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

6976

2013-2014 Regular Sessions

I N A S S E M B L Y

April 29, 2013

Introduced by M. of A. CERETTO, MONTESANO, JORDAN, FINCH, TENNEY -- Multi-Sponsored by -- M. of A. GABRYSZAK, GOODELL, McDONOUGH, THIELE -- 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:

Section 1. Section 103 of the public officers law, as amended by chapter 368 of the laws of 1977 and renumbered by chapter 652 of the laws of 1983, subdivision (c) as added by chapter 289 of the laws of 2000, subdivision (d) as added by chapter 40 of the laws of 2010, subdivision (d) as added by chapter 43 of the laws of 2010, and subdivision (e) as added by chapter 603 of the laws of 2011, is amended to read as follows:

S 103. Open meetings and executive sessions. (a) Every meeting of a public body shall be open to the general public, except that an executive session of such body may be called and business transacted thereat in accordance with section [ninety-five] ONE HUNDRED FIVE of this article.

(b) Public bodies shall make or cause to be made all reasonable efforts to ensure that meetings are held in facilities that permit barrier-free physical access to the physically handicapped, as defined in subdivision five of section fifty of the public buildings law.

(c) A public body that uses videoconferencing to conduct its meetings shall provide an opportunity for the public to attend, listen and observe at any site at which a member participates.

(d) Public bodies shall make or cause to be made all reasonable efforts to ensure that meetings are held in an appropriate facility which can adequately accommodate members of the public who wish to attend such meetings.

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

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[(d)] (E) 1. Any meeting of a public body that is open to the public shall be open to being photographed, broadcast, webcast, or otherwise recorded and/or transmitted by audio or video means. As used herein the term "broadcast" shall also include the transmission of signals by cable.

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

[(e)] (F) Agency records available to the public pursuant to article six of this chapter, as well as any proposed resolution, law, rule, regulation, policy or any amendment thereto, that is scheduled to be the subject of discussion by a public body during an open meeting shall be made available, upon request therefor, to the extent practicable as determined by the agency or the department, prior to or at the meeting during which the records will be discussed. Copies of such records may be made available for a reasonable fee, determined in the same manner as provided therefor in article six of this chapter. If the agency in which a public body functions maintains a regularly and routinely updated website and utilizes a high speed internet connection, such records shall be posted on the website to the extent practicable as determined by the agency or the department, prior to the meeting. An agency may, but shall not be required to, expend additional moneys to implement the provisions of this subdivision.

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

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

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

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

c. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;

d. discussions regarding proposed, pending or current litigation;

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

f. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;

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

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

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

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

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