

Sub-Chapter 2: Public Information

§ 310. Definitions

As used in this subchapter:

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

(2) "Meeting" means a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action.

(3) "Public body" means any board, council or commission of the state or one or more of its political subdivisions, any board, council or commission of any agency, authority or instrumentality of the state or one or more of its political subdivisions, or any committee of any of the foregoing boards, councils or commissions, except that "public body" does not include councils or similar groups established by the governor for the sole purpose of advising the governor with respect to policy.

(4) "Publicly announced" means that notice is given to an editor, publisher or news director of a newspaper or radio station serving the area of the state in which the public body has jurisdiction, and to any editor, publisher or news director who has requested under section 312(c)(5) of this title to be notified of special meetings.

(5) "Quasi-judicial proceeding" means a proceeding which is:

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

(B) a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunity to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, and the result of which is appealable by a party to a higher authority. (Added 1987, No. 256 (Adj. Sess.), § 1.)

§ 311. Declaration of public policy; short title

(a) In enacting this subchapter, the legislature finds and declares that public commissions, boards and councils and other public agencies in this state exist to aid in the conduct of the people's business and are accountable to them pursuant to Chapter I, Article VI of the Vermont constitution.

(b) This subchapter may be known and cited as the Vermont open meeting law. (Amended 1979, No. 151 (Adj. Sess.), § 1, eff. April 24, 1980.)

Â§ 312. Right to attend meetings of public agencies

(a) All meetings of a public body are declared to be open to the public at all times, except as provided in section 313 of this title. No resolution, rule, regulation, appointment, or formal action shall be considered binding except as taken or made at such open meeting, except as provided under section 313(a)(2) of this title. A meeting may be conducted by audio conference or other electronic means, as long as the provisions of this subchapter are met. A public body shall record by audio tape, all hearings held to provide a forum for public comment on a proposed rule, pursuant to 3 V.S.A. Å§ 840. The public shall have access to copies of such tapes as described in section 316 of this title.

(b)(1) Minutes shall be taken of all meetings of public bodies. The minutes shall cover all topics and motions that arise at the meeting and give a true indication of the business of the meeting. Minutes shall include at least the following minimal information:

- (A) All members of the public body present;
- (B) All other active participants in the meeting;
- (C) All motions, proposals and resolutions made, offered and considered, and what disposition is made of same; and
- (D) The results of any votes, with a record of the individual vote of each member if a roll call is taken.

(2) Minutes of all public meetings shall be matters of public record, shall be kept by the clerk or secretary of the public body, and shall be available for inspection by any person and for purchase of copies at cost upon request after five days from the date of any meeting.

(c)(1) The time and place of all regular meetings subject to this section shall be clearly designated by statute, charter, regulation, ordinance, bylaw, resolution or other determining authority of the public body and this information shall be available to any person upon request.

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

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

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

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

(d) The agenda for a regular or special meeting shall be made available to the news media or concerned persons prior to the meeting upon specific request.

(e) Nothing in this section or in section 313 of this title shall be construed as extending to the judicial branch of the government of Vermont or of any part of the same or to the public service board; nor shall it extend to the deliberations of any public body in connection with a quasi-

judicial proceeding; nor shall anything in this section be construed to require the making public of any proceedings, records, or acts which are specifically made confidential by the laws of the United States of America or of this state.

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

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

(h) At an open meeting the public shall be given a reasonable opportunity to express its opinion on matters considered by the public body during the meeting as long as order is maintained. Public comment shall be subject to reasonable rules established by the chairperson. This subsection shall not apply to quasi-judicial proceedings.

(i) Nothing in this section shall be construed to prohibit the parole board from meeting at correctional facilities with attendance at the meeting subject to rules regarding access and security established by the superintendent of the facility. (Amended 1973, No. 78, Â§ 1, eff. April 23, 1973; 1979, No. 151 (Adj. Sess.), Â§ 2; 1987, No. 256 (Adj. Sess.), Â§ 2; 1997, No. 148 (Adj. Sess.), Â§ 64, eff. April 29, 1998; 1999, No. 146 (Adj. Sess.), Â§ 7.)

§ 313. Executive sessions

(a) No public body described in section 312 of this title may hold an executive session from which the public is excluded, except by the affirmative vote of two-thirds of its members present in the case of any public body of State government or of a majority of its members present in the case of any public body of a municipality or other political subdivision. A motion to go into executive session shall indicate the nature of the business of the executive session, and no other matter may be considered in the executive session. Such vote shall be taken in the course of an open meeting and the result of the vote recorded in the minutes. No formal or binding action shall be taken in executive session except actions relating to the securing of real estate options under subdivision (2) of this subsection. Minutes of an executive session need not be taken, but if they are, shall not be made public subject to subsection 312(b) of this title. A public body may not hold an executive session except to consider one or more of the following:

(1) Contracts, labor relations agreements with employees, arbitration, mediation, grievances, civil actions, or prosecutions by the State, where premature general public knowledge would clearly place the State, municipality, other public body, or person involved at a substantial disadvantage;

(2) The negotiating or securing of real estate purchase options;

(3) The appointment or employment or evaluation of a public officer or employee;

(4) A disciplinary or dismissal action against a public officer or employee; but nothing in this subsection shall be construed to impair the right of such officer or employee to a public hearing if formal charges are brought;

(5) A clear and imminent peril to the public safety;

(6) Discussion or consideration of records or documents excepted from the access to public records provisions of section 317 of this title. Discussion or consideration of the excepted record or document shall not itself permit an extension of the executive session to the general subject to which the record or document pertains;

(7) The academic records or suspension or discipline of students;

(8) Testimony from a person in a parole proceeding conducted by the Parole Board if public disclosure of the identity of the person could result in physical or other harm to the person;

(9) Information relating to a pharmaceutical rebate or to supplemental rebate agreements, which is protected from disclosure by federal law or the terms and conditions required by the Centers for Medicare and Medicaid Services as a condition of rebate authorization under the Medicaid program, considered pursuant to 33 V.S.A. §§ 1998(f)(2) and 2002(c).

(b) Attendance in executive session shall be limited to members of the public body, and, in the discretion of the public body, its staff, clerical assistants and legal counsel, and persons who are subjects of the discussion or whose information is needed.

(c) The Senate and House of Representatives, in exercising the power to make their own rules conferred by Chapter II of the Vermont Constitution, shall be governed by the provisions of this section in regulating the admission of the public as provided in Chapter II, § 8 of the Constitution. (Amended 1973, No. 78, § 2, eff. April 23, 1973; 1979, No. 151 (Adj. Sess.), § 3, eff. April 24, 1980; 1987, No. 256 (Adj. Sess.), §§ 3, 4; 1997, No. 148 (Adj. Sess.), § 65, eff. April 29, 1998; 2005, No. 71, § 308a, eff. June 21, 2005; 2011, No. 59, § 7.)

§ 314. Penalty and enforcement

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

(b) The attorney general or any person aggrieved by a violation of the provisions of this subchapter may apply to the superior court in the county in which the violation has taken place for appropriate injunctive relief or for a declaratory judgment. Except as to cases the court considers of greater importance, proceedings before the superior court, as authorized by this section and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way. (Amended 1979, No. 151 (Adj. Sess.), § 4, eff. April 24, 1980; 1987, No. 256 (Adj. Sess.), § 5.)