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:

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

1. "Meeting" means the official convening of a public body for the purpose of conducting public business, including the use of videoconferencing **or other electronic means** for attendance and participation by the members of the public body.

4. "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.

§ 2. Section 103 of the public officers law, as amended by chapter 368 of the laws of 1977 and as 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 amended by chapter 481 of the laws of 2021, 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) 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) Public bodies shall make or cause to be made all reasonable 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.

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of videoconferencing or other electronic means 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 which are not conducted through the use of videoconferencing or other electronic means are held in an appropriate [~~facility~~] public site which can adequately accommodate members of the public who wish to attend such meetings.

(d) 1. Any meeting of a public body that is open to the public and which is not conducted through the use of videoconferencing or other electronic means 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 which is not conducted through the use of videoconferencing or other electronic means 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) 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 at least twenty-four hours prior to 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 at least twenty-four hours prior to the meeting. An agency may, but shall not be required to, expend additional moneys to implement the provisions of this subdivision.

(f) 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.

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

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

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

(iii) The minutes of the meeting are recorded and are later transcribed in accordance with the requirements in sections one hundred four and one hundred six of this article;

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

(v) 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;

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

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

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

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

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

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

(i) The committee on open government shall establish advisory guidelines governing public body rules and policies at open public body meetings that allow for public comment, including, but not limited to, guidelines regarding the manner in which a public body may moderate

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

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

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

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

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

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

4. The minutes of a meeting shall reflect whether the meeting was conducted by videoconferencing or other electronic means in whole or in part, what videoconferencing services or other electronic means were used to conduct the meeting, which if any members participated by videoconference or other electronic means, when each member participating by videoconferencing or other electronic means joined or left the meeting, and any interruptions in or suspensions of the meeting due to technical problems with the videoconferencing services or other electronic means supporting the meeting.

§ 5. This act shall take effect immediately.