

6976

2013-2014 Regular Sessions

I N   A S S E M B L Y

April 29, 2013

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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 ASSEM-  
BLY, 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, subdivision  
5     (d) as added by chapter 43 of the laws of 2010, and subdivision (e) as  
6     added by chapter 603 of the laws of 2011, is amended to read 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.

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

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

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

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

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

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

37 a. matters which will imperil the public safety if disclosed;  
38 b. any matter which may disclose the identity of a law enforcement  
39 agent or informer;

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

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

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

46 f. the medical, financial, credit or employment history of a partic-  
47 ular person or corporation, or matters leading to the appointment,  
48 employment, promotion, demotion, discipline, suspension, dismissal or  
49 removal of a particular person or corporation;

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

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

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

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

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