proceeding;

34 (6) Information relating to the appraisal of real estate prior to its acquisition;

35 (7) The names and signatures of employees who sign authorization cards or petitions for the
36 purpose of requesting representation or decertification elections;

37 (8) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825,
38 until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under
39 ORS 659A.850;

40 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
41 663.180;

42 (10) Records, reports and other information received or compiled by the Director of the De-
43 partment of Consumer and Business Services under ORS 697.732;

44 (11) Information concerning the location of archaeological sites or objects as those terms are
45 defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and

1 the need for the information is related to that Indian tribe's cultural or religious activities. This
2 exemption does not include information relating to a site that is all or part of an existing, commonly
3 known and publicized tourist facility or attraction;

4 (12) A personnel discipline action, or materials or documents supporting that action;

5 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
6 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
7 cies;

8 (14) Writings prepared by or under the direction of faculty of public educational institutions, in
9 connection with research, until publicly released, copyrighted or patented;

10 (15) Computer programs developed or purchased by or for any public body for its own use. As
11 used in this subsection, "computer program" means a series of instructions or statements which
12 permit the functioning of a computer system in a manner designed to provide storage, retrieval and
13 manipulation of data from such computer system, and any associated documentation and source
14 material that explain how to operate the computer program. "Computer program" does not include:

15 (a) The original data, including but not limited to numbers, text, voice, graphics and images;

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17 the program; or

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19 the original data were to be produced manually;

20 (16) Data and information provided by participants to mediation under ORS 36.256;

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22 until a final administrative determination is made or, if a citation is issued, until an employer re-
23 ceives notice of any citation;

24 (18) Specific operational plans in connection with an anticipated threat to individual or public
25 safety for deployment and use of personnel and equipment, prepared or used by a public body, if
26 public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a
27 law enforcement activity;

28 (19)(a) Audits or audit reports required of a telecommunications carrier. As used in this para-
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30 telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an af-
31 filiated interest, as defined in ORS 759.010, with a telecommunications carrier that is intended to
32 make the operations of the entity more efficient, accurate or compliant with applicable rules, pro-
33 cedures or standards, that may include self-criticism and that has been filed by the telecommuni-
34 cations carrier or affiliate under compulsion of state law. "Audit or audit report" does not mean an
35 audit of a cost study that would be discoverable in a contested case proceeding and that is not
36 subject to a protective order; and

37 (b) Financial statements. As used in this paragraph, "financial statement" means a financial
38 statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.010,
39 with a telecommunications carrier, as defined in ORS 133.721;

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41 247.967;

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43 as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants
44 for and recipients of loans, grants and tax credits:

45 (a) Personal and corporate financial statements and information, including tax returns;

- 1 (b) Credit reports;
- 2 (c) Project appraisals;
- 3 (d) Market studies and analyses;
- 4 (e) Articles of incorporation, partnership agreements and operating agreements;
- 5 (f) Commitment letters;
- 6 (g) Project pro forma statements;
- 7 (h) Project cost certifications and cost data;
- 8 (i) Audits;
- 9 (j) Project tenant correspondence requested to be confidential;
- 10 (k) Tenant files relating to certification; and
- 11 (L) Housing assistance payment requests;
- 12 (22) Records or information that, if disclosed, would allow a person to:
 - 13 (a) Gain unauthorized access to buildings or other property;
 - 14 (b) Identify those areas of structural or operational vulnerability that would permit unlawful
 - 15 disruption to, or interference with, services; or
 - 16 (c) Disrupt, interfere with or gain unauthorized access to public funds or to information pro-
 - 17 cessing, communication or telecommunication systems, including the information contained in the
 - 18 systems, that are used or operated by a public body;
 - 19 (23) Records or information that would reveal or otherwise identify security measures, or
 - 20 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
 - 21 protect:
 - 22 (a) An individual;
 - 23 (b) Buildings or other property;
 - 24 (c) Information processing, communication or telecommunication systems, including the infor-
 - 25 mation contained in the systems; or
 - 26 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
 - 27 evaluation under ORS 461.180 (6);
 - 28 [(24) *Writings prepared by or under the direction of officials of Oregon Health and Science Uni-*
 - 29 *versity about a person and the person's potential interest in donating money or property to the uni-*
 - 30 *versity or about the person's actual donation unless disclosure is authorized by the person;]*
 - 31 [(25)] **(24)** Personal information held by or under the direction of officials of the **Oregon Health**
 - 32 **and Science University or the Oregon University System** about a person who has or who is in-
 - 33 terested in donating money or property to the **university, the** system or *[to]* a state institution of
 - 34 higher education, if the information is related to the family of the person, personal assets of the
 - 35 person or is incidental information not related to the donation;
 - 36 [(26)] **(25)** The home address, professional address and telephone number of a person who has
 - 37 or who is interested in donating money or property to the Oregon University System;
 - 38 [(27)] **(26)** Records of the name and address of a person who files a report with or pays an as-
 - 39 sessment to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef
 - 40 Council created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030;
 - 41 [(28)] **(27)** Information provided to, obtained by or used by a public body to authorize, originate,
 - 42 receive or authenticate a transfer of funds, including but not limited to a credit card number, pay-
 - 43 ment card expiration date, password, financial institution account number and financial institution
 - 44 routing number;
 - 45 [(29)] **(28)** Social Security numbers as provided in ORS 107.840; and

1 [(30)] (29) The electronic mail address of a student who attends a state institution of higher
2 education listed in ORS 352.002 or Oregon Health and Science University.

3 **SECTION 3. This 2005 Act being necessary for the immediate preservation of the public**
4 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
5 **on its passage.**

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