

B-Engrossed House Bill 4177

Ordered by the House March 3
Including House Amendments dated February 23 and March 3

Sponsored by COMMITTEE ON RULES (at the request of Representative Nathan Sosa)

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

Digest: The Act changes how officials may talk outside of public meetings. The Act changes how OGEC oversees and trains on the public meetings law. The Act changes some duties from a governing body to the public body. The Act changes how governing bodies and public bodies may cure public meetings law violations. The Act takes effect 91 days after session ends. (Flesch Readability Score: 62.6).

Restates the serial communications prohibitions for public meetings law purposes. Identifies the types of communications between governing body members that are excluded from public meetings requirements.

Changes the obligation to provide notice for meetings from a governing body to the public body for each of its governing bodies.

Changes the obligation to provide for the sound, video or digital recording or the taking of written minutes from a governing body to the public body for each of its governing bodies.

Clarifies that public meetings may be held in person, through use of electronic means or in a hybrid format of in-person and electronic means.

Requires public meetings law complainants to provide specified documentation to the Oregon Government Ethics Commission before complaints are considered filed. Requires complainants to proceed in court if the complaint alleges a public meetings law violation by one or more members of the commission.

Modifies requirements concerning which public officials must attend public meetings law training and when those officials must attend the training.

Allows the commission to proceed against a public body or a public official associated with a public body for violations of public meetings laws.

Establishes methods by which governing bodies and public bodies may cure public meetings law violations under certain circumstances.

Clarifies the imposition of penalties by the Oregon Government Ethics Commission against public bodies and public officials.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to public meetings; creating new provisions; amending ORS 192.610, 192.630, 192.640,
3 192.650, 192.670, 192.685, 192.690, 192.700, 192.705, 244.260 and 244.350; and prescribing an ef-
4 fective date.

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

6 **SECTION 1.** ORS 192.610 is amended to read:

7 192.610. As used in ORS 192.610 to 192.705:

8 (1) "Convening" means:

9 (a) Gathering in a physical location; **or**

10 (b) Using electronic, video or telephonic technology to be able to communicate
11 contemporaneously among participants[;].

12 [(c) Using serial electronic written communication among participants; or]

13 [(d) Using an intermediary to communicate among participants.]

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 (2) "Decision" means any determination, action, vote or final disposition upon a motion, pro-
2 posal, resolution, order, ordinance or measure on which a vote of a governing body is required, at
3 any meeting at which a quorum is present.

4 (3) "Deliberation" means discussion or communication [*that is part of a decision-making*
5 *process*] **in which the members of a governing body examine, weigh or reflect upon the rea-**
6 **sons for or against a decision that is subject to the jurisdiction of the governing body.**

7 (4) "Executive session" means any meeting or part of a meeting of a governing body that is
8 closed to certain persons for deliberation on certain matters.

9 (5) "Governing body" means the members of any public body that consists of two or more
10 members, with the authority to make decisions for or recommendations to a public body on policy
11 or administration.

12 (6)(a) "Meeting" means the convening of a governing body of a public body for which a quorum
13 is required in order to make a decision or to deliberate toward a decision on any matter.

14 (b) "Meeting" does not include any on-site inspection of any project or program or the attend-
15 ance of members of a governing body at any national, regional or state association to which the
16 public body or the members belong.

17 (7) "Public body" means the state, any regional council, county, city or district, or any municipal
18 or public corporation, or any board, department, commission, council, bureau, committee or sub-
19 committee or advisory group or any other agency thereof.

20 **SECTION 2.** ORS 192.630 is amended to read:

21 192.630. (1) All meetings of the governing body of a public body shall be open to the public and
22 all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192.610
23 to 192.705.

24 (2) A quorum of a governing body may not meet in private **or use a series of communications**
25 **of any kind, either directly or through intermediaries,** for the purpose of:

26 (a) Deciding on or deliberating toward a decision on any matter except as otherwise provided
27 by ORS 192.610 to 192.705; **or**

28 **(b) Circumventing the requirements of subsection (1) of this section.**

29 (3) A [*governing body may not*] **public body may not permit a governing body to** hold a
30 meeting at any place where discrimination on the basis of race, color, creed, sex, sexual orientation,
31 gender identity, national origin, age or disability is practiced. However, the fact that organizations
32 with restricted membership hold meetings at the place does not restrict its use by a public body if
33 use of the place by a restricted membership organization is not the primary purpose of the place
34 or its predominant use.

35 (4)(a) Meetings of the governing body of a public body shall be held:

36 (A) Within the geographic boundaries over which the public body has jurisdiction;

37 (B) At the administrative headquarters of the public body;

38 (C) At the nearest practical location; or

39 (D) If the public body is a state, county, city or special district entity, within Indian country of
40 a federally recognized Oregon Indian tribe that is within the geographic boundaries of this state.
41 For purposes of this subparagraph, "Indian country" has the meaning given that term in 18 U.S.C.
42 1151.

43 (b) Training sessions may be held outside the jurisdiction as long as no deliberations toward a
44 decision are involved.

45 (c) A joint meeting of two or more governing bodies or of one or more governing bodies and the

1 elected officials of one or more federally recognized Oregon Indian tribes shall be held within the
2 geographic boundaries over which one of the participating public bodies or one of the Oregon Indian
3 tribes has jurisdiction or at the nearest practical location.

4 (d) Meetings may be held in locations other than those described in this subsection in the event
5 of an actual emergency necessitating immediate action.

6 (5)(a) It is discrimination on the basis of disability for a governing body of a public body to meet
7 in a place inaccessible to persons with disabilities, or, upon request of a person who is deaf or hard
8 of hearing, to fail to make a good faith effort to have an interpreter for persons who are deaf or
9 hard of hearing provided at a regularly scheduled meeting. The sole remedy for discrimination on
10 the basis of disability shall be as provided in ORS 192.680.

11 (b) The person requesting the interpreter shall give the governing body at least 48 hours' notice
12 of the request for an interpreter, shall provide the name of the requester, sign language preference
13 and any other relevant information the governing body may request.

14 (c) If a meeting is held upon less than 48 hours' notice, reasonable effort shall be made to have
15 an interpreter present, but the requirement for an interpreter does not apply to emergency meetings.

16 (d) If certification of interpreters occurs under state or federal law, the Oregon Health Author-
17 ity or other state or local agency shall try to refer only certified interpreters to governing bodies
18 for purposes of this subsection.

19 (e) As used in this subsection, "good faith effort" includes, but is not limited to, contacting the
20 department or other state or local agency that maintains a list of qualified interpreters and ar-
21 ranging for the referral of one or more qualified interpreters to provide interpreter services.

22 **SECTION 3.** ORS 192.640 is amended to read:

23 192.640. (1) [*The governing body of*] A public body shall provide for and give public notice, rea-
24 sonably calculated to give actual notice to interested persons including news media which have re-
25 quested notice, of the time and place for holding regular meetings **of each of its governing**
26 **bodies**. The notice shall also include a list of the principal subjects anticipated to be considered at
27 the meeting, but this requirement shall not limit the ability of a governing body to consider addi-
28 tional subjects.

29 (2) If an executive session only will be held, the notice shall be given to the members of the
30 governing body, to the general public and to news media which have requested notice, stating the
31 specific provision of law authorizing the executive session.

32 (3) No special meeting shall be held without at least 24 hours' notice to the members of the
33 governing body, the news media which have requested notice and the general public. In case of an
34 actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances,
35 but the minutes for such a meeting shall describe the emergency justifying less than 24 hours' no-
36 tice.

37 **SECTION 4.** ORS 192.650 is amended to read:

38 192.650. (1) [*The governing body of*] A public body shall provide for the sound, video or digital
39 recording or the taking of written minutes of all [*its*] meetings **for each of its governing bodies**.
40 Neither a full transcript nor a full recording of the meeting is required, except as otherwise pro-
41 vided by law, but the written minutes or recording must give a true reflection of the matters dis-
42 cussed at the meeting and the views of the participants. All minutes or recordings shall be available
43 to the public within a reasonable time after the meeting, and shall include at least the following
44 information:

45 (a) All members of the governing body present;

1 (b) All motions, proposals, resolutions, orders, ordinances and measures proposed and their dis-
2 position;

3 (c) The results of all votes and, except for public bodies consisting of more than 25 members
4 unless requested by a member of that body, the vote of each member by name;

5 (d) The substance of any discussion on any matter; and

6 (e) Subject to ORS 192.311 to 192.478 relating to public records, a reference to any document
7 discussed at the meeting.

8 (2) Minutes of executive sessions shall be kept in accordance with subsection (1) of this section.
9 However, the minutes of a hearing held under ORS 332.061 shall contain only the material not ex-
10 cluded under ORS 332.061 (2). Instead of written minutes, a record of any executive session may be
11 kept in the form of a sound or video tape or digital recording, which need not be transcribed unless
12 otherwise provided by law. If the disclosure of certain material is inconsistent with the purpose for
13 which a meeting under ORS 192.660 is authorized to be held, that material may be excluded from
14 disclosure. However, excluded materials are authorized to be examined privately by a court in any
15 legal action and the court shall determine their admissibility.

16 (3) A reference in minutes or a recording to a document discussed at a meeting of a governing
17 body of a public body does not affect the status of the document under ORS 192.311 to 192.478.

18 (4) A public body may charge a person a fee under ORS 192.324 for the preparation of a tran-
19 script from a recording.

20 **SECTION 5.** ORS 192.670 is amended to read:

21 192.670. (1) Any meeting, including an executive session, of a governing body of a public body
22 [*which is held through the use of telephone or other electronic communication*] shall be conducted in
23 accordance with ORS 192.610 to 192.705, **and may be held in person, through the use of elec-**
24 **tronic or telephonic means or in some combination of in-person, electronic or telephonic**
25 **means.**

26 (2) When telephone or other electronic means of communication is used and the meeting is not
27 an executive session, the governing body of the public body shall make available to the public at
28 least one place where, or at least one electronic means by which, the public can listen to the com-
29 munication at the time it occurs. A place provided may be a place where no member of the gov-
30 erning body of the public body is present.

31 (3) All meetings held by a governing body of a public body, excluding executive sessions, must
32 provide to members of the general public, to the extent reasonably possible, an opportunity to:

33 (a) Access and attend the meeting by telephone, video or other electronic or virtual means;

34 (b) If in-person oral testimony is allowed, submit during the meeting oral testimony by telephone,
35 video or other electronic or virtual means; and

36 (c) If in-person written testimony is allowed, submit written testimony, including by electronic
37 mail or other electronic means, so that the governing body is able to consider the submitted testi-
38 mony in a timely manner.

39 (4) The provisions of subsection (3) of this section:

40 (a) Apply to hearings under ORS 197.797, 215.402 to 215.438 and 215.700 to 215.780 regardless
41 of whether a governing body or governing body's designee, including a hearings officer, conducts the
42 hearing; and

43 (b) Do not apply to contested case hearings under ORS chapter 183.

44 **SECTION 6.** ORS 192.685 is amended to read:

45 192.685. (1)(a) Notwithstanding ORS 192.680, complaints of violations of any provision of ORS

1 192.610 to 192.705 alleged to have been committed by public officials **or by a public body** may be
2 made to the Oregon Government Ethics Commission for review and investigation as provided by
3 ORS 244.260 and for possible imposition of civil penalties as provided by ORS 244.350.

4 (b) If at any time the commission has reason to believe that there has been a violation of ORS
5 192.660, the commission may proceed under this section and as provided by ORS 244.260 on its own
6 motion as if the commission had received a complaint.

7 (2) A complainant may not file a complaint with the commission under this section unless the
8 complainant has complied with the written grievance procedures described in ORS 192.705 and:

9 (a) Has received a response from the public body that denies that a violation of ORS 192.610 to
10 192.705 occurred;

11 (b) Has received a response from the public body that admits that a violation of ORS 192.610 to
12 192.705 occurred that the public body has failed to take adequate steps to cure; or

13 (c) Has not received a response from the public body within the time prescribed for a response
14 under ORS 192.705.

15 (3) A complainant shall submit documentation of the complainant's actions taken under ORS
16 192.705 and the public body's **initial** response as described in subsection (2) of this section **and ORS**
17 **192.705**, if any. **Except as provided under subsection (1)(b) of this section**, the commission [*shall*
18 *dismiss any complaint filed under this section that does not satisfy*] **may not consider a complaint**
19 **to be filed under this section if the complainant has not satisfied** the requirements of subsection
20 (2) of this section.

21 (4) If a complaint satisfies the requirements of subsection (2) of this section, the commission may
22 interview witnesses, review minutes and other records and obtain and consider any other informa-
23 tion pertaining to meetings of the governing body of a public body for purposes of determining
24 whether a violation of ORS 192.610 to 192.705 occurred. Information related to an executive session
25 conducted for a purpose authorized by ORS 192.660 shall be made available to the Oregon Govern-
26 ment Ethics Commission for its investigation but shall be excluded from public disclosure.

27 (5) If the commission chooses not to pursue a complaint of a violation brought under subsection
28 (1) of this section at any time before conclusion of a contested case hearing, the public official
29 against whom the complaint was brought may be entitled to reimbursement of reasonable costs and
30 attorney fees by the public body to which the official's governing body has authority to make rec-
31 ommendations or for which the official's governing body has authority to make decisions.

32 **(6) This section does not apply to any complaint of a violation of any provision of ORS**
33 **192.610 to 192.705 alleged to have been committed by one or more members of the commis-**
34 **sion. The exclusive remedy for a complaint described in this subsection is to proceed under**
35 **ORS 192.680.**

36 **SECTION 7.** ORS 192.690 is amended to read:

37 192.690. (1) ORS 192.610 to 192.705 do not apply to any of the following:

38 (a) Deliberations of the Psychiatric Security Review Board or the State Board of Parole and
39 Post-Prison Supervision.

40 (b) Deliberations of state agencies conducting hearings on contested cases in accordance with
41 the provisions of ORS chapter 183.

42 (c) Deliberations of the Workers' Compensation Board or the Employment Appeals Board of
43 similar hearings on contested cases.

44 (d) Meetings of the state lawyers assistance committee operating under the provisions of ORS
45 9.568.

1 (e) Meetings of the personal and practice management assistance committees operating under
2 the provisions of ORS 9.568.

3 (f) Meetings of county child abuse multidisciplinary teams required to review child abuse cases
4 in accordance with the provisions of ORS 418.747.

5 (g) Meetings of child fatality review teams required to review child fatalities in accordance with
6 the provisions of ORS 418.785.

7 (h) Meetings of peer review committees in accordance with the provisions of ORS 441.055.

8 (i) Mediation conducted under ORS 36.252 to 36.268.

9 (j) Any judicial proceeding.

10 (k) Meetings of the Oregon Health and Science University Board of Directors or its designated
11 committee regarding candidates for the position of president of the university or regarding sensitive
12 business, financial or commercial matters of the university not customarily provided to competitors
13 related to financings, mergers, acquisitions or joint ventures or related to the sale or other dispo-
14 sition of, or substantial change in use of, significant real or personal property, or related to health
15 system strategies.

16 (L) Oregon Health and Science University faculty or staff committee meetings.

17 (m) Meetings of Transfer Council subcommittees that are established under ORS 350.426 and
18 that relate to the common course numbering system and the coordination, establishment, alignment,
19 effectiveness and maintenance of foundational curricula or unified statewide transfer agreements.

20 (n) Communications between or among members of a governing body that *[are]*:

21 *[(A) Purely factual or educational in nature and that convey no deliberation or decision on any*
22 *matter that might reasonably come before the governing body;]*

23 **(A) Are related purely to procedural matters and convey no deliberation or decision on**
24 **the substance of the matter in question;**

25 **(B) Contain only factual or educational information or that share the views of someone**
26 **other than a member of the governing body, including but not limited to published articles**
27 **or constituent letters;**

28 **(C) Are made to representatives of the news media, constituents, members of the public**
29 **or other persons, unless the persons are being used as intermediaries to allow the governing**
30 **body to engage in deliberations or make a decision;**

31 **(D) Are made for the purpose of gathering information related to a decision that will be**
32 **deliberated upon or made by the governing body;**

33 *[(B)]* **(E) Except as otherwise provided in this paragraph, are** not related to any matter that,
34 at any time, could reasonably be foreseen to come before the governing body for deliberation and
35 decision; or

36 *[(C)]* **(F) Are** nonsubstantive in nature, such as communication relating to scheduling, leaves of
37 absence and other similar matters.

38 (2) Because of the grave risk to public health and safety that would be posed by misappropri-
39 ation or misapplication of information considered during such review and approval, ORS 192.610 to
40 192.705 shall not apply to review and approval of security programs by the Energy Facility Siting
41 Council pursuant to ORS 469.530.

42 **SECTION 8.** ORS 192.700 is amended to read:

43 192.700. (1)(a) The Oregon Government Ethics Commission shall annually prepare training on
44 the requirements of ORS 192.610 to 192.705 and best practices to enhance compliance with those
45 requirements. The commission may delegate the preparation and presentation of trainings to another

1 organization, except that the commission must approve the content of training prepared by another
2 organization prior to presentation of the training.

3 (b) At the discretion of the commission, trainings prepared under this section may be presented
4 in live sessions or be made available for viewing online. Training sessions may be presented to
5 multiple governing bodies at any one time and may be presented in a prerecorded format.

6 (2)(a) Every member of a governing body *[of a public body with total expenditures for a fiscal year*
7 *of \$1 million or more]* shall attend or view training prepared under this section at least once during
8 the member's term of office and shall verify the member's attendance using the method prescribed
9 by the commission, **if:**

10 (A) **The public body that the governing body governs has total expenditures for a fiscal**
11 **year of \$1 million or more; and**

12 (B) **The governing body has decision-making authority over the public body on questions**
13 **of policy or administration. For purposes of this paragraph, a governing body has authority**
14 **to make decisions on policy or administration if the governing body may exercise govern-**
15 **mental power on behalf of the public body.**

16 (b) **A member of a governing body that only has authority to make recommendations to**
17 **a public body on policy or administration is not required to attend training under this sec-**
18 **tion.**

19 *[(b)]* (c) A member of a governing body who *[, under paragraph (a) of this subsection,]* is not re-
20 quired to attend training is nevertheless encouraged to attend training given under this section.

21 (3) The commission shall, at least once every five years, adjust the expenditure threshold for
22 mandatory training described in subsection (2)(a) of this section to account for changes in inflation
23 and shall by rule establish a new threshold, rounded to the nearest \$100,000, for mandatory training
24 attendance under this section.

25 (4) **A member of a governing body who is required to attend or view training under this**
26 **section shall attend or view the training at any time between three months before assuming**
27 **office and 12 months after taking office.**

28 *[(4)]* (5) This section does not apply to governing bodies of state government, as defined in ORS
29 174.111.

30 **SECTION 9.** ORS 192.705 is amended to read:

31 192.705. (1) A person who believes that a governing body **or public body** has acted in violation
32 of ORS 192.610 to 192.705 may, within *[30]* **90** days of the alleged violation, file a written grievance
33 with the public body **who is alleged to have violated ORS 192.610 to 192.705 or** whose governing
34 body is alleged to have violated ORS 192.610 to 192.705, setting forth the specific facts and circum-
35 stances that the person asserts amounted to a violation of ORS 192.610 to 192.705. The grievance
36 must state the identity of the person filing the grievance and any other information required by the
37 Oregon Government Ethics Commission by rule.

38 (2) A public body receiving a written grievance filed under this section shall, within 21 days of
39 the receipt of the grievance, provide *[a]* **an initial** written response to the person $[:]$.

40 *[(a) Acknowledging receipt of the grievance; and]*

41 *[(b)(A) Denying that the facts and circumstances as set forth in the grievance accurately reflect the*
42 *conduct of the governing body and setting forth the facts and circumstances as determined by the public*
43 *body and the reasons why those facts and circumstances do not amount to a violation of ORS 192.610*
44 *to 192.705;]*

45 *[(B) Admitting that the facts and circumstances as set forth in the grievance accurately reflect the*

1 *conduct of the governing body but denying that those facts and circumstances amount to a violation*
2 *of ORS 192.610 to 192.705; or]*

3 *[(C) Admitting that the conduct of the governing body amounted to a violation of ORS 192.610 to*
4 *192.705 and setting forth the steps the governing body will take to cure the violation, including but not*
5 *limited to:]*

6 *[(i) Rescinding the decision taken by the governing body in violation of ORS 192.610 to 192.705;*
7 *or]*

8 *[(ii) Acknowledging in a properly noticed and conducted public meeting held within 45 days of the*
9 *governing body's original decision that:]*

10 *[(I) The original decision was made in violation of ORS 192.610 to 192.705;]*

11 *[(II) Good cause exists for the governing body to not rescind the decision; and]*

12 *[(III) The governing body's practices will be modified to ensure future violations of ORS 192.610*
13 *to 192.705 do not occur.]*

14 **(3) The public body or the governing body of the public body that has received a grievance**
15 **under this section may cure a violation described in the grievance by:**

16 **(a) Rescinding the decision taken by the public body or the governing body in violation**
17 **of ORS 192.610 to 192.705;**

18 **(b) Acknowledging in a properly noticed and conducted public meeting held within 90 days**
19 **of the public body's receipt of the grievance that:**

20 **(A) The original decision was made in violation of ORS 192.610 to 192.705;**

21 **(B) Good cause exists for the public body or the governing body to not rescind the deci-**
22 **sion; and**

23 **(C) The practices and procedures of the governing body and the public body will be mod-**
24 **ified to ensure that violations of ORS 192.610 to 192.705 do not occur; or**

25 **(c) Describing some other action the public body or governing body will take to ensure**
26 **compliance with ORS 192.610 to 192.705 and the date by which the action is to be imple-**
27 **mented.**

28 **(4) The public body that received a grievance under this section, or the governing body**
29 **of that public body, may cure a violation described in the grievance by correcting procedures**
30 **to ensure that the errors that led to a violation of ORS 192.610 to 192.705 do not occur in the**
31 **future.**

32 *[(3)] (5) The public body shall send a copy of the written grievance and the public body's **initial***
33 *response under this section to the Oregon Government Ethics Commission at the time the public*
34 *body responds to the person who filed the grievance.*

35 **SECTION 10.** ORS 244.260 is amended to read:

36 244.260. (1)(a) Any person may file with the Oregon Government Ethics Commission a signed or
37 electronically signed written complaint alleging that there has been a violation of either:

38 (A) Any provision of this chapter or of any rule adopted by the commission under this chapter.
39 The complaint shall state the person's reason for believing that a violation occurred and include any
40 evidence relating to the alleged violation.

41 (B) ORS 192.610 to 192.705. The complaint shall state the particulars of meetings of a governing
42 body **or actions of a public body** that were not in compliance with ORS 192.610 to 192.705 and shall
43 state the person's reason for believing that a violation occurred. The person shall include any evi-
44 dence relating to the alleged violation with the complaint.

45 (b) If at any time the commission has reason to believe that there has been a violation of a

1 provision of this chapter or ORS 192.660 or a rule adopted by the commission under this chapter,
2 the commission may proceed under this section on its own motion as if the commission had received
3 a complaint.

4 (2)(a) Not later than two business days after receiving a complaint under this section, the com-
5 mission shall notify the person **or public body** who is the subject of the complaint.

6 (b) Before approving a motion to proceed under this section without a complaint, the commission
7 shall provide notice to the person believed to have committed the violation of the time and place
8 of the hearing at which the motion will be discussed. If the commission decides to proceed on its
9 own motion, the commission shall give notice to the person not later than two business days after
10 the motion is approved.

11 (c) The commission shall give notice of the complaint or motion under paragraph (a) or (b) of
12 this subsection. The notice must describe the nature of the alleged violation. The notice must in-
13 clude copies of all materials submitted with a complaint. If the commission will consider a motion
14 to proceed without a complaint, the notice must provide copies of all materials that the commission
15 will consider at the hearing on the motion.

16 (d) Information that the commission considers before approving a motion to proceed on its own
17 motion under this section and any correspondence regarding the motion or potential violation is
18 confidential. The executive director of the commission and the commission members and staff may
19 not make any public comment or publicly disclose any materials relating to the motion pending the
20 commission's approval to proceed. A person who intentionally violates this paragraph is subject to
21 a civil penalty in an amount not to exceed \$1,000. Any person aggrieved as a result of a violation
22 of this paragraph by the executive director or a member of the commission or its staff may file a
23 petition in a court of competent jurisdiction in the county in which the petitioner resides in order
24 to enforce the civil penalty provided in this paragraph.

25 (3) After the commission receives a complaint or decides to proceed on its own motion, the
26 executive director of the commission shall undertake action in the Preliminary Review Phase to
27 determine whether there is cause to undertake an investigation. If the person who is the subject
28 of the action is a member of the Legislative Assembly, the executive director shall determine
29 whether the alleged violation involves conduct protected by Article IV, section 9, of the Oregon
30 Constitution.

31 (4)(a) The Preliminary Review Phase begins on the date the complaint is filed or the date the
32 commission decides to proceed on its own motion and ends on the date the executive director com-
33 pletes the statement of the facts determined during the phase under paragraph (d) of this subsection.
34 The Preliminary Review Phase may not exceed 60 days unless a complaint is filed under this section
35 with respect to a person who is a candidate for elective public office, the complaint is filed within
36 61 days before the date of an election at which the person is a candidate for nomination or election
37 and a delay is requested in writing by the candidate. If the candidate makes a request under this
38 paragraph, the Preliminary Review Phase must be completed not later than 60 days after the date
39 of the election.

40 (b) During the Preliminary Review Phase, the executive director of the commission may seek,
41 solicit or otherwise obtain any books, papers, records, memoranda or other additional information,
42 administer oaths and take depositions necessary to determine whether there is cause to undertake
43 an investigation or whether the alleged violation involves conduct protected by Article IV, section
44 9, of the Oregon Constitution.

45 (c) The Preliminary Review Phase is confidential. The executive director of the commission and

1 any commission members and staff may acknowledge receipt of a complaint but may not make any
2 public comment or publicly disclose any materials relating to a case during the Preliminary Review
3 Phase. A person who intentionally violates this paragraph is subject to a civil penalty in an amount
4 not to exceed \$1,000. Any person aggrieved as a result of a violation of this paragraph by the
5 executive director or a member of the commission or its staff may file a petition in a court of com-
6 petent jurisdiction in the county in which the petitioner resides in order to enforce the civil penalty
7 provided in this paragraph.

8 (d)(A) At the end of the Preliminary Review Phase, the executive director of the commission
9 shall prepare a statement of the facts determined during the phase, including appropriate legal ci-
10 tations and relevant authorities. Before presentation to the commission, the executive director's
11 statement shall be reviewed by legal counsel to the commission.

12 (B) Following the conclusion of the Preliminary Review Phase, the executive director of the
13 commission shall attend an executive session of the commission where the executive director shall
14 present the statement of the facts and summarize the results of the Preliminary Review Phase to the
15 commission and recommend to the commission whether there is cause to undertake an investigation
16 or whether the commission should instead dismiss the complaint or rescind its motion.

17 (C) At the executive session, the commission shall consider the recommendation of the executive
18 director and make the final determination as to whether there is cause to undertake an investigation
19 or whether the commission should instead dismiss the complaint or rescind its motion.

20 (D) All case related materials and proceedings shall be open to the public after the commission
21 makes a finding of cause to undertake an investigation, dismisses a complaint or rescinds a motion.

22 (e) The time limit imposed in this subsection and the commission's inquiry are suspended if a
23 court has enjoined the executive director or the commission from continuing the inquiry.

24 (5)(a) If the commission determines that there is not cause to undertake an investigation or that
25 the alleged violation of this chapter involves conduct protected by Article IV, section 9, of the
26 Oregon Constitution, the commission shall dismiss the complaint or rescind its motion and formally
27 enter the dismissal or rescission in its records. If the commission considers the recommendation of
28 the executive director in an executive session but the commission does not affirmatively vote to
29 undertake an investigation, dismiss the complaint or rescind its motion, the nonaction taken by the
30 commission shall be considered a dismissal of the complaint or a rescission of its motion. The com-
31 mission shall notify the person **or public body** who is the subject of action under this section of the
32 dismissal or rescission. After dismissal or rescission, the commission may not take further action
33 involving the person **or public body** unless a new and different complaint is filed or action on the
34 commission's own motion is undertaken based on different conduct.

35 (b) If the commission makes a finding of cause to undertake an investigation, the commission
36 shall undertake action in the Investigatory Phase. The commission shall notify the person **or public**
37 **body** who is the subject of the investigation, identify the issues to be examined and confine the in-
38 vestigation to those issues. If the commission finds reason to expand the investigation, the commis-
39 sion shall move to do so, record in its minutes the issues to be examined before expanding the scope
40 of its investigation and formally notify the complainant, if any, and the person **or public body** who
41 is the subject of the investigation of the expansion and the scope of the investigation.

42 (6)(a) The Investigatory Phase begins on the date the commission makes a finding of cause to
43 undertake an investigation and ends on the date the commission dismisses the complaint, rescinds
44 its own motion, issues a settlement order, moves to commence a contested case proceeding or takes
45 other action justified by the findings. Except as provided in this subsection, the Investigatory Phase

1 may not exceed 180 days unless a delay is stipulated to by both the person **or public body** who is
2 the subject of action under this section and the commission with the commission reserving a portion
3 of the delay period to complete its actions.

4 (b) During the Investigatory Phase, the commission may seek any additional information, ad-
5 minister oaths, take depositions and issue subpoenas to compel attendance of witnesses and the
6 production of books, papers, records, memoranda or other information necessary to complete the
7 investigation. If any person fails to comply with any subpoena issued under this paragraph or refuses
8 to testify on any matters on which the person may be lawfully interrogated, the commission shall
9 follow the procedure described in ORS 183.440 to compel compliance.

10 (c) The time limit imposed in this subsection and the commission's investigation:

11 (A) May be suspended if there is a pending criminal investigation that relates to the issues
12 arising out of the underlying facts or conduct at issue in the matter before the commission and the
13 commission determines that it cannot adequately complete its investigation until the pending crimi-
14 nal investigation is complete;

15 (B) May be suspended if a suit is commenced under ORS 192.680 concerning the same meetings
16 of a governing body that are the subject of the investigation by the commission, until a final adju-
17 dication of the suit has been made; or

18 (C) Are suspended if a court has enjoined the commission from continuing its investigation.

19 (d) At the end of the Investigatory Phase, the commission shall take action by order. The action
20 may include:

21 (A) Dismissal, with or without comment;

22 (B) Continuation of the investigation for a period not to exceed 30 days for the purpose of ad-
23 ditional fact-finding;

24 (C) Moving to a contested case proceeding;

25 (D) Entering into a negotiated settlement; or

26 (E) Taking other appropriate action if justified by the findings.

27 (e) The commission may move to a contested case proceeding if the commission determines that
28 the information presented to the commission is sufficient to make a preliminary finding of:

29 (A) A violation of any provision of this chapter or of any rule adopted by the commission under
30 this chapter; or

31 (B) A violation of any provision of ORS 192.610 to 192.705.

32 (7) A person conducting any inquiry or investigation under this section shall:

33 (a) Conduct the inquiry or investigation in an impartial and objective manner; and

34 (b) Provide to the executive director or the commission all favorable and unfavorable informa-
35 tion the person collects.

36 (8) The commission shall report the findings of any inquiry or investigation in an impartial
37 manner. The commission shall report both favorable and unfavorable findings and shall make the
38 findings available to:

39 (a) The person, **governing body or public body** who is the subject of the inquiry or investi-
40 gation;

41 (b) The appointing authority, if any;

42 (c) The Attorney General, if the findings relate to a state public official;

43 (d) The appropriate district attorney, if the findings relate to a local public official;

44 (e) The Commission on Judicial Fitness and Disability, if the findings relate to a judge; and

45 (f) The governing body of a public body, if the inquiry or investigation concerns an alleged vi-

1 olation of ORS 192.610 to 192.705 and the person who is the subject of the inquiry or investigation
2 is a member of that governing body.

3 (9) Hearings conducted under this chapter must be held before an administrative law judge as-
4 signed from the Office of Administrative Hearings established under ORS 183.605. The procedure
5 shall be that for a contested case under ORS chapter 183.

6 (10) The Oregon Government Ethics Commission may not inquire into or investigate any conduct
7 that occurred more than four years before a complaint is filed or a motion is approved under sub-
8 section (1) of this section.

9 (11) This section does not prevent the commission and the person **or public body** alleged to have
10 violated any provision of this chapter or ORS 192.660 or any rule adopted by the commission under
11 this chapter from stipulating to a finding of fact concerning the violation and consenting to an ap-
12 propriate penalty. The commission shall enter an order based on the stipulation and consent.

13 (12) At any time during proceedings conducted under this section, the commission may enter
14 into a negotiated settlement with the person **or public body** who is the subject of action under this
15 section.

16 (13) As used in this section:

17 (a) "Cause" means that there is a substantial, objective basis for believing that an offense or
18 violation may have been committed and the person who is the subject of an inquiry may have com-
19 mitted the offense or violation.

20 (b) "Governing body" has the meaning given that term in ORS 192.610.

21 (c) "Pending" means that a prosecuting attorney is either actively investigating the factual basis
22 of the alleged criminal conduct, is preparing to seek or is seeking an accusatory instrument, has
23 obtained an accusatory instrument and is proceeding to trial or is in trial or in the process of ne-
24 gotiating a plea.

25 **SECTION 11.** ORS 244.350 is amended to read:

26 244.350. (1) The Oregon Government Ethics Commission may impose civil penalties not to ex-
27 ceed:

28 (a) Except as provided in paragraphs (b), (c) and (d) of this subsection, \$5,000 for violation of
29 any provision of this chapter or any resolution adopted under ORS 244.160.

30 (b) \$25,000 for violation of ORS 244.045.

31 (c) \$10,000 for willfully violating ORS 244.040.

32 (d) Two times the amount of the penalty provision for violating a nondisclosure agreement that
33 is contained within each nondisclosure agreement entered into in violation of ORS 244.049.

34 (2)(a) Except as provided in paragraph (b) of this subsection, the commission may impose civil
35 penalties not to exceed \$1,000 for violation of any provision of ORS 192.610 to 192.705.

36 (b) A civil penalty may not be imposed under this subsection if the violation occurred as a result
37 of **the public body or** the governing body of the public body acting upon the advice of the public
38 body's counsel.

39 (3) The commission may impose civil penalties not to exceed \$250 for violation of ORS 293.708.
40 A civil penalty imposed under this subsection is in addition to and not in lieu of a civil penalty that
41 may be imposed under subsection (1) of this section.

42 (4)(a) The commission may impose civil penalties on a person who fails to file the statement
43 required under ORS 244.050 or 244.217. In enforcing this subsection, the commission is not required
44 to follow the procedures in ORS 244.260 before finding that a violation of ORS 244.050 or 244.217
45 has occurred.

1 (b) Failure to file the required statement in timely fashion is prima facie evidence of a violation
2 of ORS 244.050 or 244.217.

3 (c) The commission may impose a civil penalty of \$10 for each of the first 14 days the statement
4 is late beyond the date set by law, or by the commission under ORS 244.050, and \$50 for each day
5 thereafter. The maximum penalty that may be imposed under this subsection is \$5,000.

6 (5) In lieu of or in conjunction with finding a violation of law or any resolution or imposing a
7 civil penalty under this section, the commission may issue a written letter of reprimand, explanation
8 or education.

9 (6)(a) A civil penalty imposed under this section **against a public official** for a violation of ORS
10 192.610 to 192.705 is a personal liability of each member of the governing body on whom the penalty
11 is imposed and may not be paid for or indemnified by the governing body or public body that the
12 member is associated with.

13 **(b) A civil penalty imposed against a public body under this section for a violation of ORS**
14 **192.610 to 192.705 is a liability of the public body against whom the penalty is imposed and**
15 **shall be paid by the public body.**

16 **(c) Notwithstanding paragraph (a) of this subsection, a civil penalty imposed under this**
17 **section for an administrative error that amounts to a violation of ORS 192.610 to 192.705 is**
18 **a liability of the public body and may not be paid for by a public official associated with the**
19 **public body.**

20 [(b)] (d) As used in this subsection, “governing body” and “public body” have the meanings given
21 those terms in ORS 192.610.

22 **SECTION 12. In addition to and not in lieu of any other appropriation, there is appro-**
23 **priated to the Oregon Government Ethics Commission, for the biennium ending June 30,**
24 **2027, out of the General Fund, the amount of \$325,950 to carry out the amendments to ORS**
25 **192.610, 192.630, 192.640, 192.650, 192.670, 192.685, 192.690, 192.700, 192.705, 244.260 and 244.350**
26 **by sections 1 to 11 of this 2026 Act.**

27 **SECTION 13. This 2026 Act takes effect on the 91st day after the date on which the 2026**
28 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**