

Testimony of the Vermont League of Cities and Towns
Ted Brady, Executive Director
Senate Government Operations
Regarding Draft 1.2 dated 1/16/24 of S. 55 (Changes to Open Meeting Law)
January 23, 2024

My name is Ted Brady, and I am the Executive Director of the Vermont League of Cities and Towns, which represents all 247 cities and towns in Vermont. Thank you for asking me in to discuss the latest version of S. 55.

Before starting, I want to reiterate my earlier testimony from January 11th: VLCT's primary goal is to see the authority to hold fully-remote meetings extended beyond the end of June 2024. I see that the most recent draft does not do this, but instead creates a new hybrid meeting requirement, allows "advisory bodies" to hold fully-remote meetings, creates a new requirement to save recordings of all meetings for a year, creates a new "local incident" definition that allows public bodies to meet fully-remotely in limited circumstances, creates a new authority for fully-remote annual meetings for a subset of municipalities, and creates a grant program to help towns buy hybrid meeting equipment.

VLCT does not support Section 2 requiring hybrid meetings

I appreciate that the committee heard my opinion that returning to pre-pandemic Open Meeting Law would likely result in many municipalities returning to in-person meetings, as they do not have the capacity to run effective hybrid meetings. The requirement to require hybrid meetings ignores this reality. It would be impossible to equip and train all municipal bodies in the state by July 1, 2024, to comply with this law. Implementing the law as written will result in dozens, if not hundreds, of open meeting violations. Requiring hybrid meetings would have several obstacles:

- **Hybrid meetings need dedicated staff to manage the meeting.** Our smallest municipalities don't have such staff. The cost of new admin services staff would add thousands of dollars a year to even the smallest municipal budgets.
- **Hybrid meeting equipment is expensive.** It takes more than a television monitor and a camera to hold a hybrid meeting. Systems that ensure equitable access to everyone in a room (multi-directional cameras and microphones, screens, and AV systems) cost tens of thousands of dollars. Even modest solutions, such as the OWL, designed for a small room, costs \$1,000.
- **Technology issues are likely to interrupt and end meetings.** Current law allows a hybrid meeting to continue in-person if the quorum is in-person. The bill does not address this likely-common issue, as individuals' connections and whole systems will intermittently fail. Can a hybrid meeting continue if the virtual participants are interrupted by a technology issue?
- **Many municipalities hold public meetings in different locations, requiring multiple hybrid meeting set ups.** Many communities hold public meetings in different locations around town. For example, the selectboard may use one meeting room in a town office while the Planning Commission might use a different room or a different building. This bill would require such a town

to either equip multiple rooms with expensive equipment or create scheduling conflicts that make it harder to participate.

Should the committee disagree with VLCT, I'd encourage you to consider the following ideas:

- Explicitly allow phone participation as an acceptable hybrid option by including explicit allowance of telephone conference systems on page 3, line 18, or in the definitions of electronic platforms.
- Implementation of the requirement should be delayed several years to enable municipalities to prepare and budget.
- Consider setting population thresholds for municipalities that must have hybrid meetings – e.g. municipalities above the threshold must hold hybrid meetings while those below the threshold can hold in-person meetings or hybrid meetings.

VLCT encourages changes to Section 2 regarding retention of video recordings and electronic meetings.

While we feel it is appropriate to provide guidance on managing meeting recordings, the proposed language would require every municipality in Vermont to retain hundreds of hours of video annually. Doing so would require hundreds of dollars, and likely thousands of dollars, per municipality in data storage. VLCT encourages the language to be changed to encourage public bodies to adopt a record retention policy that explicitly states how it will handle recordings. Requiring a public body to issue minutes, record meetings, and retain recordings is duplicative. VLCT encourages this section to be eliminated. Should the committee disagree with VLCT, I encourage you to consider the following changes:

- Reduce the recording requirement to apply only to legislative bodies
- Define “designated electronic location”.
- Allow audio recordings to satisfy this requirement.
- Extend the requirement for minutes from five days to 10 days for any public body that publishes recordings within five days.
- Resolve the inconsistency contained on page 4, line 12, that references when municipalities post approved minutes. Current law does not require that approved minutes be posted, only that draft minutes be posted, and approved minutes retained.
- Encourage the Secretary of State to issue guidance on best practices for managing electronic recordings.

VLCT supports the intention of Section 2 allowing “advisory bodies” to meet fully-remotely.

Allowing advisory bodies to meet remotely will increase participation in such meetings and reduce the burden of serving on such bodies.

The current definition of an advisory board would likely not include some important boards we'd like to see included, such as planning commissions, which are becoming harder and harder to find volunteers for. We are also concerned that "budgetary matters" is a broad term that might inadvertently catch things like cemetery commissions and library trustees, both of which spend money and build budgets.

VLCT recommends adjusting the definition of advisory body in Section 1, on page 1, line 10, and would be happy to work on a new definition with you.

VLCT supports the creation of a new "local incident" in Section 3 that allows for fully-remote meetings of all public bodies in limited circumstances.

VLCT would encourage public bodies to explicitly state which local incident they are invoking when exercising this authority.

VLCT also encourages the committee to consider adding an allowance of any public body holding an emergency meeting as defined in 1 V.S.A. Section 312 (c) (3) to do so fully-remote, with no physical location.

VLCT requests more information about Section 4's requirement that certain municipalities hold hybrid annual meetings, and allow for electronic citizen voting.

The provision seems to intentionally target only towns that hold annual meetings the three days before Town Meeting Day, and establishes a new ability for voters to participate electronically.

VLCT supports Section 5, and is willing and able to provide assistance to municipalities.

VLCT has produced both hybrid meeting toolkits and remote meeting toolkits to help municipalities navigate this relatively new procedure. We did so right after the pandemic-related laws were put in place. VLCT stands ready to expand these toolkits to help our members run good remote meetings that offer more robust participation than historical in-person meetings. However, the state should compensate VLCT and any other organization charged with providing this technical assistance.

VLCT supports Section 6, and the creation of an Open Meeting Grant Program.

This funding is welcome, and we appreciate that it could fund equipment and technical assistance. However, as this funding would not be available until after the law's implementation, it would likely not help a single municipality come into compliance before the proposal went into effect. It would take several years of funding to enable towns to meet the hybrid requirements contained in the bill.

Thank you for the opportunity to provide input on S. 55, and I appreciate your efforts to find a compromise solution to ensuring remote participation in public meetings.