

# Senate Bill 709

Sponsored by Senator LINTHICUM (Pre-session 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**.

Modifies public meeting notice requirements for meetings held in executive session. Removes labor negotiations exception for executive session.

## A BILL FOR AN ACT

1  
2 Relating to public meetings; amending ORS 192.640 and 192.660.

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

4 **SECTION 1.** ORS 192.640 is amended to read:

5 192.640. (1) The governing body of a public body shall provide for and give public notice, rea-  
6 sonably calculated to give actual notice to interested persons including news media [*which*] **that**  
7 have requested notice, of the time and place for holding regular meetings. The notice shall also in-  
8 clude a list of the principal subjects anticipated to be considered at the meeting, but this require-  
9 ment shall not limit the ability of a governing body to consider additional subjects.

10 (2) If an executive session only will be held, the notice shall be given to the members of the  
11 governing body, to the general public and to news media [*which*] **that** have requested notice, stating  
12 **the time and place for holding the meeting and** the specific provision of law authorizing the  
13 executive session.

14 (3) No special meeting shall be held without at least 24 hours' notice to the members of the  
15 governing body, **to the general public and to** [*the*] news media [*which*] **that** have requested notice  
16 [*and the general public*]. In case of an actual emergency, a meeting may be held upon such notice  
17 as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emer-  
18 gency justifying less than 24 hours' notice.

19 **SECTION 2.** ORS 192.660 is amended to read:

20 192.660. (1) ORS 192.610 to 192.690 do not prevent the governing body of a public body from  
21 holding executive session during a regular, special or emergency meeting, after the presiding officer  
22 has identified the authorization under ORS 192.610 to 192.690 for holding the executive session.

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

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

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

28 (c) To consider matters pertaining to the function of the medical staff of a public hospital li-  
29 censed pursuant to **rules adopted under** ORS 441.015 to 441.087 including, but not limited to, all  
30 clinical committees, executive, credentials, utilization review, peer review committees and all other  
31 matters relating to medical competency in the hospital.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (C) Generation, storage or conveyance of:

27 (i) Electricity;

28 (ii) Gas in liquefied or gaseous form;

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

30 (iv) Petroleum products;

31 (v) Sewage; or

32 (vi) Water.

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

34 (E) Data transmissions by whatever means provided.

35 (3) Labor negotiations, **including negotiations with any person designated to conduct labor**  
36 **negotiations on behalf of the governing body**, shall be conducted in open meetings [*unless*  
37 *negotiators for both sides request that negotiations be conducted in executive session. Labor negoti-*  
38 *ations conducted in executive session are not subject to the notification requirements of ORS 192.640*].

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

43 (5) When a governing body convenes an executive session under subsection (2)(h) of this section  
44 relating to conferring with counsel on current litigation or litigation likely to be filed, the governing  
45 body shall bar any member of the news media from attending the executive session if the member

1 of the news media is a party to the litigation or is an employee, agent or contractor of a news media  
 2 organization that is a party to the litigation.

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

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

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

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

8 (c) The consideration of general employment policies.

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

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

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

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

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

18 (8) A governing body may not use an executive session for purposes of evaluating a chief exec-  
 19 utive officer or other officer, employee or staff member to conduct a general evaluation of an agency  
 20 goal, objective or operation or any directive to personnel concerning agency goals, objectives, op-  
 21 erations or programs.

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

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

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

29 (10) Any person may submit to the Oregon Government Ethics Commission:

30 (a) A written request for the commission to issue and publish a commission advisory opinion  
 31 under ORS 244.280 on the application of this section to any actual or hypothetical circumstance;

32 (b) A written request for the executive director of the Oregon Government Ethics Commission  
 33 to issue and publish a staff advisory opinion under ORS 244.282 on the application of this section  
 34 to any actual or hypothetical circumstance; or

35 (c) A written or oral request for the executive director or other staff of the commission to issue  
 36 written or oral staff advice under ORS 244.284 on the application of this section to any actual or  
 37 hypothetical circumstance.

38 (11) Notwithstanding ORS 244.290, the Oregon Government Ethics Commission may not adopt  
 39 rules that establish what entities are considered representatives of the news media that are entitled  
 40 to attend executive sessions under subsection (4) of this section.