



## MEMORANDUM

DATE: February 18, 2026

TO: Chair Ben Bowman and Members of the House Rules Committee

FROM: Susan Myers, Executive Director *SM*  
Oregon Government Ethics Commission

SUBJECT: House Bill 4177, including the -2 Amendment

As there was not time in yesterday's public hearing for OGEC to complete its testimony on HB 4177, I wanted to take this opportunity to provide these additional comments.

**§5 – ORS 192.690(1)(m)(D)** – the new exception provides that the Public Meetings Law does not apply to communications made for the purpose of gathering information relating to a decision that will be made or deliberated upon.

This exception would allow governing body members to meet in private and/or communicate privately with each other, outside of any public meeting, in order to gather information. Much of the information gathering that normally occurs in public meetings (work sessions or executive sessions) could instead be done privately.

Consider city councilors engaged in hiring a new city administrator. They would normally conduct candidate interviews in executive session, under ORS 192.660(2)(a). As the purpose of the interviews is to gather information relating to a decision to be made, this new exception means they wouldn't have to hold that executive session. They could instead conduct all of the candidate interviews privately, with no meeting notice, no minutes or recordings, and no news media observers.

**§8 and §9 – ORS 244.260 and ORS 244.350** – The purpose of these sections was to create a way for the Commission to hold the public body responsible for the "administrative errors." The problem with the bill's language is it would still require the Commission to open cases on each individual governing body member and then separately open a case against the public body. This creates the possibility of the cases proceeding on separate timelines, with potentially conflicting results.

The language in the -2 Amendment was crafted as an attempt to avoid this issue by specifying which provisions the governing body members will be held responsible for and which provisions the public body will be held responsible for. While this language might be an improvement over the original language in the bill, OGEC remains concerned that there

are a number of procedural and operational impediments that still need to be analyzed and addressed:

- How would the contested case process work against the public bodies? against state agencies? For cases against state agencies, would OGEC be required to engage outside legal counsel because DOJ would be conflicted?
- Is OGEC statutorily authorized to assess civil penalties against public bodies? And if so, is there a process through which we would be able to collect those penalties?
- Does the addition of public body to the two specific statutes and then throughout ORS 244.260 solve the dual case problem? Would we still be required to open cases on the individual governing body members because of the language in ORS 192.685(1)?

OGEC needs time to analyze the implications of the proposal and to answer these and other questions regarding whether the proposal could be made to work and if so, what other statutory changes would need to be made. Further consideration of this proposal, and any alternatives, could be done in a future workgroup and brought forward in the 2027 long session.