

Testimony regarding House Committee on Government Operations committee bill 18-0015

January 23, 2018

My name is Rama Schneider, and I live in Williamstown, Vermont. I have dual interests in the Vermont Open Meeting Law as well as the philosophical view that a free society requires an open and transparent government. My first interest is that of a citizen and the second, and the one I will be addressing in this testimony, is that of an elected official.

I have been an elected member of the Williamstown school board since 2009; an appointed member of the Orange North Supervisory Union board since 2009; an appointed member of the Williamstown/Northfield school district merger study; and am now an elected member of the board for the Central Vermont Unified Union School District (CVUUSD) that resulted from the merger study. I am currently on my third staff contract negotiations council. I have sat as chair for the Williamstown school district board, Orange North Supervisory Union board, the merger study committee, and two negotiations councils. Additionally I have been on various school board sub-committees and was on the Vermont School Boards Association board of directors for several years, and I have invested many hours of personal time educating myself on our open meeting law.

I am herein addressing specifically some proposed wording in committee bill 18-0015, draft 1.3 as presented on 01/18/2018. Section 1 seeks to amend 1 VSA § 310 by altering the definition of a “meeting” with the following: “Meeting” includes each communication within a series of communications of any kind, directly or through intermediaries, to discuss or take action on any business of the public body, even if the individual communication does not involve a quorum of the public body.’

My concern is that altering the definition of “meeting” to include non-quorum discussions will present an obstacle to good governance rather than a means of providing it.

1. The proposed language makes a fundamental change to the purpose of local governance meetings. We would no longer be holding a gathering of a legally mandated quorum to discuss and make decisions in public, but instead we would now be holding meetings for the purpose of nothing more than personal discussions.
2. The language as presented is clear. Any communications “to discuss or take action” are deemed to be a public meeting even if one is talking at the local convenience store one on one with a student’s parent who is interested in recent graduation rates. Such a discussion will require giving the public the right to attend and comment as well as require minutes. Imagine a parent who may feel a need to divulge their own private information and how this would affect constituent communications.
3. I, as a board member, would no longer be able to rely on private communications to help me sort through the issues regardless if these communications are about statistics or philosophical world view.
4. Electronic communications are already covered under the open meeting law, and this wording would mean, for example, a comment on a local Facebook posting regarding the Williamstown school district or CVUUSD would require a warned meeting and all necessary setup.
5. The suggested amendment will place individual local board and committee members at heightened risk of a personal lawsuit, and it will increase the legal expenses associated with running our various municipalities.

I ask the committee to consider this: would the House Committee on Government Operations be able to fulfill its function if the committee was required to operate under the open meeting law as amended by this proposed change in statute?

I am definitely not advocating that elected officials be able to conduct the business of a municipality outside of the public view, but it appears to me that this specific proposal is a response to a local political question that should be decided at the polls. I understand that some public media are frustrated by an inability to investigate beyond the current bounds, but that frustration is a question to be brought before the voters which is something these very same media already have the means to do.

A legal quorum is a common sense level to define a meeting of a public body. A quorum is required to take any action, and there is a legal mandate the public be given the opportunity to be heard. And lest we forget, this quorum is made up of folks who were selected in a public vote for office by their neighbors and co-community members. There is no good governance rationale for changing this requirement.

There is, as a matter of fact, a real danger presented by this proposed language. We already have a hard time finding people to fill the seats in many of our state's school boards, select boards and other local governance public bodies. Adding yet one more complexity and forcing board and committee members to be even more subject to detailed inquiry of day to day functioning by the press can only exacerbate this situation. The threat of increased legal jeopardy will, in my opinion, be the nail in the coffin for at least some local boards and committees.

The proposed language also will interfere with my constitutional rights of free association as well as my constituents' right to address their government and hold it accountable. I as a school board member would literally have to get the board chair and superintendent to warn a meeting in order for another school district resident and me to sit down and chat about my constituent's children and education. This will be true too for discussions with my wife concerning my school board activities.

I have asked myself if I believe this proposal addresses an existing problem. While I don't see such an issue, it is obvious there are some that do. It is, however, a poor resolution that makes a board member's daily life untenable or local governance impractical. I hope you will eliminate this proposal.