

STATE OF NEW YORK

9268

IN ASSEMBLY

February 23, 2024

Introduced by M. of A. HYNDMAN -- read once and referred to the Committee on Governmental 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15 REPEALED.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:

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

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

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

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

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

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

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

40 (f) Open meetings of an agency or authority shall be, to the extent
41 practicable and within available funds, broadcast to the public and
42 maintained as records of the agency or authority. If the agency or
43 authority maintains a website and utilizes a high speed internet
44 connection, such open meeting shall be, to the extent practicable and
45 within available funds, streamed on such website in real-time, and post-
46 ed on such website within and for a reasonable time after the meeting.
47 For the purposes of this subdivision, the term "agency" shall mean only
48 a state department, board, bureau, division, council or office and any
49 public corporation the majority of whose members are appointed by the
50 governor. For purposes of this subdivision, the term "authority" shall
51 mean a public authority or public benefit corporation created by or
52 existing under any state law, at least one of whose members is appointed
53 by the governor (including any subsidiaries of such public authority or
54 public benefit corporation), other than an interstate or international
55 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 § 4. 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 § 5. 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 § 6. This act shall take effect immediately.