

## ASK THE LEAGUE, NOVEMBER 2012

### Who may be present in executive session?

The public body entering executive session and anyone else they want to bring into it.

Executive session is a privilege granted under Vermont's Open Meeting Law which allows public bodies to enter into private session to discuss public business. This privilege allows public bodies to deviate from the general rule that public business be conducted during the course of open sessions. An executive session may only be entered under statutorily prescribed circumstances. The Vermont Supreme Court will construe the Open Meeting Law liberally in furtherance of the public's right to access.

The motion to enter into executive session must state the nature of the business to be discussed, it must pass by a majority of the membership of the public body, and the result of the vote must be recorded in the minutes. No other matter may be discussed in executive session and no binding votes or actions may be taken (except those relating to the securing of real estate options) until the public body comes out of the session and is again in open meeting. Once a public body approves a motion to enter into executive session, attendance is limited to the members of the public body and whomever else in its discretion it sees fit to allow. Specifically, the law on this matter provides "Attendance in executive session shall be limited to members of the public body, and, in the discretion of the public body, its staff, clerical assistants and legal counsel, and persons who are subjects of the discussion or whose information is needed." 1 V.S.A. § 313(b).

The law governing the use of executive session including the permissible considerations for entering are at [www.leg.state.vt.us/statutes/fullsection.cfm?Title=01&Chapter=005&Section=00313](http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=01&Chapter=005&Section=00313).

If you have any questions related to executive session, please call the Municipal Assistance Center at 1-800-649-7915.

Garrett Baxter, Staff Attorney II  
VLCT Municipal Assistance Center