

## ***March 30 2020***

The Governor has signed [H.681](#) into law today. We fully support the provisions in this bill as necessary to allow our state and local governments to continue doing critical business while responsibly respecting the health and safety of the public, state and local employees, and board members in the face of the current health crisis and declared state of emergency.

Sections 5 and 6 of H.681 contain temporary amendments to the open meeting law. Public bodies are authorized to continue to meet and do necessary business through remote means and without the physical meeting location. This will allow them to follow health and safety best practices during this pandemic and declared state of emergency. Here are some key provisions:

**Physical location requirement temporarily waived.** During the Governor's declared state of emergency due to COVID-19, members of a public body may attend any public meeting using electronic means, without being physically present and without designating or staffing a physical meeting location.

**Public participation and advance public notice required.** When meeting electronically, a public body must use technology that permits attendance of the public. Whenever feasible, public access must be allowed by telephone. Information regarding how the public may access meetings electronically must be posted and must be included in each meeting agenda.

**Recording of selectboard and school board meetings required.** Municipal legislative bodies and school boards must record their public meetings, unless unusual circumstances make it impossible to do so.

**Minutes timeframe extended when short-staffed.** In the event of a staffing shortage during this declared emergency, a public body extend the time limit for the posting of minutes to not more than 10 days (rather than 5 days) from the date of the meeting.

Eliminating the physical meeting location requirement is an extreme measure, but we feel it is appropriate at this time. While we recognize need to limit unnecessary face-to-face contact and large gatherings, we must do so without fully sacrificing the public's right to know.

In the interest of transparency and accountability, we did advocate for inclusion of the requirement in the bill that selectboard and school board remote meetings be recorded. Given the elimination of any physical attendance and the difficulties often experienced in using unfamiliar technology to access a meeting, we believe it is a necessary and not unduly burdensome requirement to preserve the public's right to know.

The Vermont State Archives and Records Administration has updated the record type "Accounts (Statements)" on the [General Record Schedule \(GRS\) for administrative policy records \(GRS-1000.1102\)](#) to include these recordings. The minimum retention requirement for the recordings of selectboard and school board remote meetings is *one year* unless administratively significant to the selectboard or the school board. See [GRS-1000.1102](#) or email [sos.rim@vermont.gov](mailto:sos.rim@vermont.gov) for more details on how to use the record schedule.

We would like to stress that these changes to the open meeting law are temporary; that is, they apply only during a state of emergency declared by the Governor due to COVID-19.

As always, we recommend that every municipality be in touch with its own municipal counsel for legal advice about how to handle specific scenarios under new law. We also suggest reviewing the [Vermont League of Cities and Towns' \(VLCT\) COVID-19 guidance and list of resources](#) (<https://www.vlct.org/coronavirus>) and [VLCT memo on essential local government services and functions](#) (<https://www.vlct.org/sites/default/files/documents/Resource/EssentialFunctionsMACMemo.pdf>).

Ensuring that our government can still operate and make critical decisions during this state of emergency, without sacrificing the public's right to know, is a challenging but important task. Your role as a public servant has

become all the more difficult, with added responsibilities and new daily challenges. As we work to establish a new normal as we weather this storm together, we want to thank you for everything you're doing to serve our Vermont communities.

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