

1 S.55

2 Introduced by Senators Clarkson, Chittenden, Gulick, Hardy, Hashim,  
3 McCormack, Ram Hinsdale, Vyhovsky, Watson, White and  
4 Wrenner

5 Referred to Committee on Government Operations

6 Date: February 1, 2023

7 Subject: General provisions; general rights; Open Meeting Law; electronic  
8 meetings

9 Statement of purpose of bill as introduced: This bill proposes to amend the  
10 Open Meeting Law to authorize public bodies to meet through electronic  
11 means without designating a physical meeting location.

12 An act relating to authorizing public bodies to meet electronically under  
13 Vermont's Open Meeting Law

14 It is hereby enacted by the General Assembly of the State of Vermont:

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

16 ~~§ 312. RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES~~

17 ~~(a)(1) All meetings of a public body are declared to be open to the public at~~  
18 ~~all times, except as provided in section 313 of this title. No resolution, rule,~~  
19 ~~regulation, appointment, or formal action shall be considered binding except as~~  
20 ~~taken or made at such open meeting, except as provided under subdivision~~

1 ~~313(e)(2) of this title. A meeting of a public body is subject to the public~~  
2 accommodation requirements of 9 V.S.A. chapter 139. A public body shall  
3 electronically record all public hearings held to provide a forum for public  
4 comment on a proposed rule, pursuant to 3 V.S.A. § 840. The public shall  
5 have access to copies of such electronic recordings as described in section  
6 316 of this title.

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

8 \* \* \*

9 (D) If a quorum or more of the members of a public body attend a  
10 meeting without being physically present at a designated meeting location, the  
11 ~~agenda required under subsection (d) of this section shall designate at least one~~  
12 ~~physical location where a member of the public can attend and participate in~~  
13 ~~the meeting. At least one member of the public body, or at least one staff or~~  
14 ~~designee of the public body, shall be physically present at each designated~~  
15 ~~meeting location. public body shall:~~

16 (i) use technology that permits the attendance of the public  
17 through electronic or other means;

18 (ii) allow the public to access the meeting by telephone; and

19 (iii) post information that enables the public to directly access and  
20 participate in meetings electronically and include this information in the  
21 published agenda for each meeting.

1 \* \* \*

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

4 \* \* \*

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

8 \* \* \*

9 Sec. 2. REPEAL

10 1 V.S.A. § 312a (meetings of public bodies; state of emergency) is repealed.

11 Sec. 3. EFFECTIVE DATE

12 This act shall take effect on July 1, 2023.

*Sec. 1. LEGISLATIVE INTENT*

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

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

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

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

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

*§ 310. DEFINITIONS*

*As used in this subchapter:*

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

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

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

~~(3)(4)(A)~~ (4)(A) *“Meeting” means a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action.*

\* \* \*

~~(4)(5)~~ (5) *“Public body” means any board, council, or commission of the State or one or more of its political subdivisions, any board, council, or commission of any agency, authority, or instrumentality of the State or one or more of its political subdivisions, or any committee or subcommittee of any of the foregoing boards, councils, or commissions, except that “public body” does not include councils or similar groups established by the Governor for the sole purpose of advising the Governor with respect to policy.*

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

~~(6)(7)~~ (7) *“Quasi-judicial proceeding” means a proceeding ~~which~~ that is:*

\* \* \*

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

§ 312. RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES

*(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.*

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

*\* \* \**

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

*(3) Hybrid meeting requirement. Any public body of the State, except advisory bodies and the Human Services Board, shall:*

*(A) 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) electronically record all meetings; and*

*(C) 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.*

*(4) Electronic meetings without a physical meeting location. A quorum or more of the members of an advisory body may attend any meeting of the advisory body by electronic or other means without being physically present at or staffing a designated meeting location. A quorum or more of the members of any public body may attend an emergency meeting of the body by electronic or other means without being physically present at or staffing a designated meeting location.*

*(5) Hybrid and electronic meeting requirements. A public body meeting under subdivision (3) or (4) of this subsection shall use a designated 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) Meetings of local public bodies; recordings. To the extent feasible, any public body of a municipality or political subdivision, except advisory bodies, shall:*

(A) record, in audio or video form, any meeting of the public body;  
and

(B) post and retain a copy of the recording according to subdivision  
(3)(C) of this subsection (a).

\* \* \*

(j) Request for access. A resident of the geographic area in which the public body has jurisdiction, a member of a public body, or a member of the press may request that a public body designate a physical meeting location or provide electronic or telephonic access to a regular meeting or series of regular meetings. The request shall be made in writing not less than three business days before the date of the meeting. The public body shall not require the requestor to provide a basis for the request. The public body shall grant the request unless providing the requested form of access is infeasible due to a declared state of emergency or a local incident pursuant to section 312a of this subchapter. This subsection (j) shall not apply to special meetings, emergency meetings, or field visits.

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

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

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

Sec. 4. 1 V.S.A. § 312a is amended to read:

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

(a) As used in this section:

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

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

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

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

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

(4) “Local incident” means a weather event, public health emergency, public safety threat, loss of power or telecommunication services, or similar event that directly impedes the ability of a public body to hold a meeting electronically or in a designated physical location.

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

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

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

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

(c) Before a public body may meet under the authority provided in this section for meetings held during a local incident, the highest ranking elected or appointed officer of the public body shall make a formal written finding and announcement of the local incident, including the basis for the finding.

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

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

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

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

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

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

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

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

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

§ 314. PENALTY AND ENFORCEMENT

\* \* \*

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

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

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

Sec. 6. 17 V.S.A. § 2640 is amended to read:

§ 2640. ANNUAL MEETINGS

\* \* \*

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

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

\* \* \*

Sec. 7. 17 V.S.A. § 2680 is amended to read:

§ 2680. AUSTRALIAN BALLOT SYSTEM; GENERAL

\* \* \*

(h) Hearing.

\* \* \*



*(2)(A) The hearing shall be held within the ~~10~~ 30 days preceding the meeting at which the Australian ballot system is to be used. The legislative body shall be responsible for the administration of this hearing, including the preparation of minutes.*

\* \* \*

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

*Sec. 8. WORKING GROUP ON PARTICIPATION AND ACCESSIBILITY  
OF MUNICIPAL PUBLIC MEETINGS AND ELECTIONS;  
REPORT*

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

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

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

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

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

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

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

*(4) one designee of Disability Rights Vermont;*

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

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

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

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

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

*(1) recommend best practices for:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Meetings.

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

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

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

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

~~(i) \$50,000.00 is appropriated from the General Fund to the Office of the Secretary of State in fiscal year 2025 for the purpose of hiring a consultant and for per diems and reimbursement of expenses for members of the Working Group.~~

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2024.