

7567

2011-2012 Regular Sessions

I N   A S S E M B L Y

May 10, 2011

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Introduced by M. of A. CERETTO -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, in relation to authorizing the committee on open government to investigate violations of the open meetings law

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

1     Section 1. Section 103 of the public officers law, as amended by chap-  
2     ter 368 of the laws of 1977 and renumbered by chapter 652 of the laws of  
3     1983, subdivision (c) as added by chapter 289 of the laws of 2000,  
4     subdivision (d) as added by chapter 40 of the laws of 2010, and subdivi-  
5     sion (d) as added by chapter 43 of the laws of 2010, is amended to read  
6     as follows:  
7     S 103. Open meetings and executive sessions. (a) Every meeting of a  
8     public body shall be open to the general public, except that an execu-  
9     tive session of such body may be called and business transacted thereat  
10    in accordance with section [ninety-five] ONE HUNDRED FIVE of this arti-  
11    cle.  
12    (b) Public bodies shall make or cause to be made all reasonable  
13    efforts to ensure that meetings are held in facilities that permit  
14    barrier-free physical access to the physically handicapped, as defined  
15    in subdivision five of section fifty of the public buildings law.  
16    (c) A public body that uses videoconferencing to conduct its meetings  
17    shall provide an opportunity for the public to attend, listen and  
18    observe at any site at which a member participates.  
19    (d) Public bodies shall make or cause to be made all reasonable  
20    efforts to ensure that meetings are held in an appropriate facility  
21    which can adequately accommodate members of the public who wish to  
22    attend such meetings.  
23    [(d)] (E) 1. Any meeting of a public body that is open to the public  
24    shall be open to being photographed, broadcast, webcast, or otherwise

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

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1 recorded and/or transmitted by audio or video means. As used herein the  
2 term "broadcast" shall also include the transmission of signals by  
3 cable.

4 2. A public body may adopt rules, consistent with recommendations from  
5 the committee on open government, reasonably governing the location of  
6 equipment and personnel used to photograph, broadcast, webcast, or  
7 otherwise record a meeting so as to conduct its proceedings in an order-  
8 ly manner. Such rules shall be conspicuously posted during meetings and  
9 written copies shall be provided upon request to those in attendance.

10 S 2. Section 105 of the public officers law, as added by chapter 511  
11 of the laws of 1976 and renumbered by chapter 652 of the laws of 1983,  
12 and paragraphs f and h of subdivision 1 as amended by chapter 704 of the  
13 laws of 1979, is amended to read as follows:

14 S 105. Conduct of executive sessions. 1. Upon a majority vote of its  
15 total membership, taken in an open meeting pursuant to a motion identi-  
16 fying [the general area or areas of the subject or] ONE OF THE FOLLOWING  
17 subjects to be considered, a public body may conduct an executive  
18 session for the below enumerated purposes only, provided, however, that  
19 no action by formal vote shall be taken to appropriate public moneys:

20 a. matters which will imperil the public safety if disclosed;

21 b. any matter which may disclose the identity of a law enforcement  
22 agent or informer;

23 c. information relating to current or future investigation or prose-  
24 cution of a criminal offense which would imperil effective law enforce-  
25 ment if disclosed;

26 d. discussions regarding proposed, pending or current litigation;

27 e. collective negotiations pursuant to article fourteen of the civil  
28 service law;

29 f. the medical, financial, credit or employment history of a partic-  
30 ular person or corporation, or matters leading to the appointment,  
31 employment, promotion, demotion, discipline, suspension, dismissal or  
32 removal of a particular person or corporation;

33 g. the preparation, grading or administration of examinations; and

34 h. the proposed acquisition, sale or lease of real property or the  
35 proposed acquisition of securities, or sale or exchange of securities  
36 held by such public body, but only when publicity would substantially  
37 affect the value thereof.

38 2. Attendance at an executive session shall be permitted to any member  
39 of the public body and any other persons authorized by the public body.

40 3. THE COMMITTEE ON OPEN GOVERNMENT IS AUTHORIZED TO INVESTIGATE, UPON  
41 THEIR OWN INITIATIVE OR UPON A COMPLAINT FILED WITHIN FOURTEEN DAYS  
42 FOLLOWING AN ALLEGED VIOLATION, VIOLATIONS OF THIS SECTION AND IMPOSE  
43 PENALTIES, INCLUDING REMOVAL FROM A PUBLIC BODY AND MONETARY FINES. SUCH  
44 MONETARY FINE MAY BE LEVIED UPON AN INDIVIDUAL BOARD MEMBER OR, IF THE  
45 COMMITTEE FINDS THE BOARD AS A WHOLE VIOLATED THIS SECTION, UPON THE  
46 MUNICIPALITY.

47 S 3. This act shall take effect on the ninetieth day after it shall  
48 have become a law.