

1 S.110

2 Introduced by Senator Benning

3 Referred to Committee on

4 Date:

5 Subject: Government operations; Open Meeting Law

6 Statement of purpose of bill as introduced: This bill proposes to:

7 (1) clarify the application of the Open Meeting Law to communications,
8 regardless of format, during which a quorum of members of a public body
9 discusses the business of the body or takes action;

10 (2) amend the Open Meeting Law's declaration of public policy;

11 (3) enlarge from 24 hours to 72 hours the period prior to a special
12 meeting when notice of the meeting must be publicly announced;

13 (4) amend the requirements for publicly announcing a meeting; and

14 (5) require that notice of a meeting include information about the time,
15 place, and agenda of a meeting.

16 An act relating to amending the Open Meeting Law

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. 1 V.S.A. § 310 is amended to read:

3 § 310. DEFINITIONS

4 As used in this subchapter:

5 (1) “Deliberations” means weighing, examining, and discussing the
6 reasons for and against an act or decision, but expressly excludes the taking of
7 evidence and the arguments of parties.

8 (2) “Meeting” means a ~~gathering of~~ conference, regardless of the format
9 or technology used to communicate, among a quorum of the members of a
10 public body ~~for the purpose of discussing the, during which the~~ business of the
11 public body is discussed or ~~for the purpose of taking~~ action is taken.

12 “Meeting” shall not include communications among members of a public body
13 solely for the purpose of scheduling a meeting, organizing an agenda, or
14 distributing materials to discuss at a meeting.

15 (3) “Notice” includes information about the time, place, and agenda of a
16 meeting.

17 (4) “Public body” means any board, council, committee, or commission
18 of the ~~state~~ State or one or more of its political subdivisions, any board,
19 council, committee, or commission of any agency, authority, or instrumentality
20 of the ~~state~~ State or one or more of its political subdivisions, or any ~~committee~~
21 subcommittee of any of the foregoing boards, councils, committees, or

1 commissions, except that “public body” does not include councils or similar
2 groups established by the ~~governor~~ Governor for the sole purpose of advising
3 the ~~governor~~ Governor with respect to policy.

4 ~~(4)~~(5) “Publicly announced” means that notice is given:

5 (A) to an editor, publisher, or news director of a newspaper or radio
6 ~~station~~ every media outlet serving the area of the ~~state~~ State in which the public
7 body has jurisdiction; ~~and;~~

8 (B) to any editor, publisher or news director person who has
9 requested under ~~section~~ subdivision 312(c)(5) of this title to be notified of
10 special meetings;

11 (C) by posting to a website, if one exists, that the public body
12 maintains or designates as the official website of the body; and

13 (D) by publication in a newspaper of general circulation calculated to
14 give reasonable notice to interested members of the public. However,
15 newspaper publication shall not be required by a public body of a municipality
16 which lacks a newspaper of general circulation; instead, such public bodies
17 shall post notice of the meeting in or near the municipal clerk’s office and at
18 two or more other public places in the municipality.

19 ~~(5)~~(6) “Quasi-judicial proceeding” means a proceeding which is:

20 (A) a contested case under the Vermont Administrative Procedure
21 Act; or

1 (B) a case in which the legal rights of one or more persons who are
2 granted party status are adjudicated, which is conducted in such a way that all
3 parties have opportunity to present evidence and to cross-examine witnesses
4 presented by other parties, which results in a written decision, and the result of
5 which is appealable by a party to a higher authority.

6 Sec. 2. 1 V.S.A. § 311 is amended to read:

7 § 311. DECLARATION OF PUBLIC POLICY; SHORT TITLE

8 (a) In enacting this subchapter, the ~~legislature~~ General Assembly finds and
9 declares that public ~~commissions, boards and councils and other public~~
10 ~~agencies~~ bodies in this ~~state~~ State exist to aid in the conduct of the people's
11 business and are accountable to them pursuant to Chapter I, Article ~~VI~~ 6 of the
12 Vermont ~~constitution~~ Constitution. Public bodies shall conduct meetings
13 openly, so that the public may be informed of their proceedings, and shall
14 provide ample and reasonable notice of their meetings in advance so that the
15 people can make an informed decision whether to attend, educate themselves
16 about the issues being discussed in order to meaningfully participate, and
17 arrange their affairs in order to attend.

18 (b) This subchapter may be known and cited as the Vermont ~~open meeting~~
19 ~~law~~ Open Meeting Law.

1 Sec. 3. 1 V.S.A. § 312 is amended to read:

2 § 312. RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES;

3 MINUTES; NOTICE

4 * * *

5 (c)(1) The time and place of all regular meetings subject to this section
6 shall be clearly designated by statute, charter, regulation, ordinance, bylaw,
7 resolution, or other determining authority of the public body, and this
8 information shall be available to any person upon request. Notice of a regular
9 meeting shall be announced at least 72 hours before the meeting in accordance
10 with subdivision 310(5)(A) of this subchapter and, in the case of a municipal
11 public body, by posting notice in or near the municipal clerk's office and at
12 two or more other public places in the municipality.

13 (2) ~~The time, place and purpose~~ Notice of a special meeting subject to
14 this section shall be publicly announced at least ~~24~~ 72 hours before the
15 meeting. ~~Municipal public bodies shall post notices of special meetings in or~~
16 ~~near the municipal clerk's office and in at least two other public places in the~~
17 ~~municipality, at least 24 hours before the meeting.~~ In addition, notice shall be
18 given, either orally or in writing, to each member of the public body at least ~~24~~
19 72 hours before the meeting, except that a member may waive notice of a
20 special meeting.

1 (3) Emergency meetings may be held without public announcement,
2 ~~without posting of notices~~ and without ~~24-hour~~ 72-hour notice to members,
3 provided some public notice thereof is given as soon as possible before any
4 such meeting. Emergency meetings may be held only when necessary to
5 respond to an unforeseen occurrence or condition requiring immediate
6 attention by the public body.

7 (4) Any adjourned meeting shall be considered a new meeting, unless
8 the time and place for the adjourned meeting is announced before the meeting
9 adjourns.

10 (5) ~~An editor, publisher or news director of any newspaper, radio station~~
11 ~~or television station serving the area of the state in which the public body has~~
12 ~~jurisdiction~~ Any person may request in writing that a public body ~~notify~~ give
13 notice to the editor, publisher or news director person of special meetings of
14 the public body. The request shall apply only to the calendar year in which it
15 is made, unless made in December, in which case it shall apply also to the
16 following year.

17 (d) The agenda for a regular or special meeting shall be made available ~~to~~
18 ~~the news media or concerned persons~~ prior to the meeting upon specific
19 request, contain a description of the items to be addressed at the meeting, and
20 provide at minimum a description of each agenda item sufficient to inform the
21 public of the subject matter to be considered. A public body planning to

1 address an item in executive session shall cite the specific statutory grounds for
2 the executive session.

3 (e) Nothing in this section or in section 313 of this title shall be construed
4 as extending to the ~~judicial branch~~ Judicial Branch of the government of
5 Vermont or of any part of the same or to the ~~public service board~~ Public
6 Service Board; nor shall it extend to the deliberations of any public body in
7 connection with a quasi-judicial proceeding; nor shall anything in this section
8 be construed to require the making public of any proceedings, records, or acts
9 which are specifically made confidential by the laws of the United States of
10 America or of this ~~state~~ State.

11 (f) A written decision issued by a public body in connection with a
12 quasi-judicial proceeding need not be adopted at an open meeting if the
13 decision will be a public record.

14 (g) The provisions of this subchapter shall not apply to site inspections for
15 the purpose of assessing damage or making tax assessments or abatements,
16 clerical work, or work assignments of staff or other personnel. Routine
17 day-to-day administrative matters that do not require action by the public body,
18 may be conducted outside a duly warned meeting, provided that no money is
19 appropriated, expended, or encumbered.

20 (h) At an open meeting, the public shall be given a reasonable opportunity
21 to express its opinion on matters considered by the public body during the

1 meeting as long as order is maintained. Public comment shall be subject to
2 reasonable rules established by the chairperson. This subsection shall not
3 apply to quasi-judicial proceedings.

4 (i) Nothing in this section shall be construed to prohibit the parole board
5 from meeting at correctional facilities with attendance at the meeting subject to
6 rules regarding access and security established by the superintendent of the
7 facility.

8 Sec. 4. 1 V.S.A. § 314 is amended to read:

9 § 314. PENALTY AND ENFORCEMENT

10 (a) A person who is a member of a public body and who knowingly and
11 intentionally violates the provisions of this subchapter or who knowingly and
12 intentionally participates in the wrongful exclusion of any person or persons
13 from any meeting for which provision is herein made, shall be guilty of a
14 misdemeanor and shall be fined not less than \$100.00 and not more
15 than \$500.00.

16 * * *

17 Sec. 5. EFFECTIVE DATE

18 This act shall take effect on July 1, 2013.