

**STATE OF OREGON
DEPARTMENT OF JUSTICE**

ATTORNEY GENERAL'S

PUBLIC RECORDS

AND

MEETINGS MANUAL



“Knowledge will forever govern ignorance.
And a people who mean to be their own governors, must arm
themselves with the power knowledge gives. A popular government
without popular information or the means of acquiring it, is but
a prologue to a farce or a tragedy, or perhaps both.”
James Madison (1822)

**ELLEN F. ROSENBLUM
Attorney General**

November 2014

When a public meeting is held at a location that is not “rented, leased or owned” by the state or a political subdivision, such as a hotel meeting room where no separate charge is made for the room, the smoking ban of ORS 192.710 does not apply. However, other laws prohibiting smoking except in designated areas may apply.³²⁴

The person presiding will avoid embarrassment to members of the public and the governing body by reminding them of the no-smoking rule at the beginning of the meeting.

6. Voting

All official actions by governing bodies must be taken by public vote.³²⁵ The vote of each member must be recorded unless the body has 26 or more members. Even then, any member of the governing body may require that the votes of each member be recorded. ORS 192.650(1)(c). Written ballots are not prohibited, but each ballot must identify the member voting and the vote must be announced. *Secret ballots are prohibited.* The state law supersedes and nullifies any local government charter authorization or requirement for a secret ballot.³²⁶ See Appendix L for a discussion of voting and secret ballots.

A governing body’s failure to record a vote is not, in and of itself, grounds for reversing a decision. Without a showing that the failure to record a vote was related to a manipulation of the vote, a court will presume that public officials lawfully have performed their duties.³²⁷

7. Minutes and Recordkeeping

The Public Meetings Law requires that the governing body of a public body provide for sound, video or digital recording or written minutes of its meetings.³²⁸ ORS 192.650(1). The record of a meeting, whether preserved

³²⁴ ORS 433.845.

³²⁵ 37 Op Atty Gen 183 (1974) (see App O).

³²⁶ 39 Op Atty Gen 525 (1979) (see App O); 37 Op Atty Gen 183 (1974) (see App O).

³²⁷ *Gilmore v. Board of Psychologist Examiners*, 81 Or App 321, 324, 725 P2d 400, *rev den* 302 Or 460, 730 P2d 1250 (1986) (see App M).

³²⁸ Apart from the requirements imposed by the Public Meetings Law, the Oregon Investment Council must make “full sound records” of its meetings and maintain a written

in written minutes or a sound, video or digital recording, shall include at least the following information:

- members present;
- motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;
- results of all votes and, except for public bodies consisting of more than 25 members unless requested by a member of that body, the vote of each member by name;
- the substance of any discussion on any matter; and
- subject to the Public Records Law, ORS 192.410 to 192.505, a reference to any document discussed at the meeting. (Such reference does not change the status of the document under the Public Records Law. ORS 192.650(3).)

Written minutes need not be a verbatim transcript and a sound, video or digital recording is not required to contain a full recording of the meeting, except as otherwise provided by law. Whatever means of recording used must give a “a true reflection of the matters discussed at the meeting and the views of the participants.” ORS 192.650(1). See p. K-10 for sample minutes.

The Public Meetings Law requires that written minutes or a sound, video or digital recording of a meeting be made available to the public “within a reasonable time after the meeting.” ORS 192.650(1). If written minutes are prepared, they cannot be withheld from the public merely because they will not be approved until the next meeting of the governing body. If minutes have not been approved, they may be so identified. In any event, any completed minutes or sound, video or digital recordings are public records subject to disclosure under the Public Records Law. Consistent with the Public Records Law fee provision, discussed in Part I of this manual, a public body may charge a person a fee for preparing a transcript from a sound, video or digital recording. ORS 192.650(4).

These recordkeeping requirements apply to executive sessions,