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S.87

Introduced by Committee on Government Operations

Date: February 18, 2021

Subject: Government operations; emergency provisions; Open Meeting Law;
municipal corporations; local elections; professional regulation;
sheriff funding

Statement of purpose of bill as introduced: This bill proposes to establish
statutory provisions that may be used for the operation of government in cases
of emergency.

An act relating to emergency provisions for the operation of government

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Open Meeting Law * * *

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

§ 312a. MEETINGS OF PUBLIC BODIES; STATE OF EMERGENCY

(a) As used in this section:

(1) “Affected public body” means a public body:

(A) whose regular meeting location is located in an area affected by a

hazard; and

1 (B) that cannot meet in a designated physical meeting location due to
2 a declared state of emergency pursuant to 20 V.S.A. chapter 1.

3 (2) "Hazard" means an "all-hazards" as defined in 20 V.S.A. § 2(1).

4 (b) Notwithstanding subdivisions 312(a)(2)(D) and (c)(2) of this title,
5 during a declared state of emergency under 20 V.S.A. chapter 1:

6 (1) A quorum or more of an affected public body may attend a regular,
7 special, or emergency meeting by electronic or other means without
8 designating a physical meeting location where the public may attend.

9 (2) The members and staff of an affected public body shall not be
10 required to be physically present at a designated meeting location.

11 (3) An affected public body of a municipality may post any meeting
12 agenda or notice of a special meeting in two publicly accessible designated
13 electronic locations in lieu of the two designated public places in the
14 municipality, or in a combination of a designated electronic location and a
15 designated public place.

16 (c) When an affected public body meets electronically under subsection (b)
17 of this section, the affected public body shall:

18 (1) use technology that permits the attendance and participation of the
19 public through electronic or other means;

20 (2) whenever feasible, allow the public to access the meeting by
21 telephone; and

1 (3) post information that enables the public to directly access and
2 participate in meetings electronically and shall include this information in the
3 published agenda for each meeting.

4 (d) Unless unusual circumstances make it impossible for them to do so, the
5 legislative body of each municipality and each school board shall record any
6 meetings held pursuant to this section.

7 (e) An affected public body of a municipality shall continue to post notices
8 and agendas in or near the municipal clerk's office pursuant to
9 subdivision 312(c)(2) of this title and shall provide a copy of each notice or
10 agenda to the newspapers of general circulation for the municipality.

11 * * * Municipal Quasi-Judicial Proceedings * * *

12 Sec. 2. 32 V.S.A. § 4404 is amended to read:

13 § 4404. APPEALS FROM LISTERS AS TO GRAND LIST

14 * * *

15 (c)(1) The ~~Board~~ board shall meet at the time and place so designated, and
16 on that day and from day to day thereafter shall hear and determine such
17 appeals until all questions and objections are heard and decided. Each
18 property, the appraisal of which is being appealed, shall be inspected by a
19 committee of not less than three members of the board who shall report to the
20 board within 30 days from the hearing on the appeal and before the final
21 decision pertaining to the property is given. If, after notice, the appellant

1 refuses to allow an inspection of the property as required under this subsection,
2 including the interior and exterior of any structure on the property, the appeal
3 shall be deemed withdrawn. The board shall, within 15 days from the time of
4 the report, certify in writing its notice of decision, with reasons, in the
5 premises, and shall file ~~such~~ the notice with the town clerk who shall
6 thereupon record the same in the book wherein the appeal was recorded and
7 forthwith notify the appellant in writing of the action of such board, by
8 certified mail. If the board does not substantially comply with the
9 requirements of this subsection and if the appeal is not withdrawn by filing
10 written notice of withdrawal with the board or deemed withdrawn as provided
11 in this subsection, the grand list of the appellant for the year for which appeal
12 is being made shall remain at the amount set before the appealed change was
13 made by the listers; except, if there has been a complete reappraisal, the grand
14 list of the appellant for the year for which appeal is being made shall be set at
15 a value ~~which~~ that will produce a tax liability equal to the tax liability for the
16 preceding year. The town clerk shall immediately record the same in the book
17 wherein the appeal was recorded and forthwith notify the appellant in writing
18 of ~~such~~ the action, by certified mail. Thereupon the appraisal so determined
19 pursuant to this subsection shall become a part of the grand list of ~~such~~ the
20 person.

1 (2) During a declared state of emergency under 20 V.S.A. chapter 1, a
2 board of civil authority within a municipality affected by an all-hazards event
3 shall not be required to physically inspect any property that is the subject of an
4 appeal. If the appellant requests in writing that the property be inspected for
5 purposes of the appeal, a member or members of the board shall conduct the
6 inspection through electronic means. If the appellant does not facilitate the
7 inspection through electronic means, then the appeal shall be deemed
8 withdrawn.

9 (3) As used in this subsection, “electronic means” means the transmittal
10 of video or photographic evidence by the appellant at the direction of the
11 board members conducting the inspection.

12 (d) Listers and agents to prosecute and defend suits wherein a town is
13 interested shall not be eligible to serve as members of the board while
14 convened to hear and determine such appeals nor shall an appellant, his or her
15 servant, agent, or attorney be eligible to serve as a member of the ~~Board~~ board
16 while convened to hear and determine any appeals. However, listers and
17 agents to prosecute and defend suits wherein a town is interested shall be given
18 the opportunity to defend the appraisals in question.

1 Sec. 3. 32 V.S.A. § 4467 is amended to read:

2 § 4467. DETERMINATION OF APPEAL

3 (a) Upon appeal to the Director or the ~~Court~~ court, the hearing officer or
4 ~~Court~~ court shall proceed de novo and determine the correct valuation of the
5 property as promptly as practicable and to determine a homestead and a
6 housesite value if a homestead has been declared with respect to the property
7 for the year in which the appeal is taken. The hearing officer or ~~Court~~ court
8 shall take into account the requirements of law as to valuation, and the
9 provisions of Chapter I, Article 9 of the Constitution of Vermont and the 14th
10 Amendment to the Constitution of the United States.

11 (b) If the hearing officer or ~~Court~~ court finds that the listed value of the
12 property subject to appeal does not correspond to the listed value of
13 comparable properties within the town, the hearing officer or ~~Court~~ court shall
14 set ~~said~~ the property in the list at a corresponding value. The findings and
15 determinations of the hearing officer shall be made in writing and shall be
16 available to the appellant.

17 (c)(1) If the appeal is taken to the Director, the hearing officer may inspect
18 the property prior to making a determination, unless one of the parties requests
19 an inspection, in which case the hearing officer shall inspect the property prior
20 to making a determination. Within 10 days of the appeal being filed with the

1 Director, the Director shall notify the property owner in writing of his or her
2 option to request an inspection under this section.

3 (2) During a declared state of emergency under 20 V.S.A. chapter 1, a
4 hearing officer shall not be required to physically inspect any property that is
5 the subject of an appeal. If the appellant requests in writing that the property
6 be inspected for purposes of the appeal, the hearing officer shall conduct the
7 inspection through electronic means. If the appellant does not facilitate the
8 inspection through electronic means, then the appeal shall be deemed
9 withdrawn.

10 (3) As used in this subsection, “electronic means” means the transmittal
11 of video or photographic evidence by the appellant at the direction of the
12 hearing officer conducting the inspection.

13 * * * Temporary Moratoria on Water Service Disconnections * * *

14 Sec. 4. 24 V.S.A. § 5152 is added to read:

15 § 5152. DISCONNECTIONS PROHIBITED; STATE OF EMERGENCY

16 (a) Notwithstanding this chapter or any provision of law to the contrary, a
17 municipality; a person who is permitted as a public water system pursuant to
18 10 V.S.A. chapter 56 and who provides another person water as a part of the
19 operation of that public water system; or a company engaged in the collecting,
20 sale, and distribution of water for domestic, industrial, business, or fire
21 protection purposes that is regulated by the Public Utility Commission under

1 30 V.S.A. § 203(3) shall be prohibited from disconnecting any person from
2 services during a declared state of emergency under 20 V.S.A. chapter 1,
3 provided that:

4 (1) the state of emergency is declared in response to an all-hazards event
5 that will cause financial hardship and the inability of ratepayers to pay for
6 water or sewer services; and

7 (2) the all-hazards event does not require the water or sewer service
8 provider to disconnect services to protect the health and safety of the public.

9 (b)(1) A violation of subsection (a) of this section by a municipality or a
10 person who is permitted as a public water system pursuant to 10 V.S.A.
11 chapter 56 may be enforced by the Agency of Natural Resources pursuant to
12 10 V.S.A. chapter 201.

13 (2) A violation of subsection (a) of this section by a company engaged
14 in the collecting, sale, and distribution of water for domestic, industrial,
15 business, or fire protection purposes that is regulated by the Public Utility
16 Commission under 30 V.S.A. § 203(3) may be enforced by the Public Utility
17 Commission pursuant to 30 V.S.A. § 30.

18 (c) A ratepayer shall remain obligated for any amounts due to a water or
19 sewer service provider subject to this section. The ratepayer shall have a
20 minimum of 90 days after the end of the declared state of emergency to pay
21 the amounts due.

1 (1) is licensed, certified, or registered in good standing in the other
2 U.S. jurisdiction or jurisdictions in which the health care professional holds a
3 license, certificate, or registration;

4 (2) is not subject to any professional disciplinary proceedings in any
5 other U.S. jurisdiction; and

6 (3) is not affirmatively barred from practice in Vermont for reasons of
7 fraud or abuse, patient care, or public safety.

8 (b) A health care professional who is deemed to be authorized to provide
9 health care services under this section shall submit, or have submitted on the
10 individual's behalf, to the Office the individual's name, contact information,
11 and the location or locations at which the individual will be practicing.

12 (c) A health care professional who delivers health care services in Vermont
13 pursuant to subsection (a) of this section shall be deemed to consent to, and
14 shall be subject to, the regulatory jurisdiction of the Office.

15 (d) The authority to practice under this section shall remain in effect until
16 the termination of the declared state of emergency and provided the health care
17 professional remains licensed, certified, or registered in at least one
18 jurisdiction and remains in good standing in all jurisdictions where the health
19 care professional is licensed, certified, or registered.

1 Sec. 9. 3 V.S.A. § 141 is added to read:

2 § 141. EMERGENCY PROVISION; INACTIVE HEALTH CARE

3 PROFESSIONALS

4 (a) Notwithstanding any provision of law to the contrary, during a state of
5 emergency declared under 20 V.S.A. chapter 1, and in consultation with the
6 Commissioner of Health, the Director may authorize a former health care
7 professional who practiced a profession attached to the Office and who left
8 active practice not more than three years earlier with the individual's Vermont
9 license, certificate, or registration in good standing to provide health care
10 services to a patient located in Vermont using telehealth or as part of the staff
11 of a licensed facility after submitting, or having submitted on the individual's
12 behalf, to the Office the individual's name, contact information, and the
13 location or locations at which the individual will be practicing.

14 (b) Such a returning health care professional shall be authorized to provide
15 health care services without a license for not more than 30 days pending the
16 individual's application for a temporary license or until the Director
17 determines whether to issue that individual a temporary license, whichever
18 comes first.

19 (c) The Director may issue a temporary license to such a returning health
20 care professional at no charge and may impose limitations on the
21 professional's scope of practice as the Director deems appropriate.

1 (d) A former health care professional who returns to the Vermont health
2 care workforce pursuant to this section shall be subject to the regulatory
3 jurisdiction of the Office.

4 Sec. 10. 3 V.S.A. § 142 is added to read:

5 § 142. EMERGENCY PROVISION; DIRECTOR; AUTHORITY TO ACT
6 FOR BOARDS

7 (a) During a state of emergency declared under 20 V.S.A. chapter 1, if the
8 Director finds that a board attached to the Office cannot reasonably, safely, and
9 expeditiously convene a quorum to transact business, and if authorized by the
10 Secretary of State, the Director may exercise the full powers and authorities of
11 that board, including disciplinary authority.

12 (b) The signature of the Director shall have the same force and effect as a
13 voted act of the board.

14 (c) A record of the actions of the Director taken pursuant to the authority
15 granted by this section shall be published conspicuously on the website of the
16 board on whose behalf the Director took the action.

17 Sec. 11. 3 V.S.A. § 143 is added to read:

18 § 143. EMERGENCY PROVISION; DIRECTOR; EMERGENCY
19 REGULATORY ORDERS

20 During a state of emergency declared under 20 V.S.A. chapter 1, the
21 Director may issue such orders governing regulated professional activities and

1 practices as may be necessary to protect the public health, safety, and welfare.
2 If the Director finds that a professional practice, act, offering, therapy, or
3 procedure by a person licensed or required to be licensed by the Office is
4 exploitative, deceptive, or detrimental to the public health, safety, or welfare,
5 or a combination of these, the Director may issue an order to cease and desist
6 from the applicable activity, which, after reasonable efforts to publicize or
7 serve the order on the affected persons, shall be binding upon all persons
8 licensed or required to be licensed by the Office, and a violation of the order
9 shall subject the person or persons to professional discipline, may be a basis
10 for injunction by the Superior Court, and shall be deemed a violation of
11 section 127 of this subchapter (unauthorized practice).

12 Sec. 12. 26 V.S.A. § 1378 is added to read:

13 § 1378. EMERGENCY PROVISION; EXECUTIVE DIRECTOR;

14 AUTHORITY TO ACT FOR BOARD

15 (a) During a state of emergency declared under 20 V.S.A. chapter 1, if the
16 Executive Director finds that the Board cannot reasonably, safely, and
17 expeditiously convene a quorum to transact business, and if authorized by the
18 Commissioner of Health, the Executive Director may exercise the full powers
19 and authorities of the Board, including disciplinary authority.

20 (b) The signature of the Executive Director shall have the same force and
21 effect as a voted act of the Board.

1 (3) is not affirmatively barred from practice in Vermont for reasons of
2 fraud or abuse, patient care, or public safety.

3 (b) A health care professional who is deemed to be authorized to provide
4 health care services under this section shall submit, or have submitted on the
5 individual's behalf, to the Board the individual's name, contact information,
6 and the location or locations at which the individual will be practicing.

7 (c) A health care professional who delivers health care services in Vermont
8 pursuant to subsection (a) of this section shall be deemed to consent to, and
9 shall be subject to, the regulatory jurisdiction of the Board.

10 (d) The authority to practice under this section shall remain in effect until
11 the termination of the declared state of emergency and provided the health care
12 professional remains licensed, certified, or registered in at least one
13 jurisdiction and remains in good standing in all jurisdictions where the health
14 care professional is licensed, certified, or registered.

15 Sec. 14. 26 V.S.A. § 1406 is added to read:

16 § 1406. EMERGENCY PROVISION; INACTIVE HEALTH CARE

17 PROFESSIONALS

18 (a) Notwithstanding any provision of law to the contrary, during a state of
19 emergency declared under 20 V.S.A. chapter 1, and when authorized by the
20 Commissioner of Health, the Executive Director may authorize a former health
21 care professional who practiced a profession regulated by the Board and who

1 left active practice not more than three years earlier with the individual's
2 Vermont license, certificate, or registration in good standing to provide health
3 care services to a patient located in Vermont using telehealth, as part of the
4 staff of a licensed facility, or with the Medical Reserve Corps, after
5 submitting, or having submitted on the individual's behalf, to the Board the
6 individual's name, contact information, and the location or locations at which
7 the individual will be practicing.

8 (b) Such a returning health care professional shall be authorized to provide
9 health care services without a license for not more than 30 days pending the
10 individual's application for a temporary license or until the Executive Director
11 determines whether to issue that individual a temporary license, whichever
12 comes first.

13 (c) The Executive Director may issue a temporary license to such a
14 returning health care professional at no charge and may impose limitations on
15 the professional's scope of practice as the Executive Director deems
16 appropriate.

17 (d) A former health care professional who returns to the Vermont health
18 care workforce pursuant to this section shall be subject to the regulatory
19 jurisdiction of the Board.

1 * * * Emergency Sheriff Funding * * *

2 Sec. 15. 24 V.S.A. § 313 is added to read:

3 § 313. EMERGENCY PROVISION; COUNTY RESERVE FUNDS;

4 FUNDING OF EMERGENCY SHERIFF NEEDS

5 (a) Funding.

6 (1)(A) During a state of emergency declared under 20 V.S.A. chapter 1
7 that affects a county, in order to support the emergency needs of that county's
8 sheriff due to that emergency, the county's operations reserve funds and capital
9 reserve funds described in subsection 133(e) of this chapter may be allowed to
10 be used for the emergency needs of the sheriff subject to the approval of the
11 assistant judges.

12 (B) As used in this section, "emergency needs" means the needs to
13 respond to the emergency and includes hiring deputies, dispatchers, and other
14 personnel and purchasing equipment and supplies.

15 (2) The funding of these emergency needs under this subsection shall be
16 in addition to the support of the sheriff's department set forth in section 73 of
17 this title.

18 (b) Reimbursement.

19 (1) Any sheriff who receives county reserve funds for emergency needs
20 under subsection (a) of this section shall apply to any applicable resources for

1 emergency relief, such as the Federal Emergency Management Agency
2 (FEMA), that are known to the sheriff for any allowable reimbursement.

3 (2) Within 30 days of receiving any such allowable reimbursement, the
4 sheriff shall provide those funds to the county in order to reimburse the county
5 for the funds allocated to the sheriff under subsection (a) of this section. A
6 sheriff shall only be responsible for reimbursing the county an amount equal to
7 the allowable reimbursement the sheriff received under subdivision (1) of this
8 subsection.

9 (c) Sunset. The authority for a sheriff to obtain funding for emergency
10 needs under subsection (a) of this section shall sunset two weeks after the day
11 the Governor terminates the state of emergency.

12 * * * Effective Dates * * *

13 Sec. 16. EFFECTIVE DATES

14 This act shall take effect on passage, except that Sec. 6 (repeal of 19 V.S.A.
15 § 312 (use of town highway funds)) shall take effect on July 1, 2021.