

# STATE OF NEW YORK

8716

## IN SENATE

April 5, 2022

Introduced by Sen. SKOUFIS -- 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 providing for the conducting of meetings by public bodies through the use of videoconferencing or other electronic means

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

1 Section 1. Subdivision 1 of section 102 of the public officers law, as  
2 amended by chapter 289 of the laws of 2000, is amended and a new subdivi-  
3 sion 4 is added to read as follows:

4 1. "Meeting" means the official convening of a public body for the  
5 purpose of conducting public business, including the use of videoconfer-  
6 encing or other electronic means for attendance and participation by the  
7 members of the public body.

8 4. "Local public body" shall mean any entity for which a quorum is  
9 required in order to conduct public business and which consists of two  
10 or more members, performing a governmental function for an entity limit-  
11 ed in the execution of its official functions to a portion only  
12 of the state, or a political subdivision of the state, or for an agency  
13 or department thereof.

14 § 2. Section 103 of the public officers law, as amended by chapter 368  
15 of the laws of 1977 and as renumbered by chapter 652 of the laws of  
16 1983, subdivision (c) as added by chapter 289 of the laws of 2000,  
17 subdivision (d) as added by chapter 40 of the laws of 2010, subdivision  
18 (d) as added by chapter 43 of the laws of 2010, subdivision (e) as  
19 amended by chapter 481 of the laws of 2021, subdivision (f) as amended  
20 by chapter 319 of the laws of 2016, is amended to read as follows:

21 § 103. Open meetings and executive sessions. (a) Every meeting of a  
22 public body shall be open to the general public, except that an execu-  
23 tive session of such body may be called and business transacted thereat  
24 in accordance with section ninety-five of this [~~article~~] chapter.

25 (b) Public bodies shall make or cause to be made all reasonable  
26 efforts to ensure that meetings which are not conducted through the use

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

LBD15290-03-2

1 of videoconferencing or other electronic means are held in facilities  
2 that permit barrier-free physical access to the physically handicapped,  
3 as defined in subdivision five of section fifty of the public buildings  
4 law.

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

8 ~~(d)~~] Public bodies shall make or cause to be made all reasonable  
9 efforts to ensure that meetings which are not conducted through the use  
10 of videoconferencing or other electronic means are held in an appropri-  
11 ate [~~facility~~] public site which can adequately accommodate members of  
12 the public who wish to attend such meetings.

13 (d) 1. Any meeting of a public body that is open to the public and  
14 which is not conducted through the use of videoconferencing or other  
15 electronic means shall be open to being photographed, broadcast,  
16 webcast, or otherwise recorded and/or transmitted by audio or video  
17 means. As used herein the term "broadcast" shall also include the trans-  
18 mission of signals by cable.

19 2. A public body may adopt rules, consistent with recommendations from  
20 the committee on open government, reasonably governing the location of  
21 equipment and personnel used to photograph, broadcast, webcast, or  
22 otherwise record a meeting which is not conducted through the use of  
23 videoconferencing or other electronic means so as to conduct its  
24 proceedings in an orderly manner. Such rules shall be conspicuously  
25 posted during meetings and written copies shall be provided upon request  
26 to those in attendance.

27 (e) Agency records available to the public pursuant to article six of  
28 this chapter, as well as any proposed resolution, law, rule, regulation,  
29 policy or any amendment thereto, that is scheduled to be the subject of  
30 discussion by a public body during an open meeting shall be made avail-  
31 able, upon request therefor, to the extent practicable at least twenty-  
32 four hours prior to the meeting during which the records will be  
33 discussed. Copies of such records may be made available for a reasonable  
34 fee, determined in the same manner as provided therefor in article six  
35 of this chapter. If the agency in which a public body functions main-  
36 tains a regularly and routinely updated website and utilizes a high  
37 speed internet connection, such records shall be posted on the website  
38 to the extent practicable at least twenty-four hours prior to the meet-  
39 ing. An agency may, but shall not be required to, expend additional  
40 moneys to implement the provisions of this subdivision.

41 (f) Open meetings of an agency or authority shall be, to the extent  
42 practicable and within available funds, broadcast to the public and  
43 maintained as records of the agency or authority. If the agency or  
44 authority maintains a website and utilizes a high speed internet  
45 connection, such open meeting shall be, to the extent practicable and  
46 within available funds, streamed on such website in real-time, and post-  
47 ed on such website within and for a reasonable time after the meeting.  
48 For the purposes of this subdivision, the term "agency" shall mean only  
49 a state department, board, bureau, division, council or office and any  
50 public corporation the majority of whose members are appointed by the  
51 governor. For purposes of this subdivision, the term "authority" shall  
52 mean a public authority or public benefit corporation created by or  
53 existing under any state law, at least one of whose members is appointed  
54 by the governor (including any subsidiaries of such public authority or  
55 public benefit corporation), other than an interstate or international  
56 authority or public benefit corporation.

1 (g) 1. Notwithstanding any other provision of law to the contrary, a  
2 public body may utilize videoconferencing or other electronic means to  
3 conduct business pursuant to this section, provided:

4 (i) A quorum of members of the public body shall attend all open meet-  
5 ings of public bodies in person at a public site, but may allow other  
6 members of the body to fully participate remotely, including being  
7 counted for attendance and voting, pursuant to rules approved by such  
8 public body;

9 (ii) The public has the ability to view or listen to such proceedings  
10 and, where appropriate, provide real-time comments pursuant to the  
11 requirements in subdivisions (h) and (i) of this section;

12 (iii) The minutes of the meeting are recorded and are later tran-  
13 scribed in accordance with the requirements in sections one hundred four  
14 and one hundred six of this article;

15 (iv) All required documents and records utilized at the meeting are  
16 available in an electronic format on the internet and upon request with-  
17 in twenty-four hours of the meeting or request;

18 (v) Each notice of the meeting clearly provides instructions for the  
19 participants at the meeting to access the meeting, locate necessary  
20 documentation for the meeting and submit comments and notice to the  
21 general public in accordance with section one hundred four of this arti-  
22 cle;

23 (vi) At least twenty-four hours prior to the meeting, the public body  
24 conducting the meeting will identify an individual to serve as a public  
25 point of contact for the meeting to address any questions and/or  
26 concerns members of the public or the press may have regarding the meet-  
27 ing;

28 (vii) The videoconferencing or other electronic means utilized to  
29 conduct the meeting satisfy basic security and performance standards in  
30 accordance with the requirements in subdivision (j) of this section;

31 (viii) A local public body may only elect to utilize videoconferencing  
32 or other electronic means to conduct its meetings if the local body  
33 maintains an official website; and

34 (xi) Any local public body maintaining a website, with access to a  
35 high speed internet connection, and utilizing such videoconferencing  
36 shall be required to stream all open meetings and public hearings on its  
37 official website in real-time.

38 2. In utilizing such videoconferencing or other electronic means, the  
39 public body shall promptly provide notice to the general public pursuant  
40 to section one hundred four of this article detailing the alternate  
41 means by which the public can monitor, watch, listen to, participate in,  
42 and/or attend the meeting.

43 (h) Any meeting of a public body that is open to the public, that  
44 utilizes videoconferencing or other electronic means to conduct busi-  
45 ness, and allows for public comment, shall provide for an opportunity  
46 for the public to comment in realtime by any available means during the  
47 time allocated for public comment. Public bodies shall adopt and make  
48 publicly available rules or policies that are reasonable and treat all  
49 members of the public equally, regarding public comment in any meeting  
50 of a public body that is open to the public, utilizes videoconferencing  
51 or other electronic means to conduct business, and allows for public  
52 comment.

53 (i) The committee on open government shall establish advisory guide-  
54 lines governing public body rules and policies at open public body meet-  
55 ings that allow for public comment, including, but not limited to,  
56 guidelines regarding the manner in which a public body may moderate

1 realtime public comment and guidelines establishing the best practices  
2 and standards regarding realtime public comment at public body meetings  
3 that are open to the public and which utilize videoconferencing or other  
4 electronic means for conducting business.

5 (j) The committee on open government, in conjunction with the office  
6 of information technology services, shall establish advisory guidelines  
7 governing public bodies on the basic security and technology performance  
8 requirements relating to videoconferencing services and other electronic  
9 means utilized to conduct open meetings.

10 § 3. Subdivisions 4 and 5 of section 104 of the public officers law,  
11 subdivision 4 as added by chapter 289 of the laws of 2000, and subdivi-  
12 sion 5 as added by chapter 302 of the laws of 2016, are amended to read  
13 as follows:

14 4. If videoconferencing [~~is~~] or other electronic means are used to  
15 conduct a meeting and such meeting is being held both physically at a  
16 public site and also virtually by one or more members of the public body  
17 at a location or locations not open to the public, the public notice for  
18 the meeting shall inform the public that videoconferencing or other  
19 electronic means will be used[~~r~~] and shall identify the [~~locations~~]  
20 public site for the meeting, and state that the public has the right to  
21 attend the meeting at [~~any of the locations~~] the public site.

22 5. All public bodies maintaining a website and utilizing a high speed  
23 internet connection shall be required, to the extent practicable, to  
24 stream all open meetings and public hearings on its official website in  
25 real-time. Each public body shall post video recordings of all open  
26 meetings and public hearings streamed in real-time on its website within  
27 five business days of the meeting or hearing and shall maintain such  
28 recordings for a period of not less than five years. If a meeting will  
29 be streamed live over the internet, the public notice for the meeting  
30 shall inform the public of the internet address of the website streaming  
31 such meeting.

32 § 4. Section 106 of the public officers law is amended by adding a new  
33 subdivision 4 to read as follows:

34 4. The minutes of a meeting shall reflect whether the meeting was  
35 conducted by videoconferencing or other electronic means in whole or in  
36 part, what videoconferencing services or other electronic means were  
37 used to conduct the meeting, which if any members participated by video-  
38 conference or other electronic means, when each member participating by  
39 videoconferencing or other electronic means joined or left the meeting,  
40 and any interruptions in or suspensions of the meeting due to technical  
41 problems with the videoconferencing services or other electronic means  
42 supporting the meeting.

43 § 5. This act shall take effect immediately.