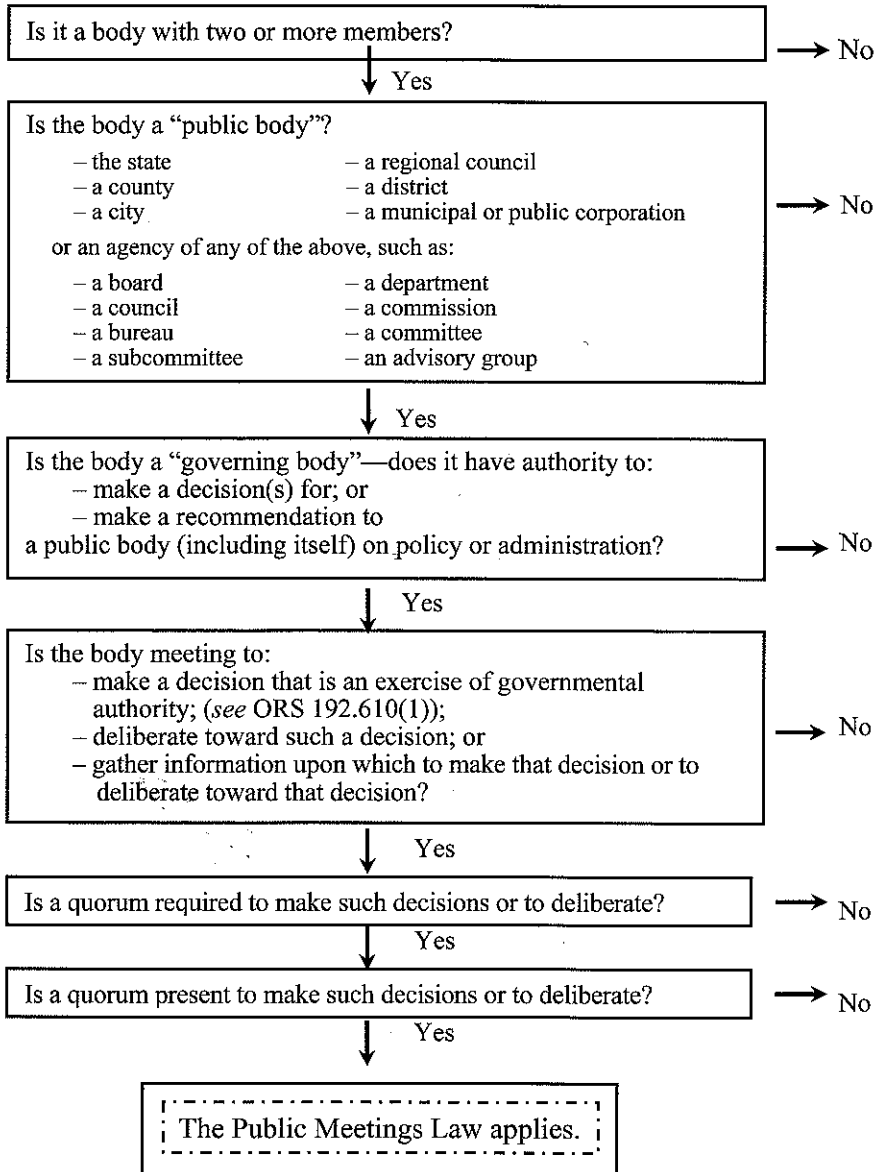


**Guide to Bodies Subject to Public Meetings Law**

This is a simplified guide to understanding when the meetings of a particular body are subject to the Public Meetings Law. For a discussion of the various elements, refer to the text of this manual.



**Public Meetings Checklist**

The Public Meetings Law applies to all meetings of a quorum of a governing body of a public body for which a quorum is required to make a decision or to deliberate toward a decision on any matter. This checklist is intended to assist governing bodies in complying with the provisions of this law; however, you should consult the appropriate section(s) of this manual for a complete description of the law's requirements.

- OPEN TO THE PUBLIC. Unless an executive session is authorized by statute, the meeting must be open to the public.
- NOTICE. The governing body must notify the public of the time and place of the meeting, as well as the principal subject to be discussed. Notice should be sent to:
  - News media;
  - Mailing lists; and
  - Other interested persons.

The notice for a regular meeting must be reasonably calculated to give "actual" notice of the meeting's time and place. Special meetings require at least 24-hours' notice. Emergency meetings may be called on less than 24-hours' notice, but the minutes must describe the emergency justifying less than 24-hours' notice.
- SPACE AND LOCATION
  - Space. The governing body should consider the probable public attendance and should meet where there is sufficient room for that expected attendance.
  - Geographic location. Meetings must be held within the geographic boundaries over which the public body has jurisdiction, at its administrative headquarters or at "the other nearest practical location."
  - Nondiscriminatory site. The governing body may not meet at a place where discrimination on the basis of race, color, creed, sex, sexual orientation, national origin, age or disability is practiced.
  - Smoking is prohibited.
- ACCESSIBILITY TO PERSONS WITH DISABILITIES

- Accessibility. Meetings must be held in places accessible to individuals with mobility and other impairments.
- Interpreters. The governing body must make a good faith effort to provide an interpreter for hearing-impaired persons.
- Americans with Disabilities Act (ADA). The governing body should familiarize itself with the ADA, which may impose requirements beyond state law.
- VOTING. All official actions by governing bodies must be taken by public vote. Secret ballots are prohibited.
- MINUTES and RECORDKEEPING. Written minutes or a sound, video or digital recording must be taken at all meetings, including executive sessions. Minutes or another recording must include at least the following:
  - Members present;
  - Motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;
  - Results of all votes and, except for bodies with more than 25 members unless requested by a member, the vote of each member by name;
  - The substance of any discussion on any matter; and
  - A reference to any document discussed at the meeting. (Reference to a document exempt from disclosure under the Public Records Law does not affect its exempt status.)

The minutes or alternative recording must be available to the public within a "reasonable time after the meeting."

For executive sessions, see separate checklist on p. B-6.

### Sample Meeting Notices

#### Notice of [Regular, Special or Emergency] Meeting

The Oregon Dungeness Crab Commission will hold a (regular/special/emergency) meeting at 9:00 a.m. at the Netarts Community Hall, 10 Ocean Avenue, Netarts, Oregon, on October 4, 1987.

\* [A copy of the agenda of the meeting is attached.]

— or —

[The meeting will cover extension of commercial takes of Dungeness crabs, and a proposed limitation on sports crabbing in Neahkahnie Bay.]

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to (name and telephone/TTY number).

### Notice of Executive Session

The Oregon Dungeness Crab Commission will hold an executive session at 9:00 a.m. at the Netarts Community Hall, 10 Ocean Avenue, Netarts, Oregon, on October 4, 1987. The session will consider an applicant for the position of Assistant Marine Biologist. The executive session is being held pursuant to ORS 192.660(2)(a).

**NOTE:** Meeting notices are not required to be signed by an officer or employee. A notice mailed or delivered will be sufficient. It must be mailed or delivered to any news medium that has requested notice and, so far as possible, to any other persons who have requested notice or who are known to be interested. Notification of the general public is also necessary, and a notice merely posted on a bulletin board is ordinarily not sufficient. Such posting and notification to appropriate newspapers, radio stations and wire services is appropriate. It is not necessary to use paid notices. Notice by telephone or fax is advisable for emergency meetings.

### Checklist for Executive Session

This checklist is intended to assist governing bodies in complying with the executive session provisions of the Public Meetings Law; however, you

should consult the appropriate section(s) of this manual for a complete description of the requirements.

- Provide notice of an executive session in the same manner you give notice of a public meeting. The notice must cite to the specific statutory provision(s) authorizing the executive session.

Permissible grounds for going into executive session are:

(a) To consider the employment of an officer, employee, staff member or agent if: (i) the job has been publicly advertised, (ii) regularized procedures for hiring have been adopted, and (iii) in relation to employment of a public officer, there has been an opportunity for public comment. For hiring a chief executive officer, the standards, criteria and policy to be used must be adopted in an open meeting in which the public had an opportunity to comment. This reason for executive session may *not* be used to fill vacancies in an elective office or on any public committee, commission or other advisory group, or to consider general employment policies. ORS 192.660(2)(a) and 192.660(7).

(b) To consider dismissal or discipline of, or to hear charges or complaints against an officer, employee, staff member or agent, if the individual does not request an open meeting. ORS 192.660(2)(b).

(c) To consider matters pertaining to the function of the medical staff of a public hospital licensed pursuant to ORS 441.015 to 441.063, 441.085, 441.087 and 441.990(3). ORS 192.660(2)(c).

(d) To conduct deliberations with persons you have designated to carry on labor negotiations. ORS 192.660(2)(d).

(e) To conduct deliberations with persons you have designated to negotiate real property transactions. ORS 192.660(2)(e).

(f) To consider information or records that are exempt from disclosure by law, including written advice from your attorney. ORS 192.660(2)(f).

(g) To consider preliminary negotiations regarding trade or commerce in which you are in competition with other states or nations. ORS 192.660(2)(g).

(h) To consult with your attorney regarding your legal rights and duties in regard to current litigation or litigation that is more likely than not to be filed. ORS 192.660(2)(h).

(i) To review and evaluate the performance of an officer, employee or staff member if the person does not request an open meeting. This reason for executive session may *not* be used to do a general evaluation of an agency goal, objective or operation or any directive to personnel concerning those subjects. ORS 192.660(2)(i) and 192.660(8).

(j) To carry on negotiations under ORS chapter 293 with private persons or businesses regarding proposed acquisition, exchange or liquidation of public investments. ORS 192.660(2)(j).

(k) For a health professional regulatory board to consider information obtained as part of an investigation of licensee or applicant conduct. ORS 192.660(2)(k).

(l) For the State Landscape Architect Board or its advisory committee to consider information obtained as part of an investigation of registrant or applicant conduct. ORS 192.660(2)(L).

(m) To discuss information about review or approval of programs relating to the security of any of the following: (A) a nuclear-powered thermal power plant or nuclear installation; (B) transportation of radioactive material derived from or destined for a nuclear-fueled thermal power plant or nuclear installation; (C) generation, storage or conveyance of (i) electricity, (ii) gas in liquefied or gaseous form, (iii) hazardous substances as defined in ORS 453.005(7)(a), (b) and (d), (iv) petroleum products, (v) sewage, or (vi) water; (D) telecommunications systems, including cellular, wireless or radio systems; or (E) data transmissions by whatever means provided. ORS 192.660(2)(m).

(n) To conduct labor negotiations, if requested by negotiators for both sides. ORS 192.660(3).

- Announce that you are going into executive session pursuant to ORS 192.660 and cite the specific reason(s) and statute(s) that authorize the executive session for *each* subject to be discussed. See sample script on p. B-9. (You may hold a public session even if an executive session is authorized.)
- If you intend to come out of executive session to take final action, announce when the open session will begin again.

- Specify if any individuals other than the news media may remain.
- Tell the media what may *not* be disclosed from the executive session. If you fail to do this, the media may report everything. If you discuss matters other than what you announce you are going to discuss in the executive session, the media may report those additional matters.
- A member of the news media must be excluded from executive sessions held to discuss litigation with legal counsel if he or she is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party.
- Come back into open session to take final action. If you did not specify at the time you went into executive session when you would return to open session, and the executive session has been very short, you may open the door and announce that you are back in open session. If you unexpectedly come back into open session after previously announcing you would not be doing so, you must use reasonable measures to give actual notice to interested persons that you are back in open session. This may require postponing final action until another meeting.
- Keep minutes or a sound, video or digital recording of executive sessions.

**NOTE:** If a governing body violates any provision applicable to the executive session provisions in the Public Meetings Law, a complaint against individual members of the governing body can be filed with the Oregon Government Ethics Commission (OGEC). The OGEC may impose a \$1,000 civil penalty, unless the governing body went into executive session on the advice of its attorney.

<sup>1</sup> Oregon Laws 2007, chapter 865, subsection 40b(1) amends ORS 244.250 to change the name of the "Oregon Government Standards and Practices Commission" to the "Oregon Government Ethics Commission."

### Sample Script to Announce Start of Executive Session

The [governing body] will now meet in executive session for the purpose of [limited to enumerated purposes in ORS 192.660].

The executive session is held pursuant to ORS 192.660( ) [choose appropriate section(s) for *this* session], which allows the Commission to meet in executive session to [list activity(ies)].

Representatives of the news media and designated staff shall be allowed to attend the executive session.\* All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.

\*The governing body may choose to allow other specified persons to attend the executive session. See *Barker v. City of Portland*, 67 Or App 23, 676 P2d 1391 (1984).