

1 OFFICE OF THE ATTORNEY GENERAL
2 STATE OF NEVADA

3 In the matter of:

4 PERSHING COUNTY BOARD OF
5 COMMISSIONERS AND
6 PERSHING COUNTY ECONOMIC
DEVELOPMENT BOARD

OAG FILE NO.: 13897-564

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

7
8 **BACKGROUND**

9 Kristy Berge (“Complainant”) filed a complaint with the Office of the Attorney
10 General (“OAG”) alleging violations of the Nevada Open Meeting Law (“OML”) by the
11 Pershing County Board of Commissioners (“Commission”) and the Pershing County
12 Economic Development Authority Board (“PCEDA”) regarding their September 17, 2025,
13 public meeting and their December 11, 2025, Special Meeting Agenda - County Manager
14 (“Special Meeting”). Specifically, the Complaint alleges the following:

15 **ALLEGATION NO. 1:** Commission and PCEDA violated the OML by creating and
16 operating an unauthorized committee or working group outside of public view to
17 develop the County Manager position, job description, and recruitment process.

18 **ALLEGATION NO. 2:** The County Manager Committee violated the OML by
19 conducting a closed session on December 11, 2025, to review, evaluate, and score
20 applicants for the County Manager position.

21 The OAG has statutory enforcement powers under the OML and the authority to
22 investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS 241.040.
23 The OAG’s investigation included a review of the following:

- 24 1. The Complaint;
25 2. The Response submitted on behalf of the Commission and PCEDA;
26 3. The agenda and minutes for the Commission’s September 17, 2025, meeting;
27 4. The agenda and minutes for the December 11, 2025, Special Meeting.
28

1 After investigating the Complaint, the OAG determines that the evidence
2 establishes that the County Manager Committee constituted a public body subject to the
3 OML. Further, the OAG determines that the Committee violated the OML by conducting
4 a closed session on December 11, 2025, to review and evaluate applicants for the County
5 Manager position.

6 **FINDINGS OF FACT**

7 1. On September 17, 2025, the Commission held a properly noticed public
8 meeting at 8:30 a.m. at the Pershing County Courthouse Lower Level – Round Room, 400
9 Main Street, Lovelock, NV, 89419. The meeting was also made available through Zoom.

10 2. The September 17, 2025, meeting included an item concerning the creation of
11 a County Manager position, approval of the County Manager job description and salary,
12 and approval of the proposed recruitment process.

13 3. During the September 17, 2025, meeting, Commissioner Connie Gottschalk
14 stated that she had assembled a “small committee” to assist with work related to the
15 development of the County Manager position and job description.

16 4. Commissioner Gottschalk identified the members of the group as Brandon
17 Chadick, Ted Bendure, City Council Member Bonnie Skoglie, and Frankie Graham.

18 5. Several members of the group also served on the Pershing County Economic
19 Development Authority Board (“PCEDA”).

20 6. On December 12, 2025, a Complaint was filed by Kristy Berge which alleges
21 that the Commission did not formally authorize the creation of the committee through a
22 motion or vote and that the committee met outside public view without agendas or minutes.

23 7. The Complaint further alleges that the committee assisted in developing or
24 reviewing the County Manager job description that was later approved by the Commission.

25 8. The response submitted on behalf of the Commission and PCEDA states that
26 Commissioner Gottschalk assembled a temporary fact-finding group for the limited
27 purpose of gathering information regarding the potential creation of a County Manager
28 position.

1 9. The response states that the group was advisory in nature, had no authority
2 to act on behalf of the Commission or PCEDA, could not expend public funds, establish
3 policy, or bind the County, and did not issue formal recommendations.

4 10. The record reflects that the Commission ultimately considered and approved
5 the County Manager position, job description, salary, and recruitment process during the
6 September 17, 2025, properly noticed public meeting.

7 11. The record does not establish that the Commission formally appointed the
8 informal group through a motion, vote, resolution, or other official action.

9 12. The record does not establish that the informal group was authorized by the
10 Commission to take action on behalf of the Commission or issue recommendations
11 requiring Commission action.

12 13. On December 11, 2025, a Special Meeting regarding the County Manager
13 recruitment process was held at 1125 Central Avenue, Lovelock, NV, 89419. The meeting
14 was also made available through Zoom.

15 14. The December 11, 2025, meeting agenda stated:

16 a. The Committee “may close the meeting under NRS 241.031 to review
17 applications and score candidates for the position of Pershing County Manager. Discussion
18 and Possible Action.”

19 15. The agenda did not identify the names of the applicants whose professional
20 qualifications or competence would be considered during the closed session.

21 16. The agenda further stated that, during open session, the Committee “may vote
22 on three candidates to recommend to the County Commissioners.”

23 17. At the December 11, 2025, meeting, Ted Bendure called the meeting to order.

24 18. Before entering closed session, Commissioner Gottschalk explained that the
25 committee had developed a scoring system with assistance from Pool Pact and that
26 committee members had reviewed the applications before the meeting.

27 19. Commissioner Gottschalk read the names of the ten applicants into the record
28 before the committee entered closed session.

1 20. The committee then entered closed session pursuant to NRS 241.031 to review
2 applications and score candidates for the County Manager position.

3 21. During the closed session, committee members reviewed applicant
4 qualifications, including education, work experience, and special skills, and assigned scores
5 to each applicant.

6 22. The committee reconvened in open session after completing its scoring.

7 23. During open session, the committee publicly disclosed the applicants' names
8 and scores.

9 24. The committee identified six applicants who met the qualification threshold
10 for further consideration.

11 25. The committee discussed conducting additional interviews before making any
12 recommendation.

13 26. Commissioner Gottschalk stated that the committee would not make
14 recommendations at that meeting.

15 27. No vote was taken during the December 11, 2025, meeting to recommend
16 candidates to the County Commissioners.

17 **LEGAL STANDARDS AND CONCLUSIONS OF LAW**

18 The Commission is a public body subject to Nevada's OML pursuant to NRS 241.015.
19 The OML requires that meetings of public bodies be open to the public unless otherwise
20 provided by statute. NRS 241.020(1). The OML applies to any meeting of a "public body"
21 as defined in NRS 241.015.

22 **A. Allegation No. 1: The Record Established That the County Manager**
23 **Committee Was a Public Body Subject to the OML.**

24 The OML governs the collective decision-making process of public bodies and
25 requires that deliberations and actions occur openly unless otherwise authorized by
26 statute. *Dewey v. Redevelopment Agency*, 119 Nev. 87, 64 P.3d 1070 (2003). Under NRS
27 241.015(5)(d), a committee, subcommittee, advisory group, or working group constitutes a
28 public body when it is appointed by a public body and either consists primarily of members

1 or staff of the appointing body or is authorized to make recommendations requiring further
2 action by the public body. Whether the OML applies depends on the function performed by
3 the group, not the label assigned to it. A group that merely gathers information is not
4 necessarily subject to the OML. However, when a group evaluates alternatives, applies
5 criteria, exercises judgment, or develops recommendations for consideration by a public
6 body, it participates in the governmental decision-making process. *McKay v. Board of*
7 *Supervisors of Carson City*, 102 Nev. 644, 730 P.2d 438 (1986).

8 Here, Commissioner Gottschalk assembled the County Manager Committee to assist
9 with the County Manager recruitment process. Although the Committee was not formally
10 created by Commission action, its role extended beyond fact-finding. The Committee
11 developed scoring criteria, reviewed applications, evaluated candidates, assigned scores,
12 narrowed the applicant pool, and considered which candidates should advance for
13 Commission consideration.

14 The Committee's evaluations required discretionary judgment in assessing
15 qualifications and determining which applicants should proceed. Accordingly, the
16 Committee functioned as an advisory group performing activities integral to the
17 Commission's governmental decision-making process, rather than merely providing
18 neutral information.

19 Because the Committee exercised judgment in evaluating candidates and developing
20 recommendations related to the selection of a County Manager, it acted as a public body
21 and is therefore subject to the requirements of the OML.

22 **B. Allegation No. 2: The Committee Violated the OML by Conducting a**
23 **Closed Session to Review and Evaluate County Manager Applicants.**

24 The OML permits closed sessions only for limited purposes expressly authorized by
25 statute. NRS 241.031 permits a public body to hold a closed session to consider certain
26 personnel matters. However, NRS 241.031(1)(b) prohibits a closed session to consider the
27 appointment, employment, evaluation, performance, discipline, demotion, removal, or
28 resignation of a person who serves as the head of an agency.

1 The County Manager position is the executive or administrative head of Pershing
2 County. Accordingly, candidates for that position fall within the prohibition contained in
3 NRS 241.031(1)(b). The evidence demonstrates that the Committee entered closed session
4 for the purpose of reviewing applications and scoring candidates for the County Manager
5 position. The minutes reflect that committee members evaluated applicants' qualifications,
6 experience, education, and skills and assigned scores based on those evaluations.

7 These discussions constituted deliberations regarding the professional competence
8 and qualifications of candidates for the County Manager position. Because the County
9 Manager position is a head-of-agency position, those discussions were required to occur in
10 an open meeting. The fact that the Committee later reconvened in open session and
11 disclosed applicant scores does not cure the improper closed-session deliberations.

12 Additionally, NRS 241.020(3)(d)(4) requires an agenda for a closed session involving
13 consideration of a person's character, alleged misconduct, professional competence, or
14 physical or mental health to identify the name of the person whose qualifications or
15 character will be considered. The December 11, 2025, agenda did not identify the applicants
16 whose qualifications would be discussed. Instead, the agenda generally stated that the
17 Committee would review applications and score candidates. Reading the applicants' names
18 into the record immediately before entering closed session did not satisfy the statutory
19 agenda requirement.

20 Accordingly, the OAG concludes that the Committee violated the OML by conducting
21 a closed session to review and evaluate applicants for the County Manager position.

22 **SUMMARY**

23 Upon investigation of the Complaint, the OAG finds that the evidence establishes
24 that the County Manager Committee exercised judgment in evaluating candidates and
25 developing recommendations related to the selection of a County Manager. Accordingly,
26 the Committee functioned as a public body subject to the requirements of the OML. The
27 OAG further finds that the Committee violated the OML by conducting a closed session on
28 December 11, 2025, to review applications, evaluate qualifications, and score candidates

1 for the Pershing County Manager position. Because the County Manager serves as
2 the executive or administrative head of the County, NRS 241.031(1)(b) prohibited
3 the Committee from conducting deliberations concerning the appointment or
4 employment of candidates for that position in closed session.

5 If the Attorney General investigates a potential OML violation and issues findings
6 of fact and conclusions of law, “the public body must include an item on the next agenda
7 posted for a meeting of the public body which acknowledges the findings of fact
8 and conclusions of law.” NRS 241.0395. The public body must treat the OAG
9 opinion as supporting material for the agenda item(s) in question for the purposes of
10 NRS 241.020. Accordingly, the Commission must place an item on its next
11 meeting agenda acknowledging the present Findings of Fact and Conclusions of
12 Law (“Opinion”) and include the OAG Opinion in the supporting materials for that
13 meeting.

14 Dated: September 30, 2026

15
16 AARON D. FORD
17 Attorney General

18 By: Stephanie Itkin-Goodman
19 STEPHANIE ITKIN-GOODMAN, Esq.
20 Deputy Attorney General
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of September, 2026, I served the foregoing
FINDINGS OF FACT AND CONCLUSIONS OF LAW by depositing a copy of the
same in the United States mail, properly addressed, postage prepaid, CERTIFIED MAIL
addressed as follows:

Kristy Berge

[REDACTED]

Complainant

Certified Mail No.: [REDACTED] 9619 10

Derrick S. Penney

District Attorney

400 Main Street

P.O. Box 299

Lovelock, NV 89419

Pershing County Commission and Economic Development Board

Certified Mail No.: [REDACTED] 9619 27

/s/ Quintina Buck

An employee of the Office of the
Nevada Attorney General