STATE OF NEW YORK

4521

2021-2022 Regular Sessions

IN SENATE

February 5, 2021

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the public officers law, in relation to authorizing public bodies to hold public meetings remotely; and providing for the repeal of such provisions upon the expiration thereof

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, subdivision (e) as added by chapter 603 of the laws of 2011 and subdivision (f) as amended by chapter 319 of the laws of 2016, is amended to read as follows:

§ 103. Open meetings and executive sessions. [~~(a)~~] 1. 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 of this [~~article~~] chapter.

[~~(b)~~] 2. Public bodies shall make or cause to be made all reasonable efforts to ensure that meetings that are not conducted remotely 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.~~] 3. A public body may meet remotely, in whole or in part, through the use of a telephone conference, a video conference, and/or other similar technology, without

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

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permitting public in-person access to such meetings and may take all actions authorized by the law at meetings held remotely provided:

(a) the meeting is conducted pursuant to rules approved by such public body;

(b) the public has the ability to view or listen to such proceedings and, where appropriate, provide comments electronically;

(c) the minutes of the meeting are recorded and are later transcribed;

(d) all required documents and records utilized at the meeting are available in an electronic format on the internet and upon request; and

(e) each notice of the meeting clearly provides instructions for the participants at the meeting to access the meeting, locate necessary documentation for the meeting and submit comments and notice to the general public in accordance with section one hundred four of this article.

[~~(d)~~] 4. Public bodies shall make or cause to be made all reasonable efforts to ensure that meetings that are not conducted remotely are held in an appropriate facility which can adequately accommodate members of the public who wish to attend such meetings.

[~~(d) 1.~~] 5.(a) Any meeting of a public body that is not conducted remotely 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.~~] (b) 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 that is not conducted remotely 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)~~] 6. 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.

[~~(f)~~] 7. Open meetings of an agency or authority shall be, to the extent practicable and within available funds, broadcast to the public and maintained as records of the agency or authority. If the agency or authority maintains a website and utilizes a high speed internet connection, such open meeting shall be, to the extent practicable and within available funds, streamed on such website in real-time, and posted on such website within and for a reasonable time after the meeting. For the purposes of this subdivision, the term "agency" shall mean only a state department, board, bureau, division, council or office and any public corporation the majority of whose members are appointed by the governor. For purposes of this subdivision, the term "authority" shall

mean a public authority or public benefit corporation created by or existing under any state law, at least one of whose members is appointed by the governor (including any subsidiaries of such public authority or public benefit corporation), other than an interstate or international authority or public benefit corporation.

§ 2. This act shall take effect immediately and shall expire January 31, 2022, when upon such date the provisions of this act shall be deemed repealed.