

COURTNEY NERON
STATE REPRESENTATIVE
DISTRICT 26



Testimony in Support of HB 4140

February 10, 2022

Chair Smith Warner, Vice-Chairs Breese-Iverson and Fahey, and members of the House Rules Committee,

For the record, I am Courtney Neron, State Representative for House District 26, which includes communities from Wilsonville to Hillsboro along the urban growth boundary line. Thank you for hearing House Bill 4140 this morning. It is a bill to ensure public meeting law training and grant ethics commission authority to respond to violations.

I want to begin by expressing my gratitude for anyone serving through the pandemic challenges. The tasks that many of our boards and commissions have taken on in recent years have been notably different from pre-COVID times. From racial tension to the public health crisis, to unprecedented federal dollars to distribute, to extreme weather events, thank you for showing up to serve on our Oregon boards and commissions.

I firmly believe the vast majority of public servants are serving with the best of intentions and are open to learning how to serve Oregon better. Unfortunately, I have also learned that our public meeting laws assume best intention and there really isn't an appropriate mechanism to hold an individual accountable when they mistakenly violate these laws or worse, when they willfully violate laws that exist to serve the public process.

This is a bill that has come from my growing awareness of how our public meeting laws serve the public trust and how we lack equitable enforcement of these laws. Essentially, when there is a fox in the hen house, we do not have a way to enforce removal and instead look the other way. I have heard from local electeds that they want training in public meeting law and this ensures it is available. I believe that providing tools for public officials to learn and understand public meeting laws can reduce the number of violations overall, build integrity, and bring more community voices to the table.

My goal in bringing forward HB4140 for consideration is to ensure that IF an individual is serving who does not have the intention of upholding their oath of office and does not respect their personal impact and responsibility to Oregon laws and order, that we embed systemic solutions so that an individual cannot perpetuate harm or make a mockery of our democracy.

Oregon's open government laws promote democracy, transparency, and fairness. As the "whereas" clauses in the bill highlight:

- Transparency in government proceedings is a cornerstone of representative, participatory democracy in this state.
- Our Oregon public meetings law, ORS 192.610 to 192.690, was enacted almost 50 years ago to ensure that Oregonians had complete access to decision-making and the reasons underlying decisions by government bodies.
- Over the decades there have been instances of governing bodies and public officials being out of compliance with the public meetings law.
- Oregonians who seek to enforce the public meetings law must generally seek enforcement in court, which often is a significant barrier that is out of reach to many.
- The Oregon Government Ethics Commission is currently charged with enforcing the ethics laws and a portion of the public meetings law that concerns executive sessions.
- The Oregon Government Ethics Commission has approached enforcement of the laws over which it has jurisdiction with a **primary emphasis on education and training**, while reserving imposition of civil penalties and other more rigorous enforcement to egregious or repeated violations.
- The Oregon Government Ethics Commission is well-positioned to take on an expanded role in enforcement of the public meetings law with an emphasis on education and training while reserving stronger enforcement measures for public meetings law violations that constitute intentional disregard of the law or willful misconduct;

So to reiterate, the Oregon's Government Ethics Commission (OGEC) currently does **not** have the authority to enforce open meetings law. Many people, myself included until recently, presume that they oversee all public meeting law, but they only do that for the Legislature. Instead, OGEC consistently spends time responding to individuals who are concerned about officials across Oregon not following open meetings laws. Parts of a letter they recently sent out: "The Commission has no jurisdiction over illegal meetings, public notice, or any other alleged violation of public meetings law other than ORS192.660..." and goes on to describe that "The attorney general publishes a "Public Records and Meetings Manual" on its webpage. Pages 135-146 discuss the fact that there is no public body in Oregon that enforces the public meeting law and that individuals harmed by illegal meetings, must sue in court for a remedy." It then says, "Because your allegations do not fall within the jurisdiction of the Commission, which has no authority to investigate [this subject], no action will be taken at this time based upon the information submitted."

So again, currently, the only way Oregonians can respond to hold officials accountable for public meeting violations is by filing a lawsuit, or recalling them, which frankly, are often a mismatch for low-level violation and more importantly, are not equitable processes as they leave out many Oregonians who do not have the time, financial resources, confidence to take on elected officials in power, legal expertise to go to court, or ability to organize a recall. I don't believe that it should only be the wealthiest and savviest Oregonians who are able to hold public officials accountable for mismanagement and malfeasance, I believe any Oregonian, and the Ethics Commission of their own motion should be able able to raise a concern and that our system be designed to respond appropriately.

HB 4140 ensures that public officials have access to the training needed to understand and comply with public meeting laws – a 2021 audit of OGEC by the Secretary of State actually pointed out the need to implement improved training requirements. It expands the complaint process for executive session violations to the rest of Oregon’s open public meeting laws, which makes the process more accessible for the average Oregonian and addresses a gap in our ability to respond to public meeting law violations.

I want to thank the Government Ethics Commission and our drafter for their collaboration, (I believe they are here to answer questions). I also want to thank stakeholders who offered feedback. As a result of feedback we received, I would like to request consideration of the [-2 amendment](#) that is posted to OLIS, and would like to briefly summarize the changes:

- **We have narrowed which elected and non-elected officials are required to take the training.**
 - The language describing which **non**-elected officials are required to be trained on public meeting law, is replaced with language which specifies that only officials who have a duty to provide and who customarily do provide legal advice on public meetings law or upper-level managerial advice on public meetings law to a governing body are required to take the training.)
 - For school districts only superintendents and those deputy or assistant superintendents of a school district who routinely and customarily work with the school board of the district are included. For Education service districts, only directors and superintendents are included. For public charter schools, only principals or executive directors are included.
- **We have language now that allows for training from member or professional organizations to be approved by OGEC and used to fulfill the training requirement.** (This is a staff level approval process.)
- **We have extended the operative date so that OGEC has time to adopt rules well in advance of the January 1, 2023 implementation.** (The amendment keeps the emergency clause in the bill so that it will take effect immediately, but puts in an operative date for all of the substantive provisions that says they do not become operative until January 1, 2023. This allows OGEC to adopt rules well in advance of when anything will actually happen under the bill.)

This is **not** just a school board issue, though that is where I first learned of the gap in oversight. This is an issue that has potential to be relevant in any board or commission and irrespective of party. Across the spectrum of political ideology, Oregonians are increasingly concerned about the potential for government corruption. Maintaining trust and integrity of our government requires us to be as transparent as possible about the decisions we make as public officials and explain what motivates us to make these decisions. I believe this is a good fix to ensure integrity and appropriate accountability going forward.

I urge your support for HB 4140. This is a bill about good governance and I look forward to hearing testimony and answering any questions you may have.

Thank you,

A handwritten signature in black ink that reads "Courtney Neron". The signature is written in a cursive style with a large initial 'C' and a long, sweeping underline.

Rep. Courtney Neron