Side-by-Side of S.67 as Passed Senate vs. S.67 as voted by House Gov Ops vs. H.497 of 2013 Changes from S.67 As Passed Senate are highlighted in yellow

| S.67 of 2011, As Passed Senate Drafter: MOG | S.67 of 2011, As Voted By House Gov Ops Drafter: MOG | H.497 of 2013 Drafter: HMG |
|--|---|--|
| Sec. 1. 1 V.S.A. § 310 is amended to read: | Sec. 1. 1 V.S.A. § 310 is amended to read: | Sec. 1. 1 V.S.A. § 310 is amended to read: |
| § 310. DEFINITIONS | § 310. DEFINITIONS | § 310. DEFINITIONS |
| As used in this subchapter: | As used in this subchapter: | As used in this subchapter: |
| (1) "Deliberations" means weighing, | (1) "Deliberations" means weighing, | (1) "Deliberations" means weighing, |
| examining, and discussing the reasons for and | examining, and discussing the reasons for and | examining, and discussing the reasons for and |
| against an act or decision, but expressly | against an act or decision, but expressly | against an act or decision, but expressly |
| excludes the taking of evidence and the | excludes the taking of evidence and the | excludes the taking of evidence and the |
| arguments of parties. | arguments of parties. | arguments of parties. |
| (2) "Meeting" means a gathering of a | (2) "Meeting" means a gathering of a | (2) "Meeting" means a gathering of a |
| quorum of the members of a public body for | quorum of the members of a public body for | quorum of the members of a public body for |
| the purpose of discussing the business of the | the purpose of discussing the business of the | the purpose of discussing the business of the |
| public body or for the purpose of taking | public body or for the purpose of taking | public body or for the purpose of taking |
| action. "Meeting" shall not mean written | action. "Meeting" shall not mean written | action. "Meeting" shall not mean written |
| correspondence or an electronic | correspondence or an electronic | correspondence or an electronic |
| communication, including e-mail, telephone, | communication, including e-mail, telephone, | communication, including e-mail, telephone, |
| or teleconferencing, between members of a | or teleconferencing, between members of a | or teleconferencing, between members of a |
| public body for the purpose of scheduling a | public body for the purpose of scheduling a | public body for the purpose of scheduling a |
| meeting, organizing an agenda, or distributing | meeting, organizing an agenda, or distributing | meeting, organizing an agenda, or distributing |
| materials to discuss at a meeting, provided that | materials to discuss at a meeting, provided that | materials to discuss at a meeting, provided that |
| such a written correspondence or such an | such a written correspondence or such an | such a written correspondence or such an |
| electronic communication that results in | electronic communication that results in | electronic communication that results in |

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written or recorded information shall be
available for inspection and copying under the
public records act as set forth in chapter 5,
subchapter 4 of this title.

- (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 subdivision 312(c)(5) of this title to be

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written or recorded information shall be available for inspection and copying under the public records act as set forth in chapter 5, subchapter 4 of this title.

- (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 person who has requested under subdivision 312(c)(5) of this

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written or recorded information shall be
available for inspection and copying under the
public records act as set forth in chapter 5,
subchapter 3 of this title.

- (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 person who has requested under subdivision 312(c)(5) of this

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| notified of special meetings. | title to be notified of special meetings. | title to be notified of special meetings. |
| (5) "Quasi-judicial proceeding" means a | (5) "Quasi-judicial proceeding" means a | (5) "Quasi-judicial proceeding" means a |
| proceeding which is: | proceeding which is: | proceeding which is: |
| (A) a contested case under the | (A) a contested case under the | (A) a contested case under the |
| Vermont Administrative Procedure Act; or | Vermont Administrative Procedure Act; or | Vermont Administrative Procedure Act; or |
| (B) a case in which the legal rights of | (B) a case in which the legal rights of | (B) a case in which the legal rights of |
| one or more persons who are granted party | one or more persons who are granted party | one or more persons who are granted party |
| status are adjudicated, which is conducted in | status are adjudicated, which is conducted in | status are adjudicated, which is conducted in |
| such a way that all parties have opportunity to | such a way that all parties have opportunity to | such a way that all parties have opportunity to |
| present evidence and to cross-examine | present evidence and to cross-examine | present evidence and to cross-examine |
| witnesses presented by other parties, which | witnesses presented by other parties, which | witnesses presented by other parties, which |
| results in a written decision, and the result of | results in a written decision, and the result of | results in a written decision, and the result of |
| which is appealable by a party to a higher | which is appealable by a party to a higher | which is appealable by a party to a higher |
| authority. | authority. | authority. |
| | | |
| Sec. 2. 1 V.S.A. § 312 is amended to read: | Sec. 2. 1 V.S.A. § 312 is amended to read: | Sec. 2. 1 V.S.A. § 312 is amended to read: |
| § 312. RIGHT TO ATTEND MEETINGS OF | § 312. RIGHT TO ATTEND MEETINGS OF | § 312. RIGHT TO ATTEND MEETINGS OF |
| PUBLIC AGENCIES | PUBLIC AGENCIES | PUBLIC AGENCIES |
| (a)(1) All meetings of a public body are | (a)(1) All meetings of a public body are | (a)(1) All meetings of a public body are |
| declared to be open to the public at all times, | declared to be open to the public at all times, | declared to be open to the public at all times, |
| except as provided in section 313 of this title. | except as provided in section 313 of this title. | except as provided in section 313 of this title. |
| No resolution, rule, regulation, appointment, | No resolution, rule, regulation, appointment, | No resolution, rule, regulation, appointment, |
| or formal action shall be considered binding | or formal action shall be considered binding | or formal action shall be considered binding |

S.67 of 2011, As Passed Senate S.67 of 2011, As Voted By House Gov Ops H.497 of 2013 **Drafter: HMG Drafter: MOG Drafter: MOG** except as taken or made at such open meeting, except as taken or made at such open meeting, except as taken or made at such open meeting, except as provided under section 313(a)(2) except as provided under section 313(a)(2) except as provided under section 313(a)(2) subdivision 313(b)(1) of this title. A meeting subdivision 313(b)(1) of this title. A meeting subdivision 313(b)(1) of this title. A meeting may be conducted by audio conference or may be conducted by audio conference or may be conducted by audio conference or other electronic means, as long as the other electronic means, as long as the other electronic means, as long as the provisions of this subchapter are met. Any provisions of this subchapter are met. A provisions of this subchapter are met. A person with a disability as defined in 9 V.S.A. meeting of a public body is subject to the meeting of a public body is subject to the public accommodation requirements of 9 public accommodation requirements of 9 § 4501 who timely requests that the public V.S.A. chapter 139. A public body shall V.S.A. chapter 139. A public body shall body provide reasonable accommodation to mitigate the person's disability shall be electronically record by audio tape, all public electronically record by audio tape, all public afforded such reasonable accommodation hearings held to provide a forum for public hearings held to provide a forum for public necessary to allow the person to attend and comment on a proposed rule, pursuant to comment on a proposed rule, pursuant to participate in a meeting. A public body shall 3 V.S.A. § 840. The public shall have access 3 V.S.A. § 840. The public shall have access electronically record by audio tape, all to copies of such tapes electronic recordings as to copies of such tapes electronic recordings as hearings held to provide a forum for public described in section 316 of this title. described in section 316 of this title. comment on a proposed rule, pursuant to 3 V.S.A. § 840. The public shall have access to copies of such tapes electronic recordings as described in section 316 of this title. (2) One or more of the members of a (2) One or more of the members of a (2) One or more of the members of a public body may participate in a meeting by public body may participate in a meeting by public body may participate in a meeting by electronic or other means of communication electronic or other means of communication electronic or other means of communication, provided that: provided that: provided that:

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|--|---|--|
| (A) At least 24 hours before the | (A) At least 24 hours prior to the | (A) At least 24 hours prior to the |
| meeting, the public body shall publicly | meeting, the public body shall publicly | meeting, the public body shall publicly |
| announce the meeting and a municipal public | announce the meeting, and a municipal public | announce the meeting, and a municipal public |
| body shall post notice of the meeting in or near | body shall post notice of the meeting in or near | body shall post notice of the meeting in or near |
| the municipal clerk's office and in at least two | the municipal clerk's office and in at least two | the municipal clerk's office and in at least two |
| other public places in the municipality. | other public places in the municipality. | other public places in the municipality. |
| (B) The public announcement and | (B) The public announcement and | (B) The public announcement and |
| posted notice of the meeting shall identify: | posted notice of the meeting shall identify: | posted notice of the meeting shall identify: |
| (i) at least one physical location | (i) at least one physical location | (i) at least one physical location |
| where a member of the public can attend and | where a member of the public can attend and | where a member of the public can attend and |
| participate in the meeting; or | participate in the meeting; or | participate in the meeting; or |
| (ii) an electronic or other means | (ii) an electronic or other means | (ii) an electronic or other means |
| by which the public can access the meeting | by which the public can access the meeting | by which the public can access the meeting |
| from a remote location. | from a remote location. | from a remote location. |
| (C) Each member participating by | (C) Each member participating by | (C) Each member participating by |
| electronic or other means of communication | electronic or other means of communication | electronic or other means of communication |
| shall: | shall: | shall: |
| | (i) identify himself or herself | (i) identify himself or herself |
| | when the meeting is convened; | when the meeting is convened; |
| (i) be audible to the public at the | (ii) be audible to the public at the | (ii) be audible to the public at the |
| physical location identified in subdivision | physical location identified in subdivision | physical location identified in subdivision |
| (2)(B)(i) of this subsection and to those | (2)(B)(i) of this subsection and to those | (2)(B)(i) of this subsection and to those |
| members of the public participating by the | members of the public participating by the | members of the public participating by the |

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| electronic or other means identified in | electronic or other means identified in | electronic or other means identified in |
| subdivision (2)(B)(ii) of this subsection; and | subdivision (2)(B)(ii) of this subsection; and | subdivision (2)(B)(ii) of this subsection; and |
| (ii) be able to simultaneously hear | (iii) be able to simultaneously | (iii) be able to simultaneously |
| each member and speak to each member | hear each member and speak to each member | hear each member and speak to each member |
| during the meeting. | during the meeting. | during the meeting. |
| (D) The public body meets all other | (D) The public body meets all other | (D) The public body meets all other |
| requirements of this subchapter in holding a | requirements of this subchapter in holding a | requirements of this subchapter in holding a |
| meeting. | meeting. | meeting. |
| (E) A vote of the public body shall | (E) A vote of the public body shall | (E) A vote of the public body shall |
| be taken by roll call. | be taken by roll call. | be taken by roll call. |
| (3) Electronic communications may be | (3) Written correspondence and | (3) Written correspondence and |
| distributed among members of a public body, | electronic communications may be distributed | electronic communications may be distributed |
| provided that such communications shall not | among members of a public body, provided | among members of a public body, provided |
| be used to circumvent the spirit or the | that such communications shall not be used to | that such communications shall not be used to |
| requirements of this subchapter. | circumvent the spirit or the requirements of | circumvent the spirit or the requirements of |
| | this subchapter. | this subchapter. |
| (b)(1) Minutes shall be taken of all | (b)(1) Minutes shall be taken of all | (b)(1) Minutes shall be taken of all |
| meetings of public bodies. The minutes shall | meetings of public bodies. The minutes shall | meetings of public bodies. The minutes shall |
| cover all topics and motions that arise at the | cover all topics and motions that arise at the | cover all topics and motions that arise at the |
| meeting and give a true indication of the | meeting and give a true indication of the | meeting and give a true indication of the |
| business of the meeting. Minutes shall include | business of the meeting. Minutes shall include | business of the meeting. Minutes shall include |
| at least the following minimal information: | at least the following minimal information: | at least the following minimal information: |
| (A) All members of the public body | (A) All members of the public body | (A) All members of the public body |

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| present; | present; | present; |
| (B) All other active participants in | (B) All other active participants in | (B) All other active participants in |
| the meeting; | the meeting; | the meeting; |
| (C) All motions, proposals, and | (C) All motions, proposals, and | (C) All motions, proposals, and |
| resolutions made, offered, and considered, and | resolutions made, offered, and considered, and | resolutions made, offered, and considered, and |
| what disposition is made of same; and | what disposition is made of same; and | what disposition is made of same; and |
| (D) The results of any votes, with a | (D) The results of any votes, with a | (D) The results of any votes, with a |
| record of the individual vote of each member | record of the individual vote of each member | record of the individual vote of each member |
| if a roll call is taken. | if a roll call is taken. | if a roll call is taken. |
| (2) Minutes of all public meetings shall | (2) Minutes of all public meetings shall | (2) Minutes of all public meetings shall |
| be matters of public record, shall be kept by | be matters of public record, shall be kept by | be matters of public record, shall be kept by |
| the clerk or secretary of the public body, and | the clerk or secretary of the public body, and | the clerk or secretary of the public body, and |
| shall be available for inspection by any person | shall be available for inspection by any person | shall be available for inspection by any person |
| and for purchase of copies at cost upon request | and for purchase of copies at cost upon request | and for purchase of copies at cost upon request |
| after five days from the date of any meeting. | after five days from the date of any meeting. | after five days from the date of any meeting. |
| (c)(1) The time and place of all regular | (c)(1) The time and place of all regular | (c)(1) The time and place of all regular |
| meetings subject to this section shall be clearly | meetings subject to this section shall be clearly | meetings subject to this section shall be clearly |
| designated by statute, charter, regulation, | designated by statute, charter, regulation, | designated by statute, charter, regulation, |
| ordinance, bylaw, resolution, or other | ordinance, bylaw, resolution, or other | ordinance, bylaw, resolution, or other |
| determining authority of the public body, and | determining authority of the public body, and | determining authority of the public body, and |
| this information shall be available to any | this information shall be available to any | this information shall be available to any |
| person upon request. The time and place of all | person upon request. The time and place of all | person upon request. The time and place of all |
| public hearings and meetings scheduled by all | public hearings and meetings scheduled by all | public hearings and meetings scheduled by all |

S.67 of 2011, As Passed Senate Drafter: MOG executive branch state agencies, departments, boards, or commissions shall be available to the public as required under 3 V.S.A. § 2222(c).

- (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

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executive branch state agencies, departments, boards, or commissions shall be available to the public as required under 3 V.S.A. § 2222(c).

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- (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

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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:
- (1) posted to the public body's website, if one exists;

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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 At least 24 hours prior to a meeting, the agenda for a regular or special meeting shall be:
- (1) posted to a website, if one exists, that the public body maintains or designates as the official website of the body;

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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)(1) The At least 24 hours prior to a meeting, the agenda for a regular or special meeting shall be:
- (A) posted to a website, if one exists, that the public body maintains or designates as the official website of the body;

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| Dianter. Mod | Blatter. Mod | (B) posted by a municipal public |
| (2) posted by a municipal public body in | (2) posted by a municipal public body in | body in or near the municipal office and in at |
| or near the municipal office and in at least two | or near the municipal office and in at least two | least two other public places in the |
| other public places in the municipality; and | other public places in the municipality: | municipality; and |
| (3) made available to the news media or | (3) made available to the news media or | (C) made available to the news |
| concerned persons prior to the meeting upon | concerned persons prior to the meeting upon | media or concerned persons prior to the |
| specific request. | specific request; and | meeting upon specific request. |
| | (4) adjustments to the agenda of a | (2) Adjustments to the agenda of a |
| | public body may be made as the first act of | public body may be made as the first act of |
| | business at a public meeting. | business at a public meeting. |
| (e) Nothing in this section or in section 313 | (e) Nothing in this section or in section 313 | (e) Nothing in this section or in section 313 |
| of this title shall be construed as extending to | of this title shall be construed as extending to | of this title shall be construed as extending to |
| the judicial branch of the government of | the judicial branch of the government of | the judicial branch of the government of |
| Vermont or of any part of the same or to the | Vermont or of any part of the same or to the | Vermont or of any part of the same or to the |
| public service board; nor shall it extend to the | public service board; nor shall it extend to the | public service board; nor shall it extend to the |
| deliberations of any public body in connection | deliberations of any public body in connection | deliberations of any public body in connection |
| with a quasi-judicial proceeding; nor shall | with a quasi-judicial proceeding; nor shall | with a quasi-judicial proceeding; nor shall |
| anything in this section be construed to require | anything in this section be construed to require | anything in this section be construed to require |
| the making public of any proceedings, records, | the making public of any proceedings, records, | the making public of any proceedings, records, |
| or acts which are specifically made | or acts which are specifically made | or acts which are specifically made |
| confidential by the laws of the United States of | confidential by the laws of the United States of | confidential by the laws of the United States of |
| America or of this state. | America or of this state. | America or of this state. |
| (f) A written decision issued by a public | (f) A written decision issued by a public | (f) A written decision issued by a public |

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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

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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

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body in connection with a quasi-judicial proceeding need not be adopted at an open meeting if the decision will be a public record.

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- (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

S.67 of 2011, As Passed Senate S.67 of 2011, As Voted By House Gov Ops H.497 of 2013 **Drafter: MOG Drafter: HMG Drafter: MOG** meeting at correctional facilities with meeting at correctional facilities with meeting at correctional facilities with attendance at the meeting subject to rules attendance at the meeting subject to rules attendance at the meeting subject to rules regarding access and security established by regarding access and security established by regarding access and security established by the superintendent of the facility. the superintendent of the facility. the superintendent of the facility. Sec. 3. 1 V.S.A. § 313 is amended to read: Sec. 3. 1 V.S.A. § 313 is amended to read: Sec. 3. 1 V.S.A. § 313 is amended to read: § 313. EXECUTIVE SESSIONS § 313. EXECUTIVE SESSIONS § 313. EXECUTIVE SESSIONS (a) No public body described in section (a) No public body described in section (a) No public body described in section 312 of this title may hold an executive session 312 of this title may hold an executive session 312 of this title may hold an executive session from which the public is excluded, except by from which the public is excluded, except by from which the public is excluded, except by the affirmative vote of two-thirds of its the affirmative vote of two-thirds of its the affirmative vote of two-thirds of its members present in the case of any public members present in the case of any public members present in the case of any public body of state government or of a majority of body of state government or of a majority of body of state government or of a majority of its members present in the case of any public its members present in the case of any public its members present in the case of any public body of a municipality or other political body of a municipality or other political body of a municipality or other political subdivision. A motion to go into executive subdivision. A motion to go into executive subdivision. A motion to go into executive session shall indicate the nature of the business session shall indicate the nature of the business session shall indicate the nature of the business of the executive session, and no other matter of the executive session, and no other matter of the executive session, and no other matter may be considered in the executive session. may be considered in the executive session. may be considered in the executive session. Such vote shall be taken in the course of an Such vote shall be taken in the course of an Such vote shall be taken in the course of an open meeting and the result of the vote open meeting and the result of the vote open meeting and the result of the vote recorded in the minutes. No formal or binding recorded in the minutes. No formal or binding recorded in the minutes. No formal or binding action shall be taken in executive session action shall be taken in executive session action shall be taken in executive session

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except <u>for</u> actions relating to the securing of real estate options under subdivision (2) (b)(1) of this <u>subsection</u> section. 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 <u>public body</u> 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;
- (b) A public body may hold an executive session only for one or more of the following purposes:
- (2) The negotiating or securing of (1)

 To negotiate or secure real estate purchase options;
- (3)(2) The <u>To consider the</u> appointment or employment or evaluation of a public

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except <u>for</u> actions relating to the securing of real estate options under subdivision (2) (b)(1) of this <u>subsection</u> <u>section</u>. 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 <u>public body</u> 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;
- (b) A public body may hold an executive session only for one or more of the following purposes:
- (2) The negotiating or securing of (1)

 To negotiate or secure real estate purchase options;
- (3)(2) The <u>To consider the</u> appointment or employment or evaluation of a public

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except <u>for</u> actions relating to the securing of real estate options under subdivision (2) (b)(1) of this <u>subsection</u> <u>section</u>. 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 <u>public body</u> 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;
- (b) A public body may hold an executive session only for one or more of the following purposes:
- (2) The negotiating or securing of (1)

 To negotiate or secure real estate purchase options;
- (3)(2) The <u>To consider the</u> appointment or employment or evaluation of a public

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| officer or employee other than the appointment | officer or employee, including discussion, | officer or employee, including discussion, |
| of a person to a public board, council, or | interview, and evaluation of the merits of a | interview, and evaluation of the merits of a |
| commission; | candidate for public office or employment, | candidate for public office or employment, |
| | provided that a final decision to hire or appoint | provided that a final decision to hire or appoint |
| | a public officer or employee shall be made in | a public officer or employee shall be made in |
| | an open meeting; | an open meeting; |
| (4)(3) A To conduct a disciplinary or | (4)(3) A To conduct a disciplinary or | (4)(3) A To conduct a disciplinary or |
| dismissal action against a public officer or | dismissal action against a public officer or | dismissal action against a public officer or |
| employee; but nothing in this subsection shall | employee; but nothing in this subsection shall | employee; but nothing in this subsection shall |
| be construed to impair the right of such officer | be construed to impair the right of such officer | be construed to impair the right of such officer |
| or employee to a public hearing if formal | or employee to a public hearing if formal | or employee to a public hearing if formal |
| charges are brought; | charges are brought; | charges are brought; |
| $\frac{(5)(4)}{(5)(4)}$ A To consider a clear and | $\frac{(5)(4)}{(5)(4)}$ A To consider a clear and | (5)(4) A To consider a clear and |
| imminent peril to the public safety; | imminent peril to the public safety; | imminent peril to the public safety; |
| (6)(5) Discussion or consideration of To | (6)(5) Discussion or consideration of To | (6)(5) Discussion or consideration of To |
| discuss or consider records or documents | discuss or consider records or documents | discuss or consider records or documents |
| excepted exempted from the access to public | excepted exempted from the access to public | excepted exempt from the access to public |
| records provisions of subsection section | records provisions of subsection section | records provisions of section 317 316 of this |
| 317(b) of this title. Discussion or | 317(b) of this title. Discussion or | title. Discussion or consideration of the |
| consideration of the excepted record or | consideration of the excepted record or | excepted record or document shall not itself |
| document shall not itself permit an extension | document shall not itself permit an extension | permit an extension of the executive session to |
| of the executive session to the general subject | of the executive session to the general subject | the general subject to which the record or |
| to which the record or document pertains; | to which the record or document pertains; | document pertains; |

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| S.67 of 2011, As Passed Senate | S.67 of 2011, As Voted By House Gov Ops | H.497 of 2013 |
| Drafter: MOG (7)(6) The To consider academic | Drafter: MOG (7)(6) The To consider academic | Drafter: HMG (7)(6) The To consider academic |
| | | |
| records or suspension or discipline of students; | records or suspension or discipline of students; | records or suspension or discipline of students; |
| (8)(7) Testimony To take or hear | (8)(7) Testimony To take or hear | (8)(7) Testimony To take or hear |
| testimony from a person in a parole | testimony from a person in a parole | testimony from a person in a parole |
| proceeding conducted by the parole board if | proceeding conducted by the parole board if | proceeding conducted by the parole board if |
| public disclosure of the identity of the person | public disclosure of the identity of the person | public disclosure of the identity of the person |
| could result in physical or other harm to the | could result in physical or other harm to the | could result in physical or other harm to the |
| person; | person; | person; |
| (9)(8) Information To consider | (9)(8) Information To consider | (9)(8) Information To consider |
| information relating to a pharmaceutical rebate | information relating to a pharmaceutical rebate | information relating to a pharmaceutical rebate |
| or to supplemental rebate agreements, which is | or to supplemental rebate agreements, which is | or to supplemental rebate agreements, which is |
| protected from disclosure by federal law or the | protected from disclosure by federal law or the | protected from disclosure by federal law or the |
| terms and conditions required by the Centers | terms and conditions required by the Centers | terms and conditions required by the Centers |
| for Medicare and Medicaid Services as a | for Medicare and Medicaid Services as a | for Medicare and Medicaid Services as a |
| condition of rebate authorization under the | condition of rebate authorization under the | condition of rebate authorization under the |
| Medicaid program, considered pursuant to 33 | Medicaid program, considered pursuant to 33 | Medicaid program, considered pursuant to 33 |
| V.S.A. §§ 1998(f)(2) and 2002(c); | V.S.A. §§ 1998(f)(2) and 2002(c); | V.S.A. §§ 1998(f)(2) and 2002(c); |
| (9) To discuss or consider municipal or | (9) To discuss or consider municipal or | (9) To discuss or consider municipal or |
| school security or emergency response | school security or emergency response | school security or emergency response |
| measures, the disclosure of which could | measures, the disclosure of which could | measures, the disclosure of which could |
| jeopardize public safety; | jeopardize public safety; | jeopardize public safety; |
| (10) Where the public body determines | (10) Where the public body determines | (10) For one or more of the following |
| | | |

that premature general public knowledge

that premature general public knowledge

purposes, where the public body determines

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| would place the public body or a person | would place the public body or a person | that premature general public knowledge |
| involved at a substantial disadvantage when | involved at a substantial disadvantage for one | would place the public body or a person |
| addressing one of the following: | or more of the following purposes: | involved at a substantial disadvantage: |
| (A) Consideration or negotiation of | (A) To consider or negotiate of | (A) To consider or negotiate |
| contracts; | contracts; | contracts; |
| (B) Consideration or negotiation of | (B) To consider or negotiate labor | (B) To consider or negotiate labor |
| labor relations agreements with employees; | relations agreements with employees; | relations agreements with employees; |
| (C) Conduct of arbitration or | (C) To conduct arbitration or | (C) To conduct arbitration or |
| mediation; | mediation; | mediation; |
| (D) To hear grievances, other than | (D) To hear grievances, other than | (D) To hear grievances, other than |
| tax grievances; or | tax grievances; or | tax grievances; or |
| (E) Consideration of civil actions or | (E) To meet with an attorney to | (E) To meet with an attorney to |
| prosecutions. | discuss pending litigation to which the public | discuss pending civil litigation or a |
| | body is a party to civil actions or prosecutions. | prosecution, to which the public body is a |
| | | party. |
| (b)(c) Attendance in executive session | (b)(c) Attendance in executive session | (b)(c) Attendance in executive session |
| shall be limited to members of the public | shall be limited to members of the public | shall be limited to members of the public |
| body, and, in the discretion of the public body, | body, and, in the discretion of the public body, | body, and, in the discretion of the public body, |
| its staff, clerical assistants and legal counsel, | its staff, clerical assistants and legal counsel, | its staff, clerical assistants and legal counsel, |
| and persons who are subjects of the discussion | and persons who are subjects of the discussion | and persons who are subjects of the discussion |
| or whose information is needed. | or whose information is needed. | or whose information is needed. |
| (e)(d) The senate and house of | (e)(d) The senate and house of | (e)(d) The senate and house of |
| representatives, in exercising the power to | representatives, in exercising the power to | representatives, in exercising the power to |

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10/15/2013 S.67 of 2011, As Passed Senate **Drafter: MOG** 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. Sec. 4. 1 V.S.A. § 314 is amended to read: § 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

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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.

- Sec. 4. 1 V.S.A. § 314 is amended to read: § 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, a person who knowingly and intentionally violates the provisions of this subchapter on behalf or at the behest of a public body, or a person 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 civil division

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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.

- Sec. 4. 1 V.S.A. § 314 is amended to read: § 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, a person who knowingly and intentionally violates the provisions of this subchapter on behalf or at the behest of a public body, or a person 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 Prior to instituting an action under subsection (c) of this section, the attorney general or any person aggrieved by a violation

S.67 of 2011, As Passed Senate S.67 of 2011, As Voted By House Gov Ops H.497 of 2013 **Drafter: MOG Drafter: HMG Drafter: MOG** of the superior court in the county in which the of the provisions of this subchapter shall in the county in which the violation has taken provide the public body written notice that place for appropriate injunctive relief or for a violation has taken place for appropriate alleges a specific violation of this subchapter declaratory judgment. Except as to cases the injunctive relief or for a declaratory judgment. Except as to cases the court considers of and requests a specific cure of such violation. court considers of greater importance, The public body may cure the violation, proceedings before the superior court, as greater importance, proceedings before the authorized by this section and appeals civil division of the superior court, as subject to the following: therefrom, take precedence on the docket over authorized by this section and appeals (1) Upon receipt of the written notice of alleged violation, the public body shall have all cases and shall be assigned for hearing and therefrom, take precedence on the docket over five business days to respond publicly to the trial or for argument at the earliest practicable all cases and shall be assigned for hearing and alleged violation by: date and expedited in every way. trial or for argument at the earliest practicable (A) acknowledging the violation of date and expedited in every way. this subchapter and stating an intent to cure the (c) After receipt by the public body of (c) After receipt by the public body of violation within 14 calendar days; or written notice that alleges a specific violation written notice that alleges a specific violation of this subchapter and that requests a specific of this subchapter and that requests a specific (B) stating that the public body has cure of such violation, the public body may determined that no violation has occurred and cure of such violation, the public body may cure the violation, subject to the following: cure the violation, subject to the following: that no cure is necessary. (1) Upon receipt of written notice of an (1) Upon receipt of written notice of an (2) Failure of a public body to respond to a notice of alleged violation within five alleged violation of this subchapter, the public alleged violation of this subchapter, the public body shall have 21 calendar days to respond body shall have 21 calendar days to respond business days of receipt of notice under publicly to the alleged violation and: publicly to the alleged violation and: subdivision (1) of this subsection shall be (A) Acknowledge the open meeting (A) Acknowledge the violation of treated as a denial of the violation for purposes violation and state an intent to cure the this subchapter and state an intent to cure the of enforcement of the requirements of this violation; or violation; or subchapter.

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- (B) State that the public body has determined that no violation has occurred and that no cure is necessary.
- (2) Failure of a public body to respond to a notice of alleged violation shall be treated as a denial of the violation for purposes of enforcement of the requirements of this subchapter.
- (3) Following a public body's acknowledgment of a violation under subdivision (1)(A) of this subsection, the public body shall have 14 calendar days to cure the violation by declaring as void an action or actions taken at or resulting from a meeting in violation of this subchapter.
- (4) A public body that cures an alleged violation of this subchapter under this subsection shall not be subject to an assessment of attorney's fees and litigation costs under subsection (d) of this section.

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- (B) State that the public body has determined that no violation has occurred and that no cure is necessary.
- (2) Failure of a public body to respond to a notice of alleged violation within 21 days of receipt of notice under subdivision (1) of this subsection shall be treated as a denial of the violation for purposes of enforcement of the requirements of this subchapter.
- (3) Following a public body's acknowledgment of a violation under subdivision (1)(A) of this subsection, the public body shall have 14 calendar days to cure the violation by declaring as void an action or actions taken at or resulting from a meeting in violation of this subchapter.
- (4) A public body that cures a violation of this subchapter under this subsection shall not be subject to an assessment of attorney's fees and litigation costs under subsection (d) of this section.

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- (3) Within 14 calendar days after a public body acknowledges a violation under subdivision (1)(A) of this subsection, the public body shall cure the violation by declaring as void an action or actions taken at, or resulting from, a meeting in violation of this subchapter, or, in the case of a procedural violation, by adopting specific measures that actually prevent future procedural violations.

 An action declared void may be ratified at an open meeting that satisfies the provisions of this subchapter.
- (4) A public body that cures in fact a violation of this subchapter under this subsection shall not be assessed attorney's fees and litigation costs under subsection (d) of this section.
- (c) Following expiration of the five-business-day time period of subdivision (b)(1) of this section and, if applicable, the additional 14-calendar-day cure period for public bodies acknowledging a violation under subdivision (b)(1)(A) of this section, the

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|---|---|---|
| Drafter: MOG | Drafter: MOG | Drafter: HMG attorney general or any person aggrieved by a |
| | | violation of the provisions of this subchapter |
| | | may apply to the <u>civil division of the</u> 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 civil division of 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. |
| (d) The court shall assess against a public | (d) The court shall assess against a public | (d) The court shall assess against a public |
| body found to have violated the requirements | body found to have violated the requirements | body found to have violated the requirements |
| of this subchapter reasonable attorney's fees | of this subchapter reasonable attorney's fees | of this subchapter reasonable attorney's fees |
| and other litigation costs reasonably incurred | and other litigation costs reasonably incurred | and other litigation costs reasonably incurred |
| in any case under this subchapter in which the | in any case under this subchapter in which the | in any case under this subchapter in which the |
| complainant has substantially prevailed, unless | complainant has substantially prevailed, unless | complainant has substantially prevailed, unless |
| the court finds that: | the court finds that: | the court finds that: |
| (1) The public body had a reasonable | (1) The public body had a reasonable | (1)(A) the public body had a reasonable |
| basis in fact and law for its position; and | basis in fact and law for its position; and | basis in fact and law for its position; and |
| (2) The public body acted in good faith. | (2) The public body acted in good faith. | (B) the public body acted in good |

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| | In determining whether a public body acted in | faith. In determining whether a public body |
| | good faith, the court shall consider, among | acted in good faith, the court shall consider, |
| | other factors, whether the public body | among other factors, whether the public body |
| | responded to a notice of an alleged violation of | responded to a notice of an alleged violation of |
| | this subchapter in a timely manner under | this subchapter in a timely manner under |
| | subsection (c) of this section. | subsection (b) of this section; or |
| | | (2) the public body cured the violation |
| | | in accordance with subsection (b) of this |
| | | section. |
| Sec. 5. EFFECTIVE DATE | Sec. 5. EFFECTIVE DATE | Sec. 5. EFFECTIVE DATE |
| This act shall take effect on July 1, 2011. | This act shall take effect on July 1, 2011. | This act shall take effect on July 1, 2013. |
| | | |