

STATE OF NEW YORK

9339

IN ASSEMBLY

March 6, 2024

Introduced by M. of A. KELLES -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, the state finance law, and the state technology law, in relation to mandating remote access to public meetings and establishing a fund to assist in implementation; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "public meeting modernization act".

3 § 2. The public officers law is amended by adding a new section 103-b
4 to read as follows:

5 § 103-b. Remote access for open meetings. 1. For the purposes of this
6 section, the following terms shall have the following meanings:

7 (a) "Hybrid meeting" shall mean a meeting held by a public body which
8 is conducted simultaneously in a space that is open and physically
9 accessible to the public and via remote access.

10 (b) "Remote access" shall mean access through the internet, video
11 conferencing or other video technology that allows a person to attend,
12 observe, listen, and, when permitted or required, to participate in a
13 meeting of a public body.

14 (c) "Public body" shall have the same meaning as defined in subdivi-
15 sion two of section one hundred two of this article.

16 (d) "Meeting" shall have the same meaning as defined in subdivision
17 one of section one hundred two of this article.

18 2. All open meetings conducted by a public body shall be conducted as
19 hybrid meetings, except for public bodies operating under a hardship
20 waiver as defined in section one hundred ten of this article.

21 3. When conducting hybrid meetings, public bodies shall:

22 (a) allow members of the public to attend, observe, and participate in
23 real-time, to the extent practicable;

24 (b) be freely accessible in all available formats with no paid
25 subscription or toll;

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

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1 (c) use technology and conduct the meeting in compliance with section
2 five hundred eight of the 1973 Rehabilitation Act and the 1990 Americans
3 with Disabilities Act, as amended, and any federal, state, or local law.
4 For the purposes of this section, "disability" shall be as defined in
5 subdivision twenty-one of section two hundred ninety-two of the execu-
6 tive law;

7 (d) include in any public notice for a meeting pursuant to section one
8 hundred four of this article information on the date, time, agenda, and
9 access information for the meeting, including any necessary login infor-
10 mation or access codes or any physical locations in which the meeting
11 will take place;

12 (e) have at least the minimum number of members present to fulfill the
13 public body's quorum requirement in the same physical location or
14 locations where the public can attend the meeting in person;

15 (f) ensure that all of the body's members can be heard and observed by
16 members of the public, either via remote access or in person, while the
17 meeting is conducted;

18 (g) ensure that members of the public attending meetings via remote
19 access have the same opportunity to provide public comment or testimony
20 as those participating in person, when such public comment or testimony
21 is authorized; and

22 (h) record such meeting and link or post such recording to the public
23 website of the public body within five business days following the meet-
24 ing, and keep such recording available for a minimum of five years ther-
25 after. Such recordings shall be transcribed upon request.

26 § 3. Sections 110 and 111 of the public officers law, as renumbered by
27 chapter 652 of the laws of 1983, are renumbered sections 111 and 112 and
28 a new section 110 is added to read as follows:

29 § 110. Procedure for hardship waivers. 1. On behalf of a non-elected
30 local public body within its jurisdiction, a municipality may submit a
31 request for an economic hardship waiver to the New York state committee
32 on open government to provide a virtual option for public meetings
33 pursuant to section one hundred three-b of this article.

34 2. The municipality shall demonstrate in its request to the committee
35 on open government that, despite best efforts, the public body is unable
36 to conduct hybrid meetings due to insufficient staff, resources, or
37 infrastructure.

38 3. A public body that is granted a hardship waiver shall be relieved
39 of the obligation to conduct hybrid meetings and shall instead conduct
40 its meetings via remote access. If the committee on open government
41 determines that the public body is unable to conduct its meetings via
42 remote access despite best efforts, the public body shall conduct its
43 open meetings in a public place that is physically accessible to the
44 public.

45 4. A hardship waiver may be renewed annually upon a written finding by
46 the committee on open government, provided that the municipality has
47 demonstrated effort in good faith to secure funding to enhance the tech-
48 nical and staffing capacity of the public body to conduct its meetings
49 in a hybrid manner, including applying to the hybrid meeting grant
50 program established in subdivision twenty-four of section one hundred
51 three of the state technology law.

52 5. The committee on open government shall establish criteria for the
53 granting and renewing of hardship waivers, which shall take into account
54 factors including but not limited to the economic hardship of the public
55 body, the lack of affordable technological solutions, the feasibility of

1 partnering with other entities to provide a virtual option, and the
2 impact on public participation if a waiver is granted.

3 6. State public bodies shall not be permitted to receive a hardship
4 waiver.

5 7. The committee on open government shall not issue or renew a hard-
6 ship waiver to be effective beyond January first, two thousand thirty.

7 § 4. The state finance law is amended by adding a new section 99-rr to
8 read as follows:

9 § 99-rr. Municipal hybrid meeting trust fund. 1. There is hereby
10 established in the joint custody of the state comptroller and the
11 commissioner of taxation and finance a special fund to be known as the
12 "municipal hybrid meeting trust fund".

13 2. The fund shall be credited with appropriations, bond proceeds or
14 other money authorized or transferred to such fund from the general fund
15 and local assistance account, or any other monies required to be trans-
16 ferred or deposited pursuant to law, and any interest earned on such
17 money. Revenues deposited in the fund that are unexpended at the end of
18 a fiscal year shall not revert to the general fund and shall be avail-
19 able for expenditure in the following fiscal year.

20 3. Monies of the fund shall be expended jointly by the committee on
21 open government and the office of information technology services for
22 the purpose of assisting municipalities expand their remote and hybrid
23 meeting capabilities for non-elected municipal bodies so that they may
24 better serve their constituents. Monies in the trust fund may be used to
25 support the replication and the dissemination of best practices gener-
26 ated through the competitive grant program outlined in subdivision twen-
27 ty-four of section one hundred three of the state technology law.

28 § 5. Section 103 of the state technology law is amended by adding a
29 new subdivision 24 to read as follows:

30 24. To develop and administer a competitive grant program for munici-
31 palities to support hybrid meeting implementation among their non-elect-
32 ed local public bodies. To this end, funds for such grant program shall
33 be drawn from the municipal hybrid meeting trust fund established in
34 section ninety-nine-rr of the state finance law. Such competitive grant
35 program shall be subject to the following criteria:

36 (a) All applications for a grant shall include, but shall not be
37 limited to, a plan for enabling the public body to conduct hybrid meet-
38 ings and an estimate of the projected costs of the plan.

39 (b) In approving grant applications, the office of information tech-
40 nology services may give preference to rural areas.

41 (c) Municipalities which are awarded funds through such competitive
42 grant program shall submit to the office of information technology
43 services and the committee for open government a report detailing how
44 such funds have been expended and the progress that has been made
45 towards the implementation of hybrid meetings within the municipality.

46 (d) Annually, not later than December first, the office of information
47 technology services shall submit a report detailing expenditures from
48 the trust fund to the clerks of the senate and assembly, the chairs of
49 the senate and assembly committees on ways and means, the assembly
50 subcommittee on internet and new technology, and the senate standing
51 committee on internet and technology.

52 § 6. This act shall take effect one year after it shall have become a
53 law; provided, however, that the provisions of sections three, four and
54 five of this act shall expire on the first of January, 2030 when upon
55 such date the provisions of such sections shall be deemed repealed.
56 Effective immediately, the addition, amendment and/or repeal of any rule

1 or regulation necessary for the implementation of this act on its effec-
2 tive date are authorized to be made and completed on or before such
3 date.