

House Bill 4117

Sponsored by Representative SOSA, Senator CAMPOS, Representative NERON; Representative HUDSON (Presession filed.)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Allows OGEC and OGEC staff to give advice on the public meetings law. (Flesch Readability Score: 69.9).

Authorizes the Oregon Government Ethics Commission to issue advisory opinions on the application of the public meetings law to actual or hypothetical circumstances. Authorizes the executive director of the commission to issue staff advisory opinions or written or oral staff advice on the application of the public meetings law to actual or hypothetical circumstances. Permits other commission staff to issue written or oral staff advice on the public meetings law.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public meetings; creating new provisions; amending ORS 192.660, 244.280, 244.282 and
3 244.284; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2024 Act and ORS 192.672 are added to and made a part of**
6 **ORS 192.610 to 192.705.**

7 **SECTION 2. Any person may submit to the Oregon Government Ethics Commission:**

8 (1) **A written request for the commission to issue and publish a commission advisory**
9 **opinion under ORS 244.280 on the application of ORS 192.610 to 192.705 to any actual or hy-**
10 **pothetical circumstance;**

11 (2) **A written request for the executive director of the Oregon Government Ethics Com-**
12 **mission to issue and publish a staff advisory opinion under ORS 244.282 on the application**
13 **of ORS 192.610 to 192.705 to any actual or hypothetical circumstance; or**

14 (3) **A written or oral request for the executive director or other staff of the commission**
15 **to issue written or oral staff advice under ORS 244.284 on the application of ORS 192.610 to**
16 **192.705 to any actual or hypothetical circumstance.**

17 **SECTION 3. ORS 244.280 is amended to read:**

18 244.280. (1) Upon the written request of any person, or upon its own motion, the Oregon Gov-
19 ernment Ethics Commission, under signature of the chairperson, may issue and publish written
20 commission advisory opinions on the application of ORS [*192.660*] **192.610 to 192.705** or any pro-
21 vision of this chapter to any proposed transaction or action or any actual or hypothetical circum-
22 stance. A commission advisory opinion, and a decision by the commission to issue an advisory
23 opinion on its own motion, must be approved by a majority of the members of the commission. Legal
24 counsel to the commission shall review a proposed commission advisory opinion before the opinion
25 is considered by the commission.

26 (2) Not later than 60 days after the date the commission receives the written request for a
27 commission advisory opinion, the commission shall issue either the opinion or a written denial of the

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 request. The written denial shall explain the reasons for the denial. The commission may ask the
 2 person requesting the advisory opinion to supply additional information the commission considers
 3 necessary to render the opinion. The commission, by vote of a majority of the members of the com-
 4 mission, may extend the 60-day deadline by one period not to exceed 60 days.

5 (3) Except as provided in this subsection, unless the commission advisory opinion is revised or
 6 revoked, the commission may not impose a penalty under ORS 244.350 or 244.360 on a person for
 7 any good faith action the person takes in reliance on an advisory opinion issued under this section.
 8 The commission may impose a penalty under ORS 244.350 or 244.360 on the person who requested
 9 the advisory opinion if the commission determines that the person omitted or misstated material
 10 facts in making the request.

11 **SECTION 4.** ORS 244.282 is amended to read:

12 244.282. (1) Upon the written request of any person, the executive director of the Oregon Gov-
 13 ernment Ethics Commission may issue and publish written staff advisory opinions on the application
 14 of ORS [192.660] **192.610 to 192.705** or any provision of this chapter to any proposed transaction or
 15 action or any actual or hypothetical circumstance.

16 (2) Not later than 30 days after the date the executive director receives the written request for
 17 a staff advisory opinion, the executive director shall issue either the opinion or a written denial of
 18 the request. The written denial shall explain the reasons for the denial. The executive director may
 19 ask the person requesting the advisory opinion to supply additional information the executive di-
 20 rector considers necessary to render the opinion. The executive director may extend the 30-day
 21 deadline by one period not to exceed 30 days. The executive director shall clearly designate an
 22 opinion issued under this section as a staff advisory opinion.

23 (3)(a) Except as provided in paragraph (b) of this subsection, unless the staff advisory opinion
 24 is revised or revoked, the commission may only issue a written letter of reprimand, explanation or
 25 education for any good faith action a person takes in reliance on a staff advisory opinion issued
 26 under this section.

27 (b) The commission may impose, for an action that is subject to a penalty and that is taken in
 28 reliance on a staff advisory opinion issued under this section, a penalty under ORS 244.350 or
 29 244.360 on the person who requested the opinion if the commission determines that the person
 30 omitted or misstated material facts in making the request.

31 (4) At each regular meeting of the commission, the executive director shall report to the com-
 32 mission on all staff advisory opinions issued since the last regular meeting of the commission. The
 33 commission on its own motion may issue a commission advisory opinion under ORS 244.280 on the
 34 same facts or circumstances that form the basis for any staff advisory opinion.

35 **SECTION 5.** ORS 244.284 is amended to read:

36 244.284. (1) Upon the written or oral request of any person, the executive director or other staff
 37 of the Oregon Government Ethics Commission may issue written or oral staff advice on the appli-
 38 cation of ORS [192.660] **192.610 to 192.705** or any provision of this chapter to any proposed trans-
 39 action or action or any actual or hypothetical circumstance. Any written advice not designated as
 40 a staff advisory opinion under ORS 244.282 is considered staff advice issued under this section.

41 (2) Before imposing any penalty under ORS 244.350 or 244.360, the commission may consider
 42 whether the action that may be subject to penalty was taken in reliance on staff advice issued under
 43 this section.

44 **SECTION 6.** ORS 192.660 is amended to read:

45 192.660. (1) ORS 192.610 to 192.705 do not prevent the governing body of a public body from

1 holding executive session during a regular, special or emergency meeting, after the presiding officer
2 has identified the authorization under ORS 192.610 to 192.705 for holding the executive session.

3 (2) The governing body of a public body may hold an executive session:

4 (a) To consider the employment of a public officer, employee, staff member or individual agent.

5 (b) To consider the dismissal or disciplining of, or to hear complaints or charges brought
6 against, a public officer, employee, staff member or individual agent who does not request an open
7 hearing.

8 (c) To consider matters pertaining to the function of the medical staff of a public hospital li-
9 censed pursuant to ORS 441.015 to 441.119 and 441.993 including, but not limited to, all clinical
10 committees, executive, credentials, utilization review, peer review committees and all other matters
11 relating to medical competency in the hospital.

12 (d) To conduct deliberations with persons designated by the governing body to carry on labor
13 negotiations.

14 (e) To conduct deliberations with persons designated by the governing body to negotiate real
15 property transactions.

16 (f) To consider information or records that are exempt by law from public inspection.

17 (g) To consider preliminary negotiations involving matters of trade or commerce in which the
18 governing body is in competition with governing bodies in other states or nations.

19 (h) To consult with counsel concerning the legal rights and duties of a public body with regard
20 to current litigation or litigation likely to be filed.

21 (i) To review and evaluate the employment-related performance of the chief executive officer of
22 any public body, a public officer, employee or staff member who does not request an open hearing.

23 (j) To carry on negotiations under ORS chapter 293 with private persons or businesses regarding
24 proposed acquisition, exchange or liquidation of public investments.

25 (k) To consider matters relating to school safety or a plan that responds to safety threats made
26 toward a school.

27 (L) If the governing body is a health professional regulatory board, to consider information ob-
28 tained as part of an investigation of licensee or applicant conduct.

29 (m) If the governing body is the State Landscape Architect Board, or an advisory committee to
30 the board, to consider information obtained as part of an investigation of registrant or applicant
31 conduct.

32 (n) To discuss information about review or approval of programs relating to the security of any
33 of the following:

34 (A) A nuclear-powered thermal power plant or nuclear installation.

35 (B) Transportation of radioactive material derived from or destined for a nuclear-fueled thermal
36 power plant or nuclear installation.

37 (C) Generation, storage or conveyance of:

38 (i) Electricity;

39 (ii) Gas in liquefied or gaseous form;

40 (iii) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

41 (iv) Petroleum products;

42 (v) Sewage; or

43 (vi) Water.

44 (D) Telecommunication systems, including cellular, wireless or radio systems.

45 (E) Data transmissions by whatever means provided.

1 (o) To consider matters relating to the safety of the governing body and of public body staff and
2 volunteers and the security of public body facilities and meeting spaces.

3 (p) To consider matters relating to cyber security infrastructure and responses to cyber security
4 threats.

5 (3) Labor negotiations shall be conducted in open meetings unless negotiators for both sides
6 request that negotiations be conducted in executive session. Labor negotiations conducted in exec-
7 utive session are not subject to the notification requirements of ORS 192.640.

8 (4) Representatives of the news media shall be allowed to attend executive sessions other than
9 those held under subsection (2)(d) of this section relating to labor negotiations or executive session
10 held pursuant to ORS 332.061 (2) but the governing body may require that specified information be
11 undisclosed.

12 (5) When a governing body convenes an executive session under subsection (2)(h) of this section
13 relating to conferring with counsel on current litigation or litigation likely to be filed, the governing
14 body shall bar any member of the news media from attending the executive session if the member
15 of the news media is a party to the litigation or is an employee, agent or contractor of a news media
16 organization that is a party to the litigation.

17 (6) No executive session may be held for the purpose of taking any final action or making any
18 final decision.

19 (7) The exception granted by subsection (2)(a) of this section does not apply to:

20 (a) The filling of a vacancy in an elective office.

21 (b) The filling of a vacancy on any public committee, commission or other advisory group.

22 (c) The consideration of general employment policies.

23 (d) The employment of the chief executive officer, other public officers, employees and staff
24 members of a public body unless:

25 (A) The public body has advertised the vacancy;

26 (B) The public body has adopted regular hiring procedures;

27 (C) In the case of an officer, the public has had the opportunity to comment on the employment
28 of the officer; and

29 (D) In the case of a chief executive officer, the governing body has adopted hiring standards,
30 criteria and policy directives in meetings open to the public in which the public has had the op-
31 portunity to comment on the standards, criteria and policy directives.

32 (8) A governing body may not use an executive session for purposes of evaluating a chief execu-
33 tive officer or other officer, employee or staff member to conduct a general evaluation of an agency
34 goal, objective or operation or any directive to personnel concerning agency goals, objectives, op-
35 erations or programs.

36 (9) Notwithstanding subsections (2) and (6) of this section and ORS 192.650:

37 (a) ORS 676.175 governs the public disclosure of minutes, transcripts or recordings relating to
38 the substance and disposition of licensee or applicant conduct investigated by a health professional
39 regulatory board.

40 (b) ORS 671.338 governs the public disclosure of minutes, transcripts or recordings relating to
41 the substance and disposition of registrant or applicant conduct investigated by the State Landscape
42 Architect Board or an advisory committee to the board.

43 *[(10) Any person may submit to the Oregon Government Ethics Commission:]*

44 *[(a) A written request for the commission to issue and publish a commission advisory opinion un-
45 der ORS 244.280 on the application of this section to any actual or hypothetical circumstance;]*

