

STATE OF NEW YORK

3486

2023-2024 Regular Sessions

IN SENATE

January 31, 2023

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; and to repeal certain provisions of the public officers law, relating thereto

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 subdi-
3 vision 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. Subdivision (c) of section 103 of the public officers law is
15 REPEALED.

16 § 3. Section 103 of the public officers law, as amended by chapter 368
17 of the laws of 1977 and as renumbered by chapter 652 of the laws of
18 1983, subdivision (d) as added by chapter 40 of the laws of 2010, subdi-
19 vision (d) as added by chapter 43 of the laws of 2010, subdivision (e)
20 as amended by chapter 481 of the laws of 2021, subdivision (f) as
21 amended by chapter 319 of the laws of 2016, is amended to read as
22 follows:

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

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

5 (b) Public bodies shall make or cause to be made all reasonable
6 efforts to ensure that meetings which are not conducted through the use
7 of videoconferencing or other electronic means are held in facilities
8 that permit barrier-free physical access to the physically handicapped,
9 as defined in subdivision five of section fifty of the public buildings
10 law.

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

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

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

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

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

1 by the governor (including any subsidiaries of such public authority or
2 public benefit corporation), other than an interstate or international
3 authority or public benefit corporation.

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

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

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

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

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

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

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

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

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

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

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

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

1 (i) The committee on open government shall establish advisory guide-
2 lines governing public body rules and policies at open public body meet-
3 ings that allow for public comment, including, but not limited to,
4 guidelines regarding the manner in which a public body may moderate
5 realtime public comment and guidelines establishing the best practices
6 and standards regarding realtime public comment at public body meetings
7 that are open to the public and which utilize videoconferencing or other
8 electronic means for conducting business.

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

14 § 4. Subdivisions 4 and 5 of section 104 of the public officers law,
15 subdivision 4 as added by chapter 289 of the laws of 2000, and subdivi-
16 sion 5 as added by chapter 302 of the laws of 2016, are amended to read
17 as follows:

18 4. If videoconferencing [~~is~~] or other electronic means are used to
19 conduct a meeting and such meeting is being held both physically at a
20 public site and also virtually by one or more members of the public body
21 at a location or locations not open to the public, the public notice for
22 the meeting shall inform the public that videoconferencing or other
23 electronic means will be used[7] and shall identify the [~~locations~~]
24 public site for the meeting, and state that the public has the right to
25 attend the meeting at [~~any of the locations~~] the public site.

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

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

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

47 § 6. This act shall take effect immediately.