

HB 4140 STAFF MEASURE SUMMARY

House Committee On Rules

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Meeting Dates: 2/10, 3/1

WHAT THE MEASURE DOES:

Expands duties of Oregon Government Ethics Commission (OGEC) to include conducting investigations, making findings, and imposing penalties for violations of public meetings law. Authorizes any person to file complaint with OGEC alleging that meetings of governing body were not in compliance with public meetings law. Makes civil penalty for violations of public meetings law a personal liability for each member of governing board on whom penalty is imposed and prohibits civil penalty from being paid for or indemnified by associated governing board or public body. Requires OGEC to develop and present training to governing bodies on public meetings law and best practices. Requires each member of governing body to attend training at least once per term of elected or appointed office during first year of term. Requires public officials without defined terms who engage with, provide advice and counsel, or otherwise interact with a governing body to attend training at least once every two years. Makes training requirements operative January 1, 2023. Takes effect 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Applicability to all public bodies
- Amount of fines and how currently levied by the Oregon Government Ethics Commission (OGEC)
- OGEC education mission
- Use of compliant process
- Potential impact on willingness to serve on governing bodies
- OGEC training and advice support for public officials

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The Oregon Government Ethics Commission (OGEC) enforces Oregon laws prohibiting public officials from using their office for financial gain and those requiring public disclosure of economic conflicts of interest; enforces laws requiring lobbyists and the entities they represent to register and report their expenditures; and oversees the executive session provisions of public meetings law.

Complaints of violations of the executive session provisions (ORS 192.660) alleged to have been committed by public officials may be made to the OGEC for review, investigation, and imposition of civil penalties. The OGEC may interview witnesses, review minutes and other records, and may obtain and consider any other information pertaining to executive sessions of the governing body to determine whether a violation occurred. ORS 244.350 limits the fine imposed by the OGEC to \$1,000 for executive session violations.

Public meetings law generally requires that meetings be open to the public at accessible locations with appropriate notice of the time, place, and subjects anticipated to be considered. The decision made by a board that meets in violation of the law can be voided if any person affected by the decision sues in circuit court. Current law allows the court to order relief and the payment of attorney fees for successful plaintiffs. Additionally, if the court finds that the violation was the result of willful misconduct by any member of the governing body, that member can be held liable for the amount paid by the body. Lawsuits must be initiated within 60 days.

HB 4140 STAFF MEASURE SUMMARY

House Bill 4140 expands the duties of the OGEC to include conducting investigations, making findings, and imposing penalties for violations of public meetings law. The measure allows any person to file complaint with OGEC alleging that meetings of a governing body were not in compliance with public meetings law while still allowing a person affected by a decision made in violation of public meetings law to sue in circuit court.