

House Proposal of Amendment

S. 59

An act relating to amendments to Vermont's Open Meeting Law

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

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

§ 310. DEFINITIONS

As used in this subchapter:

* * *

(9) "Undue hardship" means an action ~~required to achieve compliance would require~~ requiring significant difficulty or expense to the unit of government to which a public body belongs, considered in light of factors including the overall size of the entity, ~~sufficient~~ the availability of necessary personnel and staffing availability staff, the entity's budget available resources, and the costs associated with compliance.

Sec. 2. 1 V.S.A. § 312 is amended to read:

§ 312. RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES BODIES

(a)(1) All meetings of a public body are declared to be open to the public at all times, except as provided in section 313 of this title. No resolution, rule, regulation, appointment, or formal action shall be considered binding except as taken or made at such open meeting, except as provided under subdivision 313(a)(2) of this title. A meeting of a public body is subject to the public accommodation requirements of 9 V.S.A. chapter 139. A public body shall electronically record all public hearings held to provide a forum for public comment on a proposed rule, pursuant to 3 V.S.A. § 840. The public shall have access to copies of such electronic recordings as described in section 316 of this title.

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(3)(A) State ~~nonadvisory~~ public bodies; hybrid meeting requirement; exception for advisory bodies. Any public body of the State, except advisory bodies, shall:

(~~B~~)(i) hold all regular and special meetings in a hybrid fashion, which shall include both a designated physical meeting location and a designated electronic meeting platform;

(~~B~~)(ii) electronically record all meetings; and

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

(B) Exception; site inspections and field visits. This subdivision (3) shall not apply to gatherings of a State public body for purposes of a site inspection or field visit.

(C) Application of subdivision; State public bodies only. This subdivision (3) applies exclusively to State public bodies.

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

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

(A) A public body of a municipality or political subdivision, except advisory bodies, shall record or cause to record, in audio or video form, any meeting of the public body and post a copy of the recording in a designated electronic location for a minimum of 30 days following the ~~approval and posting of the official minutes for a meeting.~~ This subdivision (A) shall not apply to gatherings of a public body for purposes of a site inspection or field visit.

* * *

(c)(1) The time and place of all regular meetings subject to this section shall be clearly designated by statute, charter, regulation, ordinance, bylaw, resolution, or other determining authority of the public body, and this information shall be available to any person upon request. The time and place of all public hearings and meetings scheduled by all Executive Branch State agencies, departments, boards, or commissions shall be available to the public as required under 3 V.S.A. § 2222(c).

(2) The time, place, and purpose of a special meeting subject to this section shall be publicly announced at least 24 hours before the meeting. Municipal public bodies shall post notices of special meetings in or near the municipal clerk's office and in at least two other designated public places in the municipality or a neighboring municipality, at least 24 hours before the

meeting. In addition, notice shall be given, either orally or in writing, to each member of the public body at least 24 hours before the meeting, except that a member may waive notice of a special meeting.

* * *

(d)(1) At least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting, a meeting agenda shall be:

* * *

(B) in the case of a municipal public body, posted in or near the municipal office and in at least two other designated public places in the municipality or a neighboring municipality.

* * *

(3) A meeting agenda shall contain sufficient details concerning the specific matters to be discussed by the public body. Whenever a public body includes an executive session as an item on a posted meeting agenda, the public body shall list the agenda item as "proposed executive session" and indicate the nature of the business of the executive session.

(4)(A) Any addition to or deletion from the agenda shall be made as the first act of business at the meeting.

* * *

(k) Training.

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

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

(B) for the State, the chair of any public body that is not an advisory body; and

(C) the members of a State advisory body, provided that the advisory body is composed entirely of members who are not government officers or employees.

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Sec. 3. 1 V.S.A. § 313 is amended to read:

§ 313. EXECUTIVE SESSIONS

(a) No public body may hold or conclude an executive session from which the public is excluded, except by the affirmative vote of two-thirds of its members present in the case of any public body of State government or of a majority of its members present in the case of any public body of a

municipality or other political subdivision. A motion to go into executive session shall indicate the nature of the business of the executive session, and no other matter may be considered in the executive session. ~~Sueh~~ The vote to enter executive session shall be taken in the course of an open meeting and the result of the vote recorded in the minutes. No formal or binding action shall be taken in executive session except for actions relating to the securing of real estate options under subdivision (2) of this subsection. Minutes of an executive session need not be taken, but if they are, the minutes shall, notwithstanding subsection 312(b) of this title, be exempt from public copying and inspection under the Public Records Act. A public body may not hold an executive session except to consider one or more of the following:

* * *

(10) security, cybersecurity, or emergency response measures, the disclosure of which could jeopardize public safety; or

(11) confidential business information relating to the interest rates for publicly financed loans, provided that the public body is a State public body and the creditor for the loan.

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Sec. 4. LEGISLATIVE INTENT

It is the intent of the General Assembly that section 5 of this act amend 13 V.S.A. § 1026 to conform subdivision (a)(4) of that section with the constitutional requirements articulated in the Supreme Court of Vermont decision *State v. Colby*, 185 Vt. 464 (2009).

Sec. 5. 13 V.S.A. § 1026 is amended to read:

§ 1026. DISORDERLY CONDUCT

(a) A person is guilty of disorderly conduct if ~~he or she~~ the person, with intent to cause public inconvenience or annoyance, or recklessly creates a risk thereof:

* * *

(4) without lawful authority, disturbs any lawful assembly or meeting of persons; or

* * *

(c) As used in this section:

(1) “Disturbs any lawful assembly or meeting of persons” means conduct that substantially impairs the effective conduct of an assembly or meeting, including conduct that:

(A) causes an assembly or meeting to terminate prematurely; or

(B) consists of numerous and sustained efforts to disrupt an assembly or meeting after being asked to desist.

(2) "Meeting" includes a meeting of a public body, as those terms are defined in 1 V.S.A. § 310.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.