Testimony for the House Government Operations Committee, Jan. 29, 2014
From: Anne Galloway, executive director of Vermont Journalism Trust, editor of VTDigger

Thank you for inviting me to speak to you today.

You know me as a reporter. You may not know that before I founded VTDigger.org, I served as a school board member for Hazen Union School over a four-year period.

I understand the need for executive sessions for particular situations, including real estate negotiations and personnel issues.

I appreciate your work on H.497.

There is much in this bill that I like. The clarification for when a public body may go into executive session is an improvement over the existing law. I like the precision of the list of purposes. It provides public officials, reporters and the public with very clear language about what kinds of situations merit an executive session.

I also believe the new meeting agenda provisions and new requirements for electronic communication help to update the law. I would suggest that the committee consider broader language about electronic communication and consider social media, multiple tools for teleconferencing.

I support the requirement of the presence of a lawyer to discuss pending litigation and prosecution. Executive sessions should only be held when the matter at hand is of import.

Several provisions, however, give me pause.

Agendas need to be made available 48 hours in advance and sent to all relevant media organizations in a geographic region.

If the underlying objective of this bill is to encourage civic participation, I don't think it's appropriate to change agendas once they have been publicly announced. Boards can consider additional topics under new or other business.

Changing the order of an agenda can make it difficult for reporters and members of the public to attend important sections of a meeting. The timing of executive sessions,in particular, should not be changed.

Actions taken as a result of executive session must be reported in the minutes.

"Pending litigation" must be more clearly defined.

The notification requirements in the emergency meeting provision don't go far enough in my view. If emergency meeting notices are issued at the last minute, it's difficult for the public and the media to respond. I would like to see a requirement that emergency meeting notices be sent via email to all relevant media outlets in a geographic region.

The bill needs to better define what kinds of disclosures could jeopardize public safety.

I have reservations about the "cure" section in 314(b)1(B) of H.497.

I believe the "cure" provision does not sufficiently hold public officials accountable.

The "cure" lets public officials off the hook for violations of the law.

Under the proposal, public bodies can decide for themselves whether they have or have not violated the law and then undo their actions.

The provision does not address potential repeated violations.

While I very much appreciate the clause that requires public bodies to pay for litigation costs should they lose in court, the “cure” provision renders the threat of a lawsuit moot.

The open meeting law is a vehicle for reassuring citizens and the media that public officials are operating in the public interest.

The “cure,” I fear, could fuel the negative perception that when boards have something to hide they can not only make decisions under wraps with no penalty, but also undo their actions.

On the other hand, if members of the public or the media complain about alleged violations, and boards choose to reverse illegal decisions this could be sufficiently embarrassing to deter boards from violating the law in future.

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Anne Galloway
Executive Director & Editor
Vermont Journalism Trust
97 State St., Montpelier, VT 05602
cell 802-595-9159
office 802-225-6224
@GallowayVTD
http://vtdigger.org