

# Journal of the Senate

THURSDAY, FEBRUARY 4, 2016

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend Kim Kie of Barre.

## Message from the Governor

A message was received from His Excellency, the Governor, by Susan Allen, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the thirtieth day of January 2016 he approved and signed bill originating in the Senate of the following title:

**S. 233.** An act relating to amending Act 46.

## Action Reconsidered; Consideration Interrupted by Recess

### H. 187.

Assuring the Chair that he voted with the majority whereby Senator Campion's recommendation of amendment was rejected by the Senate, Senator Doyle moved that the Senate reconsider its action on House bill entitled:

An act relating to absence from work for health care and safety.

## Assumes the Chair

In the absence of the President (who was Acting Governor in the absence of the Governor) the President *pro tempore* assumed the Chair.

## Recess

On motion of Senator Baruth the Senate recessed until two o'clock in the afternoon.

## Called to Order

The Senate was called to order by the President *pro tempore*.

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**Consideration Resumed; Consideration Postponed**

**H. 187.**

Consideration was resumed on House bill entitled:

An act relating to absence from work for health care and safety.

Thereupon, pending the question, Shall the Senate reconsider it's action? Senator MacDonald raised a *point of order* that the motion to reconsider must be two successive rather than a compound motion.

Citing Mason's Manual of Legislative Procedure Sec. 465 The President *overruled* the point of order and ruled that the motion may be made in one step to reconsider both the adoption of an amendment and passage of the bill.

Thereupon, the recurring question, Shall the Senate reconsider its action on H. 187 and the amendment offered by Senator Campion?, was decided in the affirmative.

Thereupon, on motion of Senator Baruth, consideration of the bill was postponed until Wednesday, February 10, 2016.

**Bill Passed**

**S. 198.**

Senate bill entitled:

An act relating to the Government Accountability Committee and the annual report on the State's population-level outcomes.

Was taken up.

Thereupon, pending third reading of the bill, Senator Ashe moved to amend the bill by in Sec. 3 by striking out subparagraphs (E) and (F) and inserting new subparagraphs (E) and (F) to read as follows:

(E) annualized U.S. Department of Labor Bureau of Labor Statistics U6 rate for Vermont;

(F) percent of ~~structurally deficient bridges, as defined by the Vermont Agency of Transportation;~~ and

(G) ~~percent of food~~ total farm income ~~sales that come from Vermont farms;~~

and striking out subparagraphs (G) and (H) in their entirety.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Ashe, Senator Ashe requested and was granted leave to withdraw his recommendation of amendment.

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Thereupon, the bill was read the third time and passed.

**Bill Amended; Third Reading Ordered**

**S. 114.**

Senator Pollina, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to the Open Meeting Law.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

**§ 312. RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES**

(a)(1) 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 subdivision 313(a)(2) of this title. A meeting of a public body is subject to the public accommodation requirements of 9 V.S.A. chapter 139. A public body shall electronically record all public hearings held to provide a forum for public comment on a proposed rule, pursuant to 3 V.S.A. § 840. The public shall have access to copies of such electronic recordings as described in section 316 of this title.

(2) Participation in meetings through electronic or other means.

(A) As long as the requirements of this subchapter are met, one or more of the members of a public body may attend a regular, special, or emergency meeting by electronic or other means without being physically present at a designated meeting location.

(B) If one or more members attend a meeting by electronic or other means, such members may fully participate in discussing the business of the public body and voting to take an action, but any vote of the public body that is not unanimous shall be taken by roll call.

(C) Each member who attends a meeting without being physically present at a designated meeting location shall:

(i) identify himself or herself when the meeting is convened; and

(ii) be able to hear the conduct of the meeting and be heard throughout the meeting.

(D) If a quorum or more of the members of a public body attend a meeting without being physically present at a designated meeting location, the following additional requirements shall be met:

~~(i) At least 24 hours prior to the meeting, or as soon as practicable prior to an emergency meeting, the public body shall publicly announce the meeting, and a municipal public body shall post notice of the meeting in or near the municipal clerk's office and in at least two other designated public places in the municipality.~~

~~(ii) The public announcement and posted notice of the meeting agenda required under subsection (d) of this section shall designate at least one physical location where a member of the public can attend and participate in the meeting. At least one member of the public body, or at least one staff or designee of the public body, shall be physically present at each designated meeting location.~~

(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 calendar days from the date of any meeting. Meeting minutes shall be posted no later than five calendar days from the date of the meeting to a website, if one exists, that the public body maintains or has designated as the official website of the body. Except for draft minutes that have been substituted with updated minutes, posted minutes shall not be removed from the website sooner than one year from the date of the meeting for which the minutes were taken.

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(d)(1) At least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting, a meeting agenda shall be:

(A) posted to a website, if one exists, that the public body maintains or designates as the official website of the body; and

(B) in the case of a municipal public body, posted in or near the municipal office and in at least two other designated public places in the municipality.

(2) A meeting agenda shall be made available to a person prior to the meeting upon specific request.

(3)(A) Any addition to or deletion from the agenda shall be made as the first act of business at the meeting.

(B) Any other adjustment to the agenda may be made at any time during the meeting.

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Sec. 2. 1 V.S.A. § 314(b) is amended to read:

(b)(1) Prior to instituting an action under subsection (c) of this section, the Attorney General or any person aggrieved by a violation of the provisions of this subchapter shall provide the public body written notice that alleges a specific violation of this subchapter and requests a specific cure of such violation. The public body will not be liable for attorney's fees and litigation costs under subsection (d) of this section if it cures in fact a violation of this subchapter in accordance with the requirements of this subsection.

(2) Upon receipt of the written notice of alleged violation, the public body shall respond publicly to the alleged violation within ~~seven business~~ 10 calendar days by:

(A) acknowledging the violation of this subchapter and stating an intent to cure the violation within 14 calendar days; or

(B) stating that the public body has determined that no violation has occurred and that no cure is necessary.

(3) Failure of a public body to respond to a written notice of alleged violation within ~~seven business~~ 10 calendar days shall be treated as a denial of the violation for purposes of enforcement of the requirements of this subchapter.

(4) Within 14 calendar days after a public body acknowledges a violation under subdivision (2)(A) of this subsection, the public body shall cure the violation at an open meeting by:

(A) if applicable, either ratifying, or declaring as void, any action taken at or resulting from ~~a meeting in violation of this subchapter~~;

(i) a meeting that was not noticed in accordance with subsection 312(c) of this title; or

(ii) a meeting that a person or the public was wrongfully excluded from attending; or

(iii) an executive session or portion thereof not authorized under subdivisions 313(a)(1)–(10) of this title; and

(B) adopting specific measures that actually prevent future violations.

(5) Acknowledgment of a violation under this subsection shall not of itself subject a person to a criminal penalty under subsection (a) of this section.

### Sec. 3. EFFECTIVE DATE; APPLICATION OF CRIMINAL PENALTY

(a) This act shall take effect on passage.

(b) A person shall not be subject to prosecution pursuant to 1 V.S.A. § 314(a) for a violation of 1 V.S.A. § 312(d)(1)(A) (requirement to post agenda to website, if any) in connection with any meeting that occurred before July 1, 2015.

And that when so amended the bill ought to pass.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations?, Senator Sears moved to strike out Sec 2(b)(5), which was agreed to.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment, as amended was agreed to and third reading of the bill was ordered.

### **Adjournment**

On motion of Senator Baruth, the Senate adjourned until eleven o'clock and thirty minutes in the morning.