

1 S.217

2 Introduced by Senators Baruth, Benning, MacDonald, McCormack, Mullin,
3 Pollina, and Starr

4 Referred to Committee on

5 Date:

6 Subject: Open Meeting Law; executive session

7 Statement of purpose of bill as introduced: This bill proposes to:

8 (1) amend the requirements for minutes that must be taken at a meeting
9 of a public body;

10 (2) require that minutes be taken during an executive session of a public
11 body to the extent the subject of discussion is the compensation to be paid to a
12 member of the public body, to an executive officer or head of a public agency,
13 or to a manager or mayor of a municipality, upon his or her separation from
14 employment or from office. Such minutes shall be open for public inspection
15 and copying six months after the executive session unless otherwise exempt
16 from public inspection and copying.

17 An act relating to the Open Meeting Law and minutes of certain executive
18 sessions

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

1 Sec. 1. 1 V.S.A. chapter 5, subchapter 2 is amended to read:

2 Subchapter 2. Public Information

3 § 310. DEFINITIONS

4 As used in this subchapter:

5 (1) “Deliberations” means weighing, examining, and discussing the
6 reasons for and against an act or decision, but expressly excludes the taking of
7 evidence and the arguments of parties.

8 (2) “Meeting” means a gathering of a quorum of the members of a
9 public body for the purpose of discussing the business of the public body or for
10 the purpose of taking action.

11 (3) “Public body” means any board, council, or commission of the ~~state~~
12 State or one or more of its political subdivisions, any board, council, or
13 commission of any agency, authority, or instrumentality of the ~~state~~ State or
14 one or more of its political subdivisions, or any committee of any of the
15 foregoing boards, councils, or commissions, except that “public body” does not
16 include councils or similar groups established by the ~~governor~~ Governor for
17 the sole purpose of advising the ~~governor~~ Governor with respect to policy.

18 * * *

1 § 312. RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES;

2 MINUTES; NOTICE; PUBLIC PARTICIPATION

3 (a) All meetings of a public body are declared to be open to the public at all
4 times, except as provided in section 313 of this title. No resolution, rule,
5 regulation, appointment, or formal action shall be considered binding except as
6 taken or made at such open meeting, except as provided under ~~section~~
7 subdivision 313(a)(2) of this title. A meeting may be conducted by audio
8 conference or other electronic means, as long as the provisions of this
9 subchapter are met. A public body shall record by audio tape; all hearings held
10 to provide a forum for public comment on a proposed rule, pursuant to
11 3 V.S.A. § 840. The public shall have access to copies of such tapes as
12 described in section 316 of this title.

13 (b)(1) Minutes shall be taken of all meetings of public bodies. The minutes
14 shall ~~cover~~ summarize all topics and motions that arise at the meeting ~~and so as~~
15 to give a true indication of the business of the meeting. ~~Minutes~~ In addition,
16 minutes shall include ~~at least the following minimal information:~~

17 (A) ~~All~~ all members of the public body present;

18 (B) ~~All~~ all other active participants in the meeting;

19 (C) ~~All~~ all motions, proposals, and resolutions made, offered, and
20 considered, the names of the persons making or seconding the same, and what
21 the disposition is made of the same; and

1 (D) ~~The~~ the results of any votes, with a record of the individual vote
2 of each member if a roll call is taken.

3 (2) ~~Minutes~~ Except as provided in section 313 of this title, minutes of all
4 public meetings shall be matters of public record, shall be kept by the clerk or
5 secretary of the public body, and shall be available for inspection by any
6 person and for purchase of copies at cost upon request after five days from the
7 date of any meeting.

8 * * *

9 § 313. EXECUTIVE SESSIONS

10 (a) No public body ~~described in section 312 of this title~~ may hold an
11 executive session from which the public is excluded, except by the affirmative
12 vote of two-thirds of its members present in the case of any public body of
13 ~~state~~ State government or of a majority of its members present in the case of
14 any public body of a municipality or other political subdivision. A motion to
15 go into executive session shall indicate the nature of the business of the
16 executive session, and no other matter may be considered in the executive
17 session. Such vote shall be taken in the course of an open meeting and the
18 result of the vote recorded in the minutes. No formal or binding action shall be
19 taken in executive session except actions relating to the securing of real estate
20 options under subdivision (b)(2) of this subsection ~~section~~. Minutes ~~Except as~~
21 provided in subsection (c) of this section, minutes of an executive session need

1 not be taken, ~~but if they are,~~ If minutes of an executive session are taken,
2 though not required, they shall not be made public subject to exempt from the
3 public inspection and copying requirements of subsection 312(b) of this title
4 and of the Public Records Act.

5 (b) A public body may not hold an executive session except to consider one
6 or more of the following:

7 * * *

8 (c)(1) Minutes shall be taken of an executive session to the extent that a
9 public body discusses the compensation to be paid, or other financial
10 consideration to be granted, to the following persons upon their separation
11 from employment or from office:

12 (A) a member of the public body;

13 (B) a head or an executive officer of a public agency, as defined at
14 1 V.S.A. § 317;

15 (C) a city, town, or village manager, or a mayor.

16 (2) The minutes required under subdivision (1) of this subsection shall
17 be open to public inspection and copying no later than six months after the
18 executive session is held, except to the extent that the minutes are otherwise
19 exempt from public inspection and copying under the Public Records Act.

20 ~~(b)~~(d) Attendance in executive session shall be limited to members of the
21 public body, and, in the discretion of the public body, its staff, clerical

1 assistants and legal counsel, and persons who are subjects of the discussion or
2 whose information is needed.

3 ~~(e)(e)~~ The ~~senate and house of representatives~~ Senate and House of
4 Representatives, in exercising the power to make their own rules conferred by
5 Chapter II of the Vermont Constitution, shall be governed by the provisions of
6 this section in regulating the admission of the public as provided in Chapter II,
7 § 8 of the Constitution.

8 * * *

9 Sec. 2. EFFECTIVE DATE

10 This act shall take effect on July 1, 2014.