

New York Legislature Amends Opening Meetings Law Requirements

The New York Legislature has adopted several amendments to New York's Open Meetings Law (sections 103 and 107 of the Public Officers Law) in order to provide for more transparency in the conduct of governmental activities, as set forth in three recently adopted chapters.

Chapter 40 took effect in April, 2010. This Chapter adds a new subsection (d) to section 103 of the Public Officers Law which states in pertinent part:

"Public bodies shall make or cause to be made all reasonable efforts to ensure that meetings are held in an appropriate facility which can adequately accommodate members of the public who wish to attend such meetings."

It will be interesting to see how some municipalities, that hold meetings in rooms slightly larger than closets but keep the door open, will address this new provision.

Chapter 43 which takes effect in April 2011, and also purports to add a new section (d) to Public Officers Law section 103, provides for permitting photographing, broadcasting, webcasting and recording by audio or video any public meeting. This is consistent with prior court decisions and goes on to provide in section 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 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."

Finally, Chapter 44 amends section 107 of the Public Officers Law. This Chapter, which became effective on June 14, 2010, deletes the previous provision which stated that if a court finds a violation of the law it can declare an action void and substitutes a provision which states that if a court finds that "a public body failed to comply with this article" the court may:

"declare that the public body violated this article and/or declare the action taken in relation to such violation void, in whole or in part, without prejudice to reconsideration in compliance with his article. If the court determines that a public body has violated this article, the court may require the members of the public body to participate in a training session concerning obligations imposed by this article conducted by the staff of the committee on open government."

Section 107 retains the exemption from reversal if the violation is found to be only an unintentional failure to "fully comply with the notice provisions" and also exempts from reversal actions approving bond issue or notes.

-Steven Silverberg