



VCUDA

Vermont Communications Union Districts Association

www.vcuda.org

TO: House Committee on Government Operations and Military Affairs
FROM: Ellie de Villiers, VCUDA President & Chair
DATE: April 9, 2024
RE: S.55

VCUDA supports the continuation of the COVID-area flexibility for public meetings. With the exception of the original communications union district (CUD), ECFiber, CUDs are “children” of the pandemic and most have held meetings either fully remote or in hybrid fashion for years. As a result, CUDs have developed experience facilitating remote meetings.

The reason CUDs exist is the failure of many commercial operators to provide broadband to rural areas of the state. Local representation is inherent in our DNA. The governance structure of CUDs includes an appointed delegate and alternates from each member town. Accordingly, VCUDA strongly supports public participation in CUD governance.

By way of background, CUDs are comprised of member towns. The smallest member of VCUDA, Lamoille FiberNet, has 10 member towns. Most CUDs have between 18-31 member towns. The largest, NEK Broadband, includes 56 towns representing 51 municipalities across 2,054 square miles. A geographic representation of CUDs is attached as an annexure.

CUDs are public bodies, but importantly:

1. CUDs cannot obligate member towns in any manner.
2. CUDs cannot obligate citizens within their districts in any manner.
3. CUDs have no taxing authority.

Those considerations, as well as the large geographic size of CUDs, and the fact that most CUDs do not own or rent property such that they have meeting space within their control readily available makes the districts somewhat unusual in the context of open meeting law.

In order to ensure the widest possible inclusion of town delegates, and in order to most efficiently facilitate in person meeting requests from members of the public, CUDs desire to continue with remote meetings as the default option, with accommodation for a physical meeting location upon request.

In practice, two CUDs (Southern Vermont and Maple Broadband) hold governing board meetings in a hybrid fashion and no member of the public has ever attended. Since July 2021, ECFiber has allowed members of the public to request a physical location. No requests have been received over 41 months and more than 200 board and committee meetings.

While a preference for “one rule for all public bodies” is understandable, requiring CUDs to designate and ‘staff’ a physical location creates a huge amount of work that needs to be done that is not comparable in any way to a town, where the physical infrastructure and staffing is designed around public interaction and meetings.

Specific comments on S.55

Section 1 - Legislative Intent

Page 1 - VCUDA fully supports the legislative intent; in particular the balance in (1) of the accessibility of public meetings both for members of the public and for the members of the public bodies.

The ability to attend meetings remotely is of critical importance to CUD delegates who would otherwise not be able to participate in the governance of their local communications union district. Enabling that participation is useful to encourage participation in the governance of the districts from a wider range of participants.

Section 312 (2)(D)

Pages 3-4 – In large districts such as that of ECFiber (31 towns) or NEK Broadband (56 towns) the selection of a single meeting location is not straightforward. The most convenient location to the staff or board member that attends may not be convenient to members of the public who wish to attend. In practical terms, a default meeting location may not be accessible for the requesting member of the public.

VCUDA supports different standards of access for different types of public bodies, and welcomes the introduction of the concept of “advisory” bodies. We feel that the definition of “advisory bodies” is somewhat vague, particularly the terms ‘supervision’ and ‘budgetary matters.’ ‘Supervision’ could be construed to mean practically anything, and ‘budgetary matters’ could mean anything from the budget of a town or city raised through taxation to the budget of a conservation commission through an appropriation of the town select board to the administration of a CUD budget based on subscription revenues and the proceeds of a municipal revenue bond. Removing the terms ‘supervision’ and ‘budgetary matters’ would remove this uncertainty.

Similarly, explicitly expanding the definition of “advisory bodies” to include political subdivisions or instrumentalities over a certain size, such as 10 towns, or 500 square miles would provide flexibility to entities such as CUDs to meet remotely, as the default option.

Section 312 (j) Request for access

Pages 5-6 - If a request for access is received, the advisory body should make a best-efforts attempt to make the meeting location accessible to the requestor. In the case of a CUD, this would include working with member towns to attempt to arrange a meeting space in, or near, the town of the requestor.

Requests for access “in writing” is very broad and could encompass messages sent on social media, to individuals’ cell phones, etc. Limiting requests to official locations such as a letter mailed to an official mailing address, an email sent to an official email address, or similar, would be helpful in ensuring that no request is accidentally missed.

Requests for access to “a series of regular meetings” could be considered a de facto request for access to all future meetings, which is unlikely to be the legislative intent, so some limitation should be placed on this.

Section 8 – Working Group

VCUDA strongly supports this working group. As broadband and digital technologies mature, taking the time and space to fully consider the implications is critical. We support the legislature’s desire to understand how best to reflect the desires of transparency and public both as members of bodies and affected members of the public, including unintended consequences.

While supporting public participation in governance and meetings is a fine ideal, the reality of ensuring that the public is best able to participate is not always so straightforward. We are all too aware that some members of the public do not have, or cannot afford, home broadband connections. Conversely, some members of the public struggle with transportation or childcare, and remote attendance facilitates, and, in some cases, enables their participation.

In consideration of the experience CUDs have running remote meetings, and the unique consideration of our large districts without physical meeting spaces, VCUDA would like to be considered for inclusion in this Working Group.

Other

The bill is silent on how public bodies are meant to facilitate public participation within the meeting. Some public meetings block chat, and/or mute participants and do not allow members of the public to speak outside of public comment periods. This may not be in the spirit of public participation, but, at the same time, bodies running the meetings need to be able to protect against Zoom-bombings. The proposed training contemplated both in the bill and in the working group should consider best practices for compliance with the spirit and letter of the law both in person and digitally.

Finally, the state could consider allocating resources to support the hosting of meeting recordings and/or a statewide interactive calendar listing public meetings and how to attend them. Awareness is one barrier to public participation, and providing a centralized repository and driving awareness of this is one solution to be considered.

Annexure

Vermont Communications Union Districts

