STATE OF NEW YORK

9765

IN ASSEMBLY

April 1, 2022

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

AN ACT to amend the public officers law, in relation to permitting videoconferencing and remote participation in public meetings under certain circumstances; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The public officers law is amended by adding a new section 103-a to read as follows:

§ 103-a. Videoconferencing by local public bodies. 1. For the purposes of this section, "local public body" shall mean a public corporation as defined in section sixty-six of the general construction law, a political subdivision as defined in section one hundred of the general municipal law or a committee or subcommittee or other similar body of such entity, or any entity for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for an entity limited in the execution of its official functions to a portion only of the state, or a political subdivision of the state, or for an agency or department thereof.

2. A local public body may, in its discretion, use videoconferencing to conduct its meetings pursuant to the requirements of this article provided that a minimum number of members are present to fulfill the local public body's quorum requirement in the same physical location where the public can attend and the following criteria are met: (a) the governing board of a county, city, town or village has adopted a local law, or a local public body has adopted a resolution following a public hearing, authorizing the use of videoconferencing:

(i) for itself and/or its committees or subcommittees; or,

(ii) specifying that each committee or subcommittee may make its own determination;

(iii) provided however, each community board in a city with a population of one million or more shall make its own determination;

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

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(b) the local public body has established written procedures governing member and public attendance and/or participation consistent with this section, and such written procedures shall be conspicuously posted on the public website of the local public body;

(c) members of the local public body shall be physically present at any such meeting unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances, as set forth in the resolution and written procedures adopted pursuant to paragraph (a) of this subdivision, including disability, illness, or caregiving responsibilities;

(d) except in the case of executive sessions conducted pursuant to section one hundred five of this article, the local public body shall ensure that members of the local public body can be heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon;

(e) the minutes of the meetings involving videoconferencing shall include which, if any, members participated remotely and shall be available to the public pursuant to section one hundred six of this article;

(f) if videoconferencing is used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used, where the public can view and/or participate in such meeting, and identify the physical location for the meeting where the public can attend;

(g) the local public body shall provide that each such meeting shall be recorded and such recordings posted or linked on the public website of the local public body within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request; and,

(h) the local public body shall permit members of the public to use videoconferencing to participate in any public meeting at which videoconferencing is used and shall ensure that videoconferencing authorizes the same public participation or testimony as in person participation or testimony.

3. The in person participation requirements of paragraph (b) of subdivision two of this section shall not apply during a state disaster emergency declared by the governor pursuant to section twenty-eight of the executive law, or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to section twenty-four of the executive law, if the public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the local public body to hold an in person meeting.

4. No later than January first two thousand twenty-four, the committee on open government, created by paragraph (a) of subdivision one of section eighty-nine of this chapter, shall issue a report to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate standing committee on local government, the chair of the senate standing committee on investigations and government operations, the chair of the assembly standing committee on local governments, and the chair of the assembly standing committee on governmental operations concerning the application and implementation of such law and any further recommendations governing the use of videoconferencing by local public bodies to conduct meetings pursuant to this section.

§ 2. Notwithstanding the provisions of article 7 of the public officers law to the contrary, for sixty days after the effective date of

this act any local public body shall be authorized to meet and take such action authorized by law without permitting in public-in-person access to meetings and authorize such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed. For the purposes of this section, "local public body" shall mean any entity for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for an entity limited in the execution of its official functions to a portion only of the state, or a political subdivision of the state, or for an agency or department thereof, public corporation pursuant to section 66 of the general construction law or political subdivision pursuant to section 100 of the general municipal law.

§ 3. This act shall take effect immediately and shall expire and be deemed repealed June 15, 2024.