



ATTORNEY GENERAL'S GOVERNMENT TRANSPARENCY REPORT

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Attorney General John R. Kroger

Michael Kron
Government Transparency Counsel

Tony Green
Communications and Policy Director

Kate Medema
Constituent and Public Affairs

INTRODUCTION

A 2007 study of government transparency in the 50 states gave Oregon an “F.”¹ Based on testimony submitted to Attorney General John Kroger in conjunction with public meetings across the state, many Oregonians who use the state’s Public Records Law to understand the activities of their government agree with that assessment. Oregon’s law is clogged with hundreds of confusing exemptions, and requests for records are often met with high fee requirements and long delays.

After taking office last year, Attorney General Kroger determined that it was time to reform the Oregon Public Records Law. He launched a systematic review to identify weak points and suggest improvements in time for the 2011 legislative session. In addition to a thorough review of state and federal sunshine laws, the Attorney General sponsored six public meetings across Oregon to gather suggestions for improving transparency from the public, government officials and the media. The meetings were co-sponsored by the Oregon Newspaper Publishers’ Association. Audio recordings of those meetings are available on the [Attorney General’s Web site](#).

During this process, the Attorney General received hundreds of suggestions and comments. Most of the comments relate to one of four areas of concern: timelines for responding to public records requests; fees; exemptions; and public meetings. Some suggestions relate to other aspects of government transparency.

The purpose of this report is to catalogue the most pressing problems in Oregon’s Public Records law and highlight some potential solutions. By noting the vast dissatisfaction with the law, the report points to the urgency for reform. As the report demonstrates, neither those who seek access to government nor those responsible for delivering it are happy with the status quo.

¹ “Results and Criteria of BGA/NFOIC survey,” available at <http://www.nfoic.org/uploads/results1.pdf> (visited September 20, 2010).

DEADLINES

Current Law in Oregon

Oregon law does not impose deadlines for responding to public records requests. Instead, ORS 192.430(1) requires that “[t]he custodian of any public records * * * shall furnish proper and reasonable opportunities for inspection and examination of the records * * * during the usual business hours, to all persons having cause to make examination of them.” From 1995 to 2008, the ATTORNEY GENERAL’S PUBLIC RECORDS AND MEETINGS MANUAL interpreted this provision to “correspondingly allow[] the public body a ‘reasonable’ time to actually provide copies of the requested records or make them available for inspection.” 2008 MANUAL at 10. In determining whether a “reasonable” time has been exceeded, the Attorney General’s Public Records Orders have historically looked at whether the public body has a reasonable-seeming excuse for not having completed a response to the request. Focusing on the plain language of the statute, the current version of the MANUAL observes that it is the public’s *opportunity for inspection* that must be reasonable. Public bodies cannot take as much time as they can justify as “reasonable,” but must make records available as quickly as they reasonably can. [2010 MANUAL at section I.D.4.](#)

Laws in Other States

33 states and the District of Columbia have statutes establishing specific deadlines by which responses must be made. Initial deadlines range from two working days in Vermont to as many as 35 calendar days in Pennsylvania. 1 VSA § 318(a)(2); 65 Pa Cons Stat § 902(a)(1)-(7) and § 902. A dozen states, including Pennsylvania, impose a relatively short initial deadline that can be extended by the public body. Some states require a public body to provide a justification for that extension that meets requirements established in the law. Most states that allow an extension specify the maximum length of the extension, though New Mexico and Utah are examples of states that allow extension for a “reasonable” period of time. NM Stat Ann § 14-2-10; Utah Code Ann § 63G-2-204(6). For states that limit the maximum length of extensions, the amount of additional time ranges from five business days to 30 calendar days, with two working weeks representing a fairly standard extension. Some states, including Alaska and

Virginia, allow further extensions but only with the approval of a third party such as the Attorney General or the courts. 2 AAC 96.325(e); Va Code Ann § 2.2-3704(C).

Many state deadlines require a response that provides the requested records, describes material that has been withheld or redacted, and explains the reason for withholding that material. 13 states have deadlines that only require the public body to provide an estimate of when the public body's final response can be expected.

Laws in Kansas and Kentucky excuse public bodies from complying with public records requests if the public body can establish that the request creates an unreasonable burden. KSA 45-218(e); KRS 61.872(6).

Citizen Comments

The lack of firm deadlines in the Oregon Public Records Law is a major source of frustration for citizens and journalists who seek government documents. Several Oregonians asserted that the current law is meaninglessly vague. Oral and written testimony indicates that Oregonians believe the lack of firm deadlines allows government officials to intentionally delay releasing embarrassing documents. Some individuals complained about government officials refusing to even *acknowledge* public records requests, without any repercussion.

A variety of possible deadlines were suggested. However, local government officials expressed concern about firm deadlines for fulfilling requests. They pointed out that large requests made to small departments could effectively force the government to drop its primary mission in order to fulfill a public records request. Journalists and citizen activists countered that a reasonable deadline – two weeks was one example – with the ability to obtain a limited number of extensions, would resolve any problems that a large request might pose. Other suggestions included allowing public bodies to meet the deadline by estimating when the records would be disclosed, or requiring requesters to explain why a deadline should apply to the request.

FEES

Current Law in Oregon

A public body in Oregon “may establish fees reasonably calculated to reimburse the public body for the public body’s actual cost of making public records available.” ORS 192.440(4)(a). The statute specifically includes “costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the person’s request.” In addition, “the cost of time spent by an attorney for the public body in reviewing the public records, redacting material from the public records or segregating the public records into exempt and nonexempt records” can be included in the fee. However, “the cost of time spent by an attorney for the public body in determining the application of the [Public Records Law]” cannot be included. ORS 192.440(4)(b). Our office has further enumerated permissible costs:

“Actual cost” may include a charge for the time spent by the public body’s staff in locating the requested records, reviewing the records in order to delete exempt material, supervising a person’s inspection of original documents in order to protect the records, copying records, certifying documents as true copies, or sending records by special methods such as express mail.

[2010 MANUAL at section I.D.6.b.](#)

These fees can be waived or reduced by public bodies “if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public.” ORS 192.440(5). The Oregon Court of Appeals has determined that this provision does not require that fees be reduced or waived, but allows public bodies discretion. That discretion must be exercised “reasonably.” We are unaware of any Attorney General orders or appellate court decisions finding that a public body unreasonably declined to waive or reduce fees.

Since at least 2001, the Attorney General’s office has taken the position that the Attorney General lacks authority to determine whether a state agency’s fees

are reasonably calculated to reimburse the public body's actual cost of responding. Public Records Order, June 20, 2001, Meadowbrook. However, there are Public Records Orders from 1999 and earlier in which the Attorney General actually examined whether fees were properly derived. *See, for example*, Public Records Order, May 17, 1999, Smith at 6 (finding no basis to conclude that the amount of time estimated, the hourly rate quoted, or the per-page cost of copies was excessive). The 2010 MANUAL, however, opines that the Attorney General may review a fee if the amount of the fee in comparison to the nature of the request suggests that the true purpose of the fee is to constructively deny the request rather than to recoup the agency's actual costs. [2010 MANUAL at sec. I.D.6\(b\)\(1\)](#). Otherwise, a person requesting public records must go to court if the person wishes to challenge the reasonableness of a public body's fee.

The Attorney General does have authority to determine whether a state agency has unreasonably refused a request to waive or reduce its fees. As noted above, however, we are not aware that our office has exercised that authority to order a reduction or waiver of fees. The 2010 MANUAL takes some steps towards addressing this issue under current law, by requiring that public bodies consider the public interest in disclosure when exercising their authority to consider waiver requests. [2010 MANUAL sec. I.D.6.b.\(2\)\(c\)](#).

Laws in Other States

All states permit public bodies to charge fees for public records requests. However, at least 11 states limit those fees by excluding the cost of staff time, such that inspecting records without receiving a copy is generally free. Many states that permit the inclusion of staff time do so only after a certain threshold. For example, Georgia requires 15 minutes of staff time at no cost for each request, while Alaska permits staff time to be charged only after a particular requester has incurred at least five hours of a public body's staff time in a calendar month. OCGA § 50-18-71; AS 40.25.110. Several states cap the hourly rate that can be charged for staff time, at levels that range between \$10 and \$25 per hour. And a number of states permit some or all staff time to be charged only in specific circumstances. For example, Arizona law permits staff time to be charged if records are sought for commercial purposes. ARS § 39-121.03(D). Michigan only permits staff time to be charged if the request would otherwise

result in an unreasonably high cost to the public body due to the nature of the request. MCLA § 15.234(3).

Oregon appears to be unique in expressly permitting public bodies to charge for some attorney time. By contrast, the Alabama Attorney General has concluded that Alabama's law does not permit attorney costs to be included in public records fees. Alabama Op Atty Gen 98-00161 (June 12, 1998). And several states, including Louisiana and New Mexico, exclude staff time spent determining whether a record is subject to disclosure, which presumably is the chief reason for involving an attorney in the process. Of course, attorney time is also not recoverable in states that do not permit any staff time to be charged.

States also take a number of approaches to making records freely or more cheaply available under various circumstances. There are some states that, like Oregon, permit fee waivers or reductions in some circumstances without requiring them. Other states require records to be provided at no charge, or at a lower charge, for a spectrum of reasons. Connecticut, for example, requires waiver for indigency, when the disclosure serves the public interest, or where an elected official makes the request and certifies that the request relates to public business. Conn Gen Stat § 1-212. In Washington DC, staff costs cannot be included when a request is made either by a member of the news media or for purposes of scientific or scholarly research. DC Code Ann § 2-532(b-1)(2).

Citizen Comments

The system of charging fees for public records provoked a significant amount of criticism in meetings around the state. Some raised a fundamental question: why should the public have to pay the government to produce copies of documents that are already owned by the public? To paraphrase one particularly artful expression of the sentiment, tax dollars already pay for the staff, the computer, and the overhead that go into creating the record; why should taxpayers also have to pay to receive a copy of a record their money already funded? Even among those who recognize that fees may be appropriate, there is a perception that government officials can effectively block disclosure by imposing high fees for records.

Others countered that the inability to charge fees could be burdensome to government. Public records requests sometimes reflect interests that are specific to the requester and not shared by the public generally. Since government entities have other important functions, dedicating government resources to responding to public records requests at no cost might actually disserve the public interest.

With regard to waiver, several individuals complained that Oregon's existing standard allows government to produce documents at no cost when the records cast the officials in a good light, while charging high fees if disclosure would be less favorable.

Several suggestions emerged, including imposing a uniform fee structure and providing greater guidance to state and local officials on when it is appropriate to waive fees. Some suggestions were consistent with practices in other states, including the suggestion that fees for segregating exempt materials should be eliminated, the suggestion that fees be waived for the indigent, and the suggestion that waiver should be required in some circumstances. It was suggested that the process of reviewing agency fee decisions should be revisited. The prohibitive expense of going to court to contest agency fees makes agency fees effectively unreviewable under the current system. The 2010 MANUAL recognizes the Attorney General's authority to review state agency fees in some limited circumstances. [2010 MANUAL sec. I.D.6.b.\(2\)\(c\)](#). But the court system will probably remain the most likely source of potential relief in most cases.

EXEMPTIONS

Current Oregon Law

Oregon's Public Records law allows government officials to withhold documents if they fit into an exemption from disclosure. When the Legislature enacted the Public Records Law in 1973, there were 55 exemptions, all of which either appeared in ORS Chapter 192 or were specifically referenced within that chapter. Since then, the Legislature has added significantly to this list. Our review identified 403 exemptions. The vast majority of the exemptions appear in

statutes outside the Public Records Law (ORS chapter 192), but are incorporated into the Public Records Law by virtue of ORS 192.502(9)(a).

All of the exemptions in ORS 192.501 are conditional, which means that the exemptions do not apply if the public interest requires disclosure. The courts apply a presumption in favor of disclosure. The exemptions in ORS 192.502 are not necessarily subject to an overriding public interest, although some of them do include a public interest balancing test of some kind. That is also true of the various exemptions scattered throughout the other chapters of the ORS – some require balancing competing public interests, but others do not.

Laws in Other States

Like Oregon, many states have a catch-all exemption for documents made exempt by other statutes. Even the federal Freedom of Information Act, which boasts just nine exemptions, includes one for “[i]nformation exempt under other laws.” Even without an explicit catch-all exemption, any statute could contain an exemption from disclosure. Courts commonly hold that a statute addressing a specific question takes precedence over a general statute. Thus, a state-by-state comparison of exemptions would be effectively impossible. Instead, we focus on mechanisms states have devised to control the proliferation of exemptions.

A number of models exist. Washington has established a “Sunshine Commission” which, among its other duties, is charged with reviewing exemptions from disclosure and making recommendations with respect to whether those should be retained, amended or repealed. RCW 42-56-140. Other states have similar committees. Louisiana law provides that exemptions from disclosure are of no effect unless they appear either in the state constitution or else in the statutes specifically pertaining to disclosure of records. La Rev Stat Ann § 4.1. Exemptions in Florida are subject to automatic sunset, unless the legislature acts to retain them. Florida law provides criteria for legislative review of exemptions. Fla Stat § 119.15.

As in Oregon, it is common for exemptions to be overcome if the public interest in disclosure outweighs interests served by nondisclosure.

Citizen Comments

Both citizens and government officials complained about the number of exemptions. Citizen activists and journalists said the proliferation of exemptions had significantly eroded the public's ability to determine what their government is doing. Everyone who addressed the subject seemed to agree that re-organizing and compiling the various exemptions – which are scattered throughout the statute books – would significantly improve the law and reduce costs. Such a change would equally benefit members of the public and the government officials who must wade through the dizzying number of exemptions.

Journalists complained that public bodies fail to understand that many exemptions are voluntary, and take a default position favoring nondisclosure of the records. There was a feeling that the “public interest balancing test” needs to be better defined. A few individuals asked for the elimination of certain exemptions, including exemptions for police disciplinary records and for complaints filed against licensed professionals. Citizens also requested clarification of exemptions applicable to many types of information, from personal information and copyrighted materials to internal advisory communications within government. Some individuals asserted a need for greater protection of records that related to privacy and personal safety. One suggestion proposed making traffic accident reports exempt in order to protect people from “ambulance chasing” attorneys.

County clerks and recorders observed that the legislature has enacted, and subsequently revised, exemptions that apply to information in recorded documents that have historically been freely accessible to the public. The exemptions can be extremely difficult to implement, especially with records that exist on microfiche. Implementation requires county clerks to either maintain two sets of records, or else to restrict traditional public access to recorded documents and expend staff time performing searches and providing redacted copies of records. The exemptions can also make it difficult to trace title to real estate, and can create issues with respect to accurate credit reporting.

Once again, a number of suggestions were consistent with practices in other states. Examples include sunset provisions for the automatic expiration of

exemptions, requiring government bodies to adequately describe and explain decisions to withhold requested information, and providing public officials with immunity for good faith disclosure of records. The fact that the federal Freedom of Information Act has just nine exemptions was noted as a counterpoint to the large number of exemptions in Oregon.

PUBLIC MEETINGS

Current Law in Oregon

Oregon's Public Meetings Law is relatively short and has not seen a great deal of statutory revision since its enactment in 1973. In essence, it requires public bodies that are subject to the law to provide the public with notice of, and access to their meetings. Notice of regular meetings must be reasonably calculated to give actual notice to interested parties. Notice of special meetings must be given at least 24 hours in advance. Even in emergencies, public bodies are required to give as much notice as they reasonably can. ORS 192.640. Public bodies must make available a list of the principle subjects that a meeting is expected to address, but the requirement does not prevent consideration of other subjects. ORS 192.640.

The law also establishes limited justifications for public bodies to exclude members of the public from particular types of discussions, known as "executive sessions." ORS 192.660. However, even where executive sessions are allowed, the Public Meetings Law requires government bodies that are subject to the law to make their decisions in public. ORS 192.660(6). Media representatives generally must be allowed to attend executive sessions, though the public body can instruct that they not disclose specified information. ORS 192.660(4).

Records must be kept of the business conducted at public meetings. Currently, public bodies can choose whether to keep written minutes or actual recordings of meetings. The law requires certain information to be recorded, and otherwise requires a "true reflection" of the business conducted and the views of participants. Whatever sort of record a public body keeps, it must make that

record publicly available within a reasonable amount of time after the meeting. ORS 192.650.

Violations of the Public Meetings Law generally must be resolved through the courts. ORS 192.680. However, the Oregon Government Ethics Commission has authority to hear complaints about the abuse of provisions governing executive sessions. ORS 192.685. Remedies for violating the law include invalidating actions taken at illegal meetings, awarding attorney fees to individuals who win suits to enforce the public meetings law, and imposing civil penalties for improper executive sessions. ORS 192.680 and 192.685.

Laws in Other States

All 50 states, and the District of Columbia, have enacted public meetings laws. The laws in DC and three states do not explicitly require notice of public meetings. 20 states, including Oregon, do not specify a minimum amount of notice for regularly scheduled meetings of public bodies. Some states require as little as one day of notice, while others require public bodies to publish a yearly schedule of regular meetings.

A majority of states require an agenda to be provided in advance of the meeting. Several states imposing such a requirement also prohibit consideration of matters not appearing on the agenda. California law provides that no item may be added to an agenda after public notice is given. Cal Gov't Code § 11125(b). Texas law addresses notice issues by imposing a balancing test: the greater the public interest in a particular subject, the more detailed the agenda must be. Tex Rev Civ Stat Ann art 6252-17a § 3A(a).

The requirement that public bodies retain a record of their meetings is standard. 30 states have laws with specific requirements describing what must be included in a record of a meeting. Relatively few states require verbatim records; Illinois, Florida and Hawaii are examples of states that impose such a requirement under some circumstances. A dozen states specify the time within which public bodies must make records of their meetings available. Timeframes range from two days to 35 days.

Public meetings laws uniformly permit executive sessions under appropriate circumstances. We did not identify any other states that permit members of the media to attend executive sessions.

Eight states have created committees tasked with enforcing public meeting requirements. Seven states grant jurisdiction over the public meetings act to the Attorney General, district attorneys, or both. In 12 states, both the Attorney General and the courts have a role in overseeing and enforcing the public meetings law. In addition to Oregon, there are 19 states that require alleged violations of public meetings requirements to be resolved in court. Common remedies include awarding costs and attorney fees, imposing fines, and invalidating actions taken in meetings that failed to comply with the law.

Citizen Comments

A number of individuals expressed the view that existing notice requirements are generally inadequate in terms of timing and content. Even when agendas are available in advance, individuals testified that public bodies amend those agendas so thoroughly as to render the notice irrelevant. Citizens suggested that the law should establish a specific timeframe for notice requirements, and impose minimum standards for the content of notices, to ensure that citizens attending meetings are meaningfully informed with respect to the business at hand.

Citizens also complained that minutes of meetings frequently fail to reflect the substance of the meetings. Recordings would provide a far more accurate picture of what transpired. When recordings are made, however, testimony indicated that public bodies sometimes take an extremely long time – upwards of three months – to make records of past meetings available. Not surprisingly, many citizens requested a firm deadline.

Many citizens also advocated for a statutory change to allow bloggers and digital journalists to attend executive sessions along with more traditional “representatives of the news media” although some people affiliated with media or government suggested problems. Supporters of such a change frequently cited the perceived decline of traditional media. We also received suggestions that the

law should explicitly permit members of the media to disclose business conducted in a closed session that, by law, should have been conducted publicly.

Finally, the fact that most violations of the Public Meetings Law must be addressed through court proceedings is unsatisfying to many citizens. There were several requests for a more expedited and affordable review process.

OTHER COMMENTS

Because these suggestions cover a broad spectrum of issues, it is impractical to begin by setting out the current state of the law in Oregon and other states. Instead we will present citizen comments and then discuss the laws of Oregon and other states in the context of those comments.

Perhaps the most common suggestion was that public employees and officials receive training, or even certification, with respect to their obligations under transparency laws. Oregon currently has no such requirement, though a number of other states do. Examples include Texas, where certain public officials are required to complete training developed or approved by the Attorney General, and Washington DC, which requires that public bodies utilize public records officers who receive at least eight hours of training. Tex Rev Civ Stat Ann art § 552-012; DC Code Ann § 2-538. Several other states have public bodies that are explicitly charged with making training materials and resources available to other public bodies. No public body in Oregon is explicitly tasked with this responsibility.

Citizens also suggested the creation of an ombudsman-like office that would be available to assist those attempting to use or enforce transparency laws. A variation on this suggestion was that the Attorney General should be authorized to advise members of the public, and local government officials, with respect to transparency laws. A number of states have an ombudsman or commission that is available to advise members of the public, including Pennsylvania and New York. 65 Pa Cons Stat §1310; NY Pub Off Law § 89.

Some testimony from the perspective of public bodies suggested that concerns about liability or other adverse consequences of disclosure can make compliance with transparency laws a time-consuming endeavor. A number of states address that problem by providing public bodies and public officials with immunity for disclosures made in a good faith attempt to comply with transparency laws. Washington is one example. RCW 42.46.060. And at least one state – North Dakota – provides that public bodies do not lose applicable privileges, such as the lawyer-client privilege, by disclosing documents under the public records law. NDCC 44-04-18(11). Oregon does not have similar provisions to minimize the potential hazards of transparency.

A number of individuals testified that public bodies avoid the reach of the public records law by contracting governmental functions out to private entities and not taking custody of records that relate to those functions. Oregon appellate court decisions address this problem to some extent, but only if the requester can show that the ostensibly private entity is the functional equivalent of a public body. *Marks v. McKenzie High School Fact-Finding Team*, 319 Or 451 (1994); *Laine v. City of Rockaway*, 134 Or App 655 (1995). Other states address this problem more comprehensively through statute. For example, Minnesota law provides that public bodies must include in such contracts provisions that make it clear that records of the private entity associated with performing those functions are public records. Minn Stat § 13.05 subd 11. Wisconsin law requires government bodies to make their contractors' records available for public inspection, if the records were created as part of the contract. Wis Stat § 19.36(3). Some citizens also complained that public bodies can, as a practical matter, avoid the reach of the Public Records Law by using private email accounts to conduct public business.

Several suggestions were made about improving the process for reviewing denials of public records requests. Some citizens who advocated for an ombudsman or similar office suggested that review authority be given to that office. That is similar to what Connecticut law provides. Conn Gen Stat § 1-205. Others indicated that the Attorney General should have authority to review all denials, and not merely those of state agencies. And a number of people commented that the current provisions requiring court action to contest a denial by an elected official was a loophole that should be closed.

It was also suggested that penalties for noncompliance with the law would encourage compliance. Several states impose such penalties in varying amounts. For example, Illinois law imposes civil penalties between \$2,500 and \$5,000; Pennsylvania a penalty of not more than \$1500; Kansas a penalty up to \$500; Minnesota a penalty of up to \$300; and Kentucky a penalty of \$25 per day of denial. 5 ILCS 140/11(j); 65 Pa Cons Stat § 1305(a); KSA 45-223; Minn Stat § 13.08 subd 4; KRS 61.882(5). Some states, including Minnesota and Kentucky, permit courts to impose such a penalty regardless of whether the violation was intentional, while other states condition the penalty on an intentional disregard of the law. Such penalties pose fiscal issues, including not only the potential cost of paying such a penalty, but also the prospect that public bodies might respond to such a requirement by increasing the use of attorney time in considering public records requests. That, in turn, could increase both the cost of requesting records and the time public bodies take to respond.

Some citizens felt that lowering the threshold for mandatory awards of costs and attorney fees would provide an incentive for citizens to enforce their rights under the law. Currently, attorney fee awards are mandatory only if a person seeking records fully prevails in his or her lawsuit. ORS 192.490(3).

A few people suggested that public bodies should be required to make certain fundamental records available via the internet without waiting for requests. Examples included budget information and public contracts. Oregon is now moving this direction. See <http://oregon.gov/transparency/index.page>.

Some individuals affiliated with government voiced concerns about major changes to the law. They suggested that experimenting at the state government level would preserve the ability of small local governments to provide essential services. A few suggested that the law should address requests that are abusive or threaten to cripple a public body's ability to fulfill its function. One idea along these lines was to award public bodies their attorney fees if they prevail in suits under the Public Records Law.

CONCLUSION AND NEXT STEPS

The Attorney General's review identified a number of areas in which Oregon citizens feel that government transparency laws are not adequate. Several other states have laws addressing many of those issues. There is significant room to improve government transparency in Oregon.

The 2011 legislature can and should address a number of problem areas. Three significant examples are: excessive fees, lengthy delays and unnecessary exemptions.

A reasonable and rational fee system is necessary. It should reflect the reality that public records requests impose some costs on government, and do not always confer corresponding benefits on the public. But the ability to charge fees for requests should not serve as an obstacle to transparency. Thus, a fee system should provide incentives for framing requests reasonably so as to avoid overwhelming government. But at the end of the day it should not foreclose the public's ability to obtain information about the activities of government.

Deadlines also are necessary to eliminate endless delays, but they must also be flexible enough to recognize the many priorities that government must balance.

The steady growth of exemptions is perhaps the most vexing problem with the public records law. Not only are there too many exemptions but they are haphazardly scattered throughout state law and thus difficult to find. Seemingly similar types of information may be subject to different rules depending on the particular language adopted by the legislature in a particular case. Any meaningful overhaul of Oregon's public records law must reorganize and make coherent sense of the numerous exemptions. Some exemptions should be eliminated altogether.