

May 2, 2017

Oregon State Legislature
House Judiciary Committee
900 Court St. NE
Salem Oregon 97301

Re: House Bill 3321 – New requirements for non-profits

Chair Barker and Members of House Judiciary Committee:

I am Ingrid Brydolf an attorney from Davis Wright Tremaine, LLP. I am here today on behalf of the Oregon Association of Hospitals and Health Systems to share their deep concerns with HB 3321, a proposal that is unnecessary and counter-productive.

1. **A Burdensome Solution in Search of a Problem.** It is unclear what problem this legislation seeks to address. If the proponents believe that state or local funds are being misspent, the law already permits and requires government to hold public fund recipients accountable.
2. **Current Law Allows Public Funding Accountability.**
 - a. **State and Local Contracts.** Public funds typically come to nonprofits through written contracts with specific requirements and accountabilities. If the proponents of this bill believe that additional requirements or greater enforcement is needed, then the contracts are the right tool to use.
 - b. **Regulation.** In situations where contracts are not in place, administrative regulations and rules create the needed requirements. If needed, they can be expanded. The governmental agencies are best suited to determine what requirements are needed in connection with the funds that they disburse.
3. **Significant Transparency Already Exists with Respect to Tax-Exempt Nonprofits.** Public benefit nonprofits make annual public disclosures to the IRS and the Oregon Department of Justice in relation to their finances. Additionally, the Oregon DOJ is charged with representing the public interest in connection with public benefit corporations' assets that are held for charitable purposes. If abuses are occurring, the DOJ already has oversight.
4. **HB 3321 is Overly Broad.** Nonprofits that receive public funding typically perform significant work that is not publicly funded. This measure does not focus on the publicly funded aspects of the nonprofit's work. Rather, it broadly examines all aspects of the organization. The effect could very well be to stifle private grant making to these organizations.

5. **HB 3321 Will Have a Significant Chilling Effect on Charities.**

- a. **Small Nonprofits.** Small nonprofits will not have the infrastructure to meet the requirements of HB 3321. It is likely that they will view the requirements as too burdensome and refuse public funds.
- b. **Directors and Officers.** Most directors and officers of nonprofits are volunteers. HB 3321 would impose ORS 244, the ethical/reporting/gift, etc., requirements of public officials on nonprofit directors and officers, and potentially subject them to penalties. Many may simply resign rather than subject themselves to the complexities and requirements of this law. This is not the time to discourage the work of nonprofits.