



CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY ATTORNEY

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Emergency Management, General Government, and Veterans Committee
Oregon State Capitol
900 Court St. NE, Hearing Room A
Salem, OR 97301

Re: House Bill 2805

Dear Chair Grayber and Members of the Committee:

Thank you for the opportunity to comment on HB 2805. The Office of the City Attorney provides legal services to the Portland City Council and to city bureaus, boards, commissions, and agencies. One of our roles is to assist city governing bodies in complying with state public meetings laws.

We appreciate the bill's emphasis on increased training and education related to public meetings laws. Nevertheless, we are concerned that HB 2805 will be challenging to implement because it contains unclear and undefined terms. These ambiguities will make it difficult to provide reliable public meetings advice, as described in more detail below.

Definition of "convening"

Section 1 of this bill defines "convening" which is a term used in the definition of "meeting" in ORS 192.610. The new language in Section 1 (ORS 192.610(1)(d)), which defines "convening" to include "using an intermediary to communicate among participants," is unclear and likely to cause confusion. First, the terms "intermediary" and "participants" are undefined. It is not clear from the bill when staff for an elected official, a city manager, a bureau director or even an interested community member is acting as an intermediary. Also, it is not clear whether "participants" means the people communicating or the members of the governing body.

Second, it is not clear what types of communication are covered by the definition. The definition appears to be so broad that it could prevent staff of elected officials and bureau directors from meeting with one another or with elected officials even if their conversations are for the purpose of conducting routine city work. This would adversely impact conveyance of basic project information and collaboration among staff and bureaus on important city initiatives.

To address this concern, we request that proposed ORS 192.610(1)(d) be deleted.

Definition of deliberation and exemptions from Public Meetings Law

Section 1 (3) of the bill defines “deliberation” as “discussion or communication that is a part of the decision-making process.” This is a very broad definition that encompasses almost any government communication. The term “deliberation” is used to describe certain exemptions from the public meetings law. In proposed ORS 192.690(1)(m)(A) (Section 2, page 2, lines 40-42), the public meetings rules do not apply to communications among members of a governing body that are “purely factual or educational in nature” and that “convey no deliberation or decision” on a matter that might reasonably come before the body. If (1)(m)(A) only exempts communications that are not communications on matters that might come before the body-- because deliberation simply means “discussion or communication”-- then this section has no meaning distinct from the exemption in (1)(m)(B) for communications not related to any matter that can come before the governing body. If it is communication related to city business, even if purely factual or educational, it is a “deliberation,” and (1)(m)(A) does not provide an exemption.

Further, it is not clear how the definition of “deliberation” and the language in the exemptions in proposed ORS 192.690(1)(m) relate to the inclusion of “intermediaries” in the definition of “convene” in Section 1. The bill creates potential confusion because it creates a new class of public meetings among intermediaries but does not clearly state that discussions among intermediaries would be exempt under the same terms as discussions amongst the members of the governing body itself. We would not know when to advise that a discussion among city staff, who might be considered “intermediaries,” would be considered communications that are not exempt from public meetings law under proposed Section 2, page 2, lines 40-42. This could greatly interfere with the day-to-day work of bureaus and the staff of elected officials.

We look forward to working with you to improve this legislation. Thank you again for the opportunity to comment.

Sincerely,



Linly F. Rees
Chief Deputy City Attorney