S T A T E O F N E W Y O R K

2046--A

Cal. No. 91

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. JOHN, LATIMER, PAULIN, GALEF -- Multi-Sponsored by -- M. of A. BOYLAND, CHRISTENSEN, COOK, DINOWITZ, GLICK, GOTTFRIED, McENENY -- read once and referred to the Committee on Governmental Operations -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public officers law, in relation to enforcement of the open meetings law

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 107 of the public officers law, as added by chapter 511 of the laws of 1976 and as renumbered by chapter 652 of the laws of 1983, subdivision 2 as amended by chapter 397 of the laws of 2008, is amended to read as follows:

S 107. Enforcement. 1. Any aggrieved person shall have standing to enforce the provisions of this article against a public body by the commencement of a proceeding pursuant to article seventy-eight of the civil practice law and rules, [and/or] OR an action for declaratory judgment and injunctive relief. In any such action or proceeding, [the] A court shall have the power, in its discretion, upon good cause shown, to declare any action or part thereof [taken in violation of this article] void in whole or in part WHEN THAT ACTION, OR SUBSTANTIAL DELIBERATIONS RELATING THERETO, WAS TAKEN OR HELD IN VIOLATION OF THIS ARTICLE. ALTERNATIVELY, THE COURT MAY STAY IMPLEMENTATION OF AN ACTION OR PART THEREOF AND REMAND THE ACTION TO THE PUBLIC BODY FOR RECONSIDERATION OF THE ACTION.

An unintentional failure to fully comply with the notice provisions required by this article shall not alone be grounds for invalidating any action taken at a meeting of a public body. The provisions of this article shall not affect the validity of the authorization, acquisition, execution or disposition of a bond issue or notes.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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2. In any proceeding brought pursuant to this section, costs and reasonable attorney fees may be awarded by the court, in its discretion, to the successful party. If a court determines that a vote was taken in material violation of this article, or that substantial deliberations relating thereto occurred in private prior to such vote, the court shall award costs and reasonable attorney's fees to the successful petitioner, unless there was a reasonable basis for a public body to believe that a closed session could properly have been held.

3. The statute of limitations in an article seventy-eight proceeding with respect to an action taken at executive session shall commence to run from the date the minutes of such executive session have been made available to the public.

4. IF A COURT FINDS THAT THE PUBLIC BODY OR ANY OF ITS MEMBERS VIOLATED THIS ARTICLE, IT MAY IMPOSE A CIVIL PENALTY OF UP TO FIVE HUNDRED DOLLARS PAYABLE BY EACH PUBLIC BODY ENGAGED IN SUCH VIOLATION.

S 2. This act shall take effect on the sixtieth day after it shall have become a law.