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H.649

My name is Wendy Mays and I am the Executive Director of the Vermont Association of Broadcasters. Thank you for inviting me to speak on behalf of the trusted television and radio broadcast newsrooms who are dedicated to keeping the public informed with fact-based, non-bias reporting.

Section one of [Act 128](#) states that the intent of the Vermont Truth and Reconciliation Commission, is “to *examine and establish a public record of institutional, structural, and systemic discrimination in Vermont, both past and present, caused or permitted by State laws and policies.*”

The work this commission is about to undertake is extremely important and the recommendation report they generate will be consequential to all Vermonters, especially if reparations paid with taxpayer dollars are deemed appropriate.

Yet sections eight, nine and ten of [H.649](#) propose that the majority of the Vermont Truth and Reconciliation commission work be done confidentially. How can a public record of systemic discrimination be established and actions be taken if the public does not have access to the majority of information that led to the commission’s recommendations?

Section eight of H.649 says that *any* individual can elect to have their interview conducted in private and the recording kept confidential. Without having to provide reason, justification or specified criteria, there is *nothing* to prevent every interviewee from taking this option, which means there would be no public record of what was said in these interviews. That same section goes on to say all records of interviews shall only be available to the public in an anonymized form. So, if the public will not be able to identify any interviewee, then why do the interviews need to be done in private and the recordings kept confidential?

Section nine of H.649 proposes three exemptions to Vermont’s Open Meeting Law that are very concerning:

- 1) **Allowing a quorum of commissioners to discuss and deliberate commission business in secret.** Open Meeting Law exists to ensure that the public has access to the discussions and deliberations that go into making the laws that govern them. Exempting this commission from that obligation because it’s more convenient for the commissioners is not a good enough reason to suspend one of the most important elements of the democratic process. In addition, it sets precedent for every other three-member board, council and commission who want the same accommodations.
- 2) **Allowing commissioners to meet virtually only with no physical place where the public can attend.** Whether it’s because they don’t have the means to own a computer or because broadband is not available in their area, many Vermonters do not have access to the internet.

Making public meetings available to view online is a helpful tool that should be used in conjunction with but not in place of physical meetings.

3) Allowing commissioners to “close” a meeting at their discretion with no verifiable reason. Understanding a “closed” meeting would still be live streamed and recorded, this method takes away the public’s opportunity to request to comment or request to ask questions or hear the conversations happening before or after the “live” button is activated. While H.649 was being discussed this past Thursday, legislative counsel said commissioners could give a reason as vague as “part of an ongoing legal case” to close a meeting. That is not a good enough reason to suspend one of the most important elements of the democratic process.

Section ten of H.649, the establishment of affinity groups, is puzzling. What does the creation of affinity groups do to further the intent of Act 128? If affinity group sessions are akin to therapy and intended only to give victims of discrimination a confidential forum to empathize with other victims, why does it need to be in statute? However, if commissioners and/or their staff are present during these confidential sessions, the stories they hear will impact their recommendations to the legislature, but there will be no public record of how they arrived at that recommendation. The protection of one’s identity is already guaranteed in section eight should they choose to come forward and share their story. So why are affinity group protections needed in statute other than as a loophole to Vermont’s public records act and open meeting law.

Again, the intent of Act 128 in creating The Vermont Truth and Reconciliation Commission is listed in part as *“to examine and establish a public record of institutional, structural, and systemic discrimination in Vermont, both past and present, caused or permitted by State laws and policies.”* The exemptions to Open Meeting Law that would enable this commission to conduct most of their work confidentially is in direct contradiction to the intent of Act 128. In addition, if you change the law for one group based on the “what ifs” because the work they are doing could be considered “sensitive”, you’re setting precedent for every public body to make an argument that the work they could be doing is sensitive and they should have the same accommodations. That is a very slippery slope.

It is for these reasons that the Vermont Association of Broadcasters opposes sections eight, nine and ten of H.649 and asks this committee to consider a strike-all of those three sections.