

**Tax Structure Commission
Application of Open Meeting Law**

Vermont Constitution, Ch.1 Art. 6. Officers servants of the people

- That all power being originally inherent in and consequently derived from the people, therefore, all officers of government, whether legislative or executive, are their trustees and servants; and at all times, in a legal way, accountable to them.
- Article 6 is not self-executing—i.e. not a private right of action The General Assembly may select the means of executing the broad principles of the article.

Open Meeting Law, 1 V.S.A. ch, 5, subchapter 2, §§ 310-314

- 1 V.S.A. § 311. Declaration of Public Policy.
 - The legislature finds and declares that public commissions, boards, and councils and other public agencies in this State exist to aid in the conduct of the people's business and are accountable to them pursuant to Chapter I, Article VI of the Vermont Constitution.
- 1 V.S.A. § 312. Right to Attend Meetings
 - Meetings of a public body are open to the public at all times, except for authorized executive sessions.
- 1 V.S.A. § 310. Definitions: Public Body; Business of Public Body; Meeting
 - “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 of the foregoing boards, councils, or commissions.
 - “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.
 - “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.
 - * “Meeting” is not any communication, including in person or through e-mail, telephone, or teleconferencing, between members of a public body for scheduling a meeting, organizing an agenda, or distributing materials to discuss at a meeting, provided that: no other business of the public body is conducted; and the communication is subject to the PRA.
 - * “Meeting” is not an occasion when a quorum of the body attends social gatherings, conventions, or otherwise gathers, if the public body does not discuss specific business of the body that, at the time of the exchange, the participating members expect to be business of the body at a later time.
 - * “Meeting” shall not mean a gathering of a quorum of a public body at a duly warned meeting of another public body, provided that the attending public body does not take action on its business.
- 1 V.S.A. § 312. Attending by Electronic Means
 - One or more members of a public body may attend and participate in a meeting without being physically present, whether by calling in, through Skype, or other technology.
 - * Members attending remotely may vote to take an action (e.g., to approve a contract, or the final draft of a report), but any vote that is not unanimous must be taken by roll call.
 - * Members attending remotely must identify themselves when the meeting is convened and be able to hear the conduct of the meeting and be heard throughout the meeting.

- If a quorum or more (a majority) of members will be attending remotely, the meeting must be publicly announced, and the agenda must designate a physical location where the public can attend. At least 1 member of the body or a designee must be physically present at the designated location.
- 1 V.S.A. §§ 301, 312. Requirement to Publicly Announce Meeting; Agendas
 - Publicly announce 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 other person who has specifically requested notice.
 - A public body holding a special meeting must publicly announce the time, place, and purpose of the meeting at least 24 hours in advance. § 312(c)(2); § 312(c)(5).
 - A special meeting is a meeting other than a regular meeting or an emergency meeting. Most meetings of public bodies staffed by the Office and JFO are special meetings.
 - A regular meeting is a meeting the time and place of which is clearly designated by statute, charter, ordinance, etc. to occur periodically, e.g., every Monday. Information regarding time and place must be available on request, but regular meetings do not need to be publicly announced.
 - An agenda for a special meeting must be posted on a public body’s website, if one exists, at least 24 hours in advance. If a committee does not have a website, posting of the agenda is not required.
- 1 V.S.A. § 312. Minutes
 - Minutes must be taken of meetings of public bodies. Minutes must include names of members present; names of other active meeting participants; all motions, proposals, and resolutions made and considered, and their dispositions; and the results of any votes taken.
 - Minutes must be posted to a website of the public body, if one exists, no later than 5 days from the date of the meeting—i.e. **written minutes must be taken if the committee has a website**.
 - * If a committee does not have a website, the requirement to post minutes does not apply. There is no requirement that a committee create an information page or website.
 - * Any addition to or deletion from an agenda must be made as the first act of business at the meeting; other adjustments may be made at any time during the meeting.
- 1 V.S.A. § 313. Executive Sessions
 - A public body may only go into executive session—i.e. exclude the public from a meeting—upon a two-thirds vote if it is a State body, on a motion made during an open meeting that indicates the reason for going into executive session.
 - The grounds for going into executive session are limited by law.
 - No formal or binding action may be taken in executive session except to secure real estate options.
 - Minutes need not be taken during executive sessions; if they are, they are exempt from the PRA.
- 1 V.S.A. § 314. Penalties; Enforcement
 - A knowing and intentional violation of the OML is a misdemeanor punishable by a fine of up to \$500.
 - A court can assess attorney’s fees against a public body in violation of the OML if it is not properly cured.