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Date: April 30, 2014 at 3:36:53 PM EDT
To: "'dsweaney@leg.state.vt.us'" <dsweaney@leg.state.vt.us>
Subject: H.497 open meeting law amendments

Hi, Donna—

I wish I could speak with you in person about this, but I seem to be staying very busy up here in Burlington, and I know you all are in the final push of the session and are very busy as well.

I'm writing to you because Senate Gov Ops just made a change to H.497 that I think is critical to Vermont cities and towns, and I hope you will support it.

The House version allows an executive session only to consider “ (E) Professional legal advice in connection with pending or imminent civil litigation or a prosecution, to which the public body is or may be a party.” But lawyers for Vermont cities and towns often are called upon to advise a local selectboard, or, in our case, city council, on a wide range of confidential legal matters, many of which do not involve “pending or imminent civil litigation or a prosecution.” I hope that as the city attorney one of my key roles is to help the city avoid or prevent an action, not wait for civil litigation to become pending or imminent.

To address this, the Senate has moved the section around a bit, and has added an (F), which allows a public body to go into executive session to consider “confidential attorney-client communications made for the purpose of providing legal services to the body” if there is a finding that premature public knowledge would place the body at a substantial disadvantage.

This change would allow local boards to protect the best interests of a municipality, but would only apply to communications that are already protected by law as attorney-client communications. Therefore, I hope you agree that it is a fairly narrow exemption that serves to protect the best interests of all members of a municipality.

I'd be happy to speak with you or provide you more information about why I think this is critical, if that would be helpful. My contact information is below.

I hope you will support the Senate revisions.

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