

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations and Military Affairs to which
3 was referred Senate Bill No. 55 entitled “An act relating to authorizing public
4 bodies to meet electronically under Vermont’s Open Meeting Law”
5 respectfully reports that it has considered the same and recommends that the
6 House propose to the Senate that the bill be amended by striking out all after
7 the enacting clause and inserting in lieu thereof the following:

8 Sec. 1. LEGISLATIVE INTENT

9 It is the intent of the General Assembly that regardless of the form and
10 format of a meeting, whether in-person, remote, or a hybrid fashion, that:

11 (1) meetings of public bodies be fully accessible to members of the
12 public who would like to attend and participate, as well as to members of those
13 public bodies who have been appointed or elected to serve their communities;

14 (2) subject to any exceptions in the Open Meeting Law, the
15 deliberations and decisions of public bodies be transparent to members of the
16 public; and

17 (3) the meetings of public bodies be conducted using standard rules and
18 best practices for both meeting format and method of delivery.

19 Sec. 2. 1 V.S.A. § 310 is amended to read:

20 § 310. DEFINITIONS

21 As used in this subchapter:

1 (1) “Advisory body” means a public body that does not have
2 supervision, control, or jurisdiction over legislative, quasi-judicial, tax, or
3 budgetary matters.

4 (2) “Business of the public body” means the public body’s
5 governmental functions, including any matter over which the public body has
6 supervision, control, jurisdiction, or advisory power.

7 (~~2~~)(3) “Deliberations” means weighing, examining, and discussing the
8 reasons for and against an act or decision, but expressly excludes the taking of
9 evidence and the arguments of parties.

10 (4) “Hybrid meeting” means a meeting that includes both a designated
11 physical meeting location and a designated electronic meeting platform.

12 (~~3~~)(5)(A) “Meeting” means a gathering of a quorum of the members of a
13 public body for the purpose of discussing the business of the public body or for
14 the purpose of taking action.

15 * * *

16 (~~4~~)(6) “Public body” means any board, council, or commission of the
17 State or one or more of its political subdivisions, any board, council, or
18 commission of any agency, authority, or instrumentality of the State or one or
19 more of its political subdivisions, or any committee or subcommittee of any of
20 the foregoing boards, councils, or commissions, except that “public body” does

1 not include councils or similar groups established by the Governor for the sole
2 purpose of advising the Governor with respect to policy.

3 ~~(5)~~(7) “Publicly announced” means that notice is given to an editor,
4 publisher, or news director of a newspaper or radio station serving the area of
5 the State in which the public body has jurisdiction, and to any person who has
6 requested under subdivision 312(c)(5) of this title to be notified of special
7 meetings.

8 ~~(6)~~(8) “Quasi-judicial proceeding” means a proceeding ~~which~~ that is:

9 * * *

10 (9) “Undue hardship” means an action required to achieve compliance
11 would require significant difficulty or expense in light of factors including the
12 overall size of the entity, sufficient personnel and staffing availability, the
13 entity’s budget, and the costs associated with compliance.

14 Sec. 3. 1 V.S.A. § 312 is amended to read:

15 § 312. RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES

16 (a)(1) All meetings of a public body are declared to be open to the public at
17 all times, except as provided in section 313 of this title. No resolution, rule,
18 regulation, appointment, or formal action shall be considered binding except as
19 taken or made at such open meeting, except as provided under subdivision
20 313(a)(2) of this title. A meeting of a public body is subject to the public
21 accommodation requirements of 9 V.S.A. chapter 139. A public body shall

1 electronically record all public hearings held to provide a forum for public
2 comment on a proposed rule, pursuant to 3 V.S.A. § 840. The public shall
3 have access to copies of such electronic recordings as described in section 316
4 of this title.

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

6 * * *

7 (D) If a quorum or more of the members of a public body attend a
8 meeting without being physically present at a designated meeting location, the
9 agenda required under subsection (d) of this section shall designate at least one
10 physical location where a member of the public can attend and participate in
11 the meeting. At least one member of the public body, or at least one staff or
12 designee of the public body, shall be physically present at each designated
13 meeting location. The requirements of this subdivision (D) shall not apply to
14 advisory bodies.

15 (3) State nonadvisory public bodies; hybrid meeting requirement. Any
16 public body of the State, except advisory bodies and the Human Services
17 Board, shall:

18 (A) hold all regular and special meetings in a hybrid fashion, which
19 shall include both a designated physical meeting location and a designated
20 electronic meeting platform;

21 (B) electronically record all meetings; and

1 (C) for a minimum of 30 days following the approval and posting of
2 the official minutes for a meeting, retain the audiovisual recording and post the
3 recording in a designated electronic location.

4 (4) State and local advisory bodies; electronic meetings without a
5 physical meeting location. A quorum or more of the members of an advisory
6 body may attend any meeting of the advisory body by electronic or other
7 means without being physically present at or staffing a designated meeting
8 location. A quorum or more of the members of any public body may attend an
9 emergency meeting of the body by electronic or other means without being
10 physically present at or staffing a designated meeting location.

11 (5) State nonadvisory public bodies; State and local advisory bodies;
12 designating electronic platforms. State nonadvisory public bodies meeting in a
13 hybrid fashion pursuant to subdivision (3) of this subsection and State and
14 local advisory bodies meeting without a physical meeting location pursuant to
15 subdivision (4) of this subsection shall designate and use an electronic platform
16 that allows the direct access, attendance, and participation of the public,
17 including access by telephone. The public body shall post information that
18 enables the public to directly access the designated electronic platform and
19 include this information in the published agenda or public notice for the
20 meeting.

21 (6) Local nonadvisory public bodies; meeting recordings.

1 (A) there is an all-hazards event as defined in 20 V.S.A. § 2 or a state
2 of emergency declared pursuant to 20 V.S.A. §§ 9 and 11;

3 (B) there is a local incident as defined in section 312a of this
4 subchapter; or

5 (C) compliance would impose an undue hardship on the municipality.

6 (4) A public body shall have the burden of proving that compliance
7 under subdivision (3) of this subsection would impose an undue hardship on
8 the public body.

9 Sec. 4. STATE NONADVISORY PUBLIC BODIES; HYBRID MEETING
10 REQUIREMENT; LACKING DESIGNATED PHYSICAL MEETING
11 LOCATION EXCEPTION

12 Until January 1, 2025, communications union districts and State
13 nonadvisory public bodies shall not be required to hold all regular and special
14 meetings in a hybrid fashion, notwithstanding the provisions of 1 V.S.A.
15 § 312(a)(3), if the State nonadvisory public body is unable to designate a
16 physical meeting location because of an all-hazards event, as defined in 20
17 V.S.A. § 2(1), impacting the availability of physical meeting locations.

18 Sec. 5. 1 V.S.A. § 312(k) is added to read:

19 (k) Training.

20 (1) Annually, the following officers shall participate in a professional
21 training that addresses the procedures and requirements of this subchapter:

1 (A) for municipalities and political subdivisions, the chair of the
2 legislative body, town manager, and mayor; and

3 (B) for the State, the chair of any public body that is not an advisory
4 body.

5 (2) The Secretary of State shall develop the training required by
6 subdivision (1) of this subsection and make the training available to
7 municipalities and political subdivisions and public bodies. The training may
8 be in person, online, and synchronous or asynchronous.

9 Sec. 6. 1 V.S.A. § 312a is amended to read:

10 § 312a. MEETINGS OF PUBLIC BODIES; STATE OF EMERGENCY

11 (a) As used in this section:

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

13 (A) whose regular meeting location is located in an area affected by a
14 hazard or local incident; and

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

17 (2) “Directly impedes” means interferes or obstructs in a manner that
18 makes it infeasible for a public body to meet either at a designated physical
19 location or through electronic means.

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

1 (4) “Local incident” means a weather event, loss of power or
2 telecommunication services, public health emergency, public safety threat,
3 received threat that a member of the public body believes may place the
4 member or another person in reasonable apprehension of death or serious
5 bodily injury, or other event that directly impedes the ability of a public body
6 to hold a meeting electronically or in a designated physical location.

7 (b) Notwithstanding subdivisions 312(a)(2)(D), (a)(3), and (c)(2) of this
8 title, during a local incident or declared state of emergency under 20 V.S.A.
9 chapter 1:

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

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

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

20 (c) Before a public body may meet under the authority provided in this
21 section for meetings held during a local incident, the highest ranking elected or

1 appointed officer of the public body shall make a formal written finding and
2 announcement of the local incident, including the basis for the finding.

3 (d) Notwithstanding subdivision 312(a)(3) of this title, during a local
4 incident that impedes an affected public body's ability to hold a meeting by
5 electronic means, the affected public body may hold a meeting exclusively at a
6 designated physical meeting location.

7 (e) When an affected public body meets electronically under subsection (b)
8 of this section, the affected public body shall:

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

11 (2) allow the public to access the meeting by telephone; ~~and~~

12 (3) post information that enables the public to directly access and
13 participate in meetings electronically and shall include this information in the
14 published agenda for each meeting; and

15 (4) if applicable, publicly announce and post a notice that the meeting
16 will not be held in a hybrid fashion and will be held either in a designated
17 physical meeting location or through electronic means.

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

1 ~~(e)~~(g) An affected public body of a municipality shall continue to post
2 notices and agendas in or near the municipal clerk’s office pursuant to
3 subdivision 312(c)(2) of this title and shall provide a copy of each notice or
4 agenda to the newspapers of general circulation for the municipality.

5 Sec. 7. 1 V.S.A. § 314 is amended to read:

6 § 314. PENALTY AND ENFORCEMENT

7 * * *

8 (e) A municipality shall post on its website, if it maintains one:

9 (1) an explanation of the procedures for submitting notice of an Open
10 Meeting Law violation to the public body or the Attorney General; and

11 (2) a copy of the text of this section.

12 Sec. 8. 17 V.S.A. § 2640 is amended to read:

13 § 2640. ANNUAL MEETINGS

14 * * *

15 (b)(1) When a town so votes, it may thereafter start its annual meeting on
16 any of the three days immediately preceding the first Tuesday in March at such
17 time as it elects and may transact at that time any business not involving voting
18 by Australian ballot or voting required by law to be by ballot and to be held on
19 the first Tuesday in March. A meeting so started shall be adjourned until the
20 first Tuesday in March.

1 (2) An informational meeting held in the three days preceding the first
2 Tuesday in March pursuant to this subsection shall be video recorded and a
3 copy of the recording shall be posted in a designated electronic location **within**
4 **24 hours** until the results of the annual meeting have been certified.

* * *

6 Sec. **9**. 17 V.S.A. § 2680 is amended to read:

7 § 2680. AUSTRALIAN BALLOT SYSTEM; GENERAL

* * *

9 (h) Hearing.

* * *

11 (2)(A) The hearing shall be held within the ~~40~~ 30 days preceding the
12 meeting at which the Australian ballot system is to be used. The legislative
13 body shall be responsible for the administration of this hearing, including the
14 preparation of minutes.

* * *

16 (3) A hearing held pursuant to this subsection shall be video recorded
17 and a copy of the recording shall be posted in a designated electronic location
18 until the results of the meeting have been certified.

19 Sec. **10**. WORKING GROUP ON PARTICIPATION AND ACCESSIBILITY
20 OF MUNICIPAL PUBLIC MEETINGS AND ELECTIONS;
21 REPORT

1 (a) Creation. There is created the Working Group on Participation and
2 Accessibility of Municipal Public Meetings and Elections to study and make
3 recommendations to:

4 (1) improve the accessibility of and participation in meetings of local
5 public bodies, annual municipal meetings, and local elections; and

6 (2) increase transparency, accountability, and trust in government.

7 (b) Membership. The Working Group shall be composed of the following
8 members:

9 (1) two designees of the Vermont League of Cities and Towns, who
10 shall represent municipalities of differing populations and geographically
11 diverse areas of the State;

12 (2) two designees of the Vermont Municipal Clerks' and Treasurers'
13 Association, who shall represent municipalities of differing populations and
14 geographically diverse areas of the State;

15 (3) one designee of the Vermont School Boards Association;

16 (4) one designee of Disability Rights Vermont;

17 (5) one designee of the Vermont Access Network;

18 (6) one member with expertise in remote and hybrid voting and meeting
19 technology, appointed by the Secretary of State;

20 (7) the Chair of the Human Rights Commission or designee; and

21 (8) the Secretary of State or designee, who shall be Chair.

1 (c) Powers and duties. The Working Group shall:

2 (1) recommend best practices for:

3 (A) running effective and inclusive meetings and maximizing
4 participation and accessibility in electronic, hybrid, and in-person annual
5 meetings and meetings of public bodies;

6 (B) the use of universal design for annual meetings and meetings of
7 public bodies;

8 (C) training public bodies for compliance with the Open Meeting
9 Law; and

10 (D) recording meetings of municipal public bodies and the means and
11 timeline for posting those recordings for public access.

12 (2) report on the findings of the Civic Health Index study by the
13 Secretary of State and how to reduce barriers to participation in public service;

14 (3) identify the technical assistance, equipment, and training necessary
15 for municipalities to run effective and inclusive remote or hybrid public
16 meetings;

17 (4) produce a guide for accessibility for polling and public meeting
18 locations;

19 (5) study the feasibility of using electronic platforms to support remote
20 attendance and voting at annual meetings;

1 (6) analyze voter turnout and the voting methods currently used
2 throughout the State;

3 (7) investigate whether increased use of resources for participants such
4 as child care, hearing devices, translators, transportation, food, and hybrid
5 meetings could increase participation in local public meetings; and

6 (8) study other topics as determined by the group that could improve
7 participation and access to local public meetings.

8 (d) Assistance. The Working Group shall have the administrative,
9 technical, and legal assistance of the Office of the Secretary of State. The
10 Office of the Secretary of State may hire a consultant to provide assistance to
11 the Working Group.

12 (e) Consultation. The Working Group shall consult with the Vermont Press
13 Association, communications union districts, and other relevant stakeholders.

14 (f) Report. On or before November 1, 2025, the Working Group shall
15 submit a written report to the House Committee on Government Operations
16 and Military Affairs and the Senate Committee on Government Operations
17 with its findings and any recommendations for legislative action.

18 (g) Meetings.

19 (1) The Secretary of State shall call the first meeting of the Working
20 Group to occur on or before September 1, 2024.

21 (2) A majority of the membership shall constitute a quorum.

1 (3) The Working Group shall cease to exist on the date that it submits
2 the report required by this section.

3 (h) Compensation and reimbursement. The members of the Working
4 Group shall be entitled to per diem compensation and reimbursement of
5 expenses as permitted under 32 V.S.A. § 1010 for not more than 10 meetings.
6 These payments shall be made from monies appropriated to the Office of the
7 Secretary of State.

8 Sec. 11. EFFECTIVE DATES

9 This act shall take effect on July 1, 2024, except that Sec. 4 (1 V.S.A.
10 § 312(k)) shall take effect on January 1, 2025.

11 and that after passage the title of the bill be amended to read: “An act
12 relating to updating Vermont’s Open Meeting Law”

13
14
15 (Committee vote: _____)

16 _____

17 Representative _____

18 FOR THE COMMITTEE