VLCT News article, July 2016

Changes to the Open Meeting Law

On May 24, 2016, amendments to the Open Meeting Law went into effect when the governor signed Act 129 of the 2015-2016 Legislative Biennium. The Open Meeting Law applies to all "public bodies" which includes all municipal boards, councils, commissions, committees, and subcommittees. The law has been amended in the following ways:

Electronic participation at meetings. When one or more members of a public body participate in a meeting electronically (e.g., by conference call or Skype), any vote taken by the public body that is not unanimous must be taken by roll call. 1 V.S.A. § 312(a)(2)(B). Previously, the law required that all votes be taken by roll call, regardless of whether they were unanimous.

If a quorum or more members of a public body participate in a meeting electronically, the agenda for that meeting must designate at least one physical location where a member of the public can attend and participate in the meeting. 1 V.S.A. § 312(a)(2)(D). The law no longer requires a distinct public notice regarding the electronic participation, although the law still requires public notice and an agenda prior to all regular and special meetings.

Posting of minutes. Minutes must be available for inspection and posted to a website, if one exists, no later than five calendar days from the date of the meeting. 1 V.S.A. § 312(b)(2). Previously, the law did not specify whether the days were calendar days or business days.

Except for draft minutes that have been substituted with updated minutes, posted minutes may not be removed from the website sooner than one year from the date of the meeting for which the minutes were taken. 1 V.S.A. § 312(b)(2). Previously, the law did not specify how long minutes must remain posted on a website.

Responding to a complaint of violation. Upon receipt of written notice of an alleged violation of the Open Meeting Law, the public body must respond publicly within 10 calendar days. 1 V.S.A. § 314(b)(2). The public body may either (a) acknowledge an inadvertent violation of the law and state its intent to "cure" the violation within 14 calendar days; or (b) state that the public body has determined that no violation occurred and that no "cure" is necessary. The failure to respond to a complaint within 10 calendar days is treated as a denial of the allegation. Previously, the law required a response within seven calendar days, and the failure to respond within those seven days was treated as a denial.

"Curing" a violation of the law. A public body can "cure" a violation of the law by fixing the error that lead to that violation. If the violation was due to (i) a meeting that was not noticed in accordance with the law, (ii) a meeting from which a person or the public was wrongfully excluded, or (iii) an executive session not authorized by the law, the public body must do this by either ratifying or declaring as void, any action taken at or resulting from that meeting. 1 V.S.A. § 312(b)(4). Regardless of the basis for the violation, the public body must also adopt specific measures that prevent future violations of the law. A public body will not be liable for the complainant's attorney's fees and litigation costs if it cures a violation. 1 V.S.A. §314(b)(1).

More information about the Open Meeting Law, including the recently-updated Frequently Asked Questions about the law, is posted at http://www.vlct.org/vermont-local-government/vermont-open-meeting-law/. Act 129 is archived on the Vermont Legislature's website.

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