

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was recommitted  
3 Senate Bill No. 114 entitled “An act relating to the Open Meeting Law”  
4 respectfully reports that it has considered the same and recommends that the  
5 bill be amended by striking out all after the enacting clause and inserting in  
6 lieu thereof the following:

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

8 § 312. RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES

9 (a)(1) All meetings of a public body are declared to be open to the public at  
10 all times, except as provided in section 313 of this title. No resolution, rule,  
11 regulation, appointment, or formal action shall be considered binding except as  
12 taken or made at such open meeting, except as provided under subdivision  
13 313(a)(2) of this title. A meeting of a public body is subject to the public  
14 accommodation requirements of 9 V.S.A. chapter 139. A public body shall  
15 electronically record all public hearings held to provide a forum for public  
16 comment on a proposed rule, pursuant to 3 V.S.A. § 840. The public shall  
17 have access to copies of such electronic recordings as described in section 316  
18 of this title.

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

20 (A) As long as the requirements of this subchapter are met, one or  
21 more of the members of a public body may attend a regular, special, or

1 emergency meeting by electronic or other means without being physically  
2 present at a designated meeting location.

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

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

- 9 (i) identify himself or herself when the meeting is convened; and  
10 (ii) be able to hear the conduct of the meeting and be heard  
11 throughout the meeting.

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

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

20 ~~(ii) The public announcement and posted notice of the meeting~~  
21 agenda required under subsection (d) of this section shall designate at least one

1 physical location where a member of the public can attend and participate in  
2 the meeting. At least one member of the public body, or at least one staff or  
3 designee of the public body, shall be physically present at each designated  
4 meeting location.

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

9 (A) all members of the public body present;

10 (B) all other active participants in the meeting;

11 (C) all motions, proposals, and resolutions made, offered, and  
12 considered, and what disposition is made of same; and

13 (D) the results of any votes, with a record of the individual vote of  
14 each member if a roll call is taken.

15 (2) Minutes of all public meetings shall be matters of public record,  
16 shall be kept by the clerk or secretary of the public body, and shall be available  
17 for inspection by any person and for purchase of copies at cost upon request  
18 after five calendar days from the date of any meeting. Meeting minutes shall  
19 be posted no later than five calendar days from the date of the meeting to a  
20 website, if one exists, that the public body maintains or has designated as the  
21 official website of the body. Except for draft minutes that have been

1 substituted with updated minutes, posted minutes shall not be removed from  
2 the website sooner than one year from the date of the meeting for which the  
3 minutes were taken.

4 \* \* \*

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

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

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

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

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

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

18 \* \* \*

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

20 (b)(1) Prior to instituting an action under subsection (c) of this section, the  
21 Attorney General or any person aggrieved by a violation of the provisions of

1 this subchapter shall provide the public body written notice that alleges a  
2 specific violation of this subchapter and requests a specific cure of such  
3 violation. The public body will not be liable for attorney's fees and litigation  
4 costs under subsection (d) of this section if it cures in fact a violation of this  
5 subchapter in accordance with the requirements of this subsection.

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

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

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

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

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

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

- 1                    (i) a meeting that was not noticed in accordance with subsection  
2                    312(c) of this title; or  
3                    (ii) a meeting that a person or the public was wrongfully excluded  
4                    from attending; or  
5                    (iii) an executive session or portion thereof not authorized under  
6                    subdivisions 313(a)(1)–(10) of this title; and

- 7                    (B) adopting specific measures that actually prevent future violations.  
8                    (5) Acknowledgment of a violation under this subsection shall not of  
9                    itself subject a person to a criminal penalty under subsection (a) of this section.

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

- 11                    (a) This act shall take effect on passage.  
12                    (b) A person shall not be subject to prosecution pursuant to 1 V.S.A.  
13                    § 314(a) for a violation of 1 V.S.A. § 312(d)(1)(A) (requirement to post agenda  
14                    to website, if any) in connection with any meeting that occurred before July 1,  
15                    2015.

16  
17  
18                    (Committee vote: \_\_\_\_\_)

19                    \_\_\_\_\_

20                    Senator \_\_\_\_\_

21                    FOR THE COMMITTEE