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To the Senate Government Operations Committee:

I regret that I cannot attend today's hearing on S.114; today is production day for both of our newspapers, and I can't get away. My understanding is that the Vermont League of Cities and Towns will renew its call for significant changes in the open meeting law. I filed written testimony on its proposals last month; a copy is attached for the committee's convenience.

In thinking about S.114, I would like to make two observations:

- If this Senate committee were part of a municipal government, rather than the Legislature, S.114 would allow the committee to *knowingly and willfully* violate the open meeting law with no concern for penalties. The full effect of the law would apply only to top-tier municipal and school committees.

However, in many communities, subcommittees do a lot of the work. For instance, the Burlington City Council has these standing committees: Board of Finance; Charter Change; Community Development & Neighborhood Revitalization; Institutions/Human Resources; License; Ordinance; Parks, Arts, Culture; Public Safety; Transportation/Energy/Utilities; Tax Abatement. As committees, under S.114 they would be exempt from any fine for *knowingly and willfully* violating the open meeting law, and would also be exempt from having to pay legal fees for litigation in which the plaintiff substantially prevails.

- The open meeting law is specifically designed to provide adequate information for the public, on the democratic principle that an informed citizen makes a good decision. However: No one enforces this law. If I think the law has been violated, it is up to me to enforce it, and my only remedy is court action. So if I sue a Burlington City Council committee, and I win, what exactly do I win? If S.114 passes, there will be no penalty whatsoever for members of a committee or of a second-tier board who *knowingly and willfully* violate the law. The second-tier boards and committees are also exempt from paying attorneys' fees. And the "cure" allows them a do-over, simply a revote that is unlikely to capture the "how" and "why" involved in a particular vote.

Under S.114, *there would be no consequence for knowing, willful violations*. That would be one heck of a law.

Thank you.

Tom Kearney