

Council Member Keegan introduced the following, which was approved:

LOCAL LAW E OF 2022

A LOCAL LAW AMENDING CHAPTER 34 (MEETINGS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO AUTHORIZING VIDEOCONFERENCING FOR CITY OF ALBANY PUBLIC BODIES

Be it enacted by the Common Council of the City of Albany as follows:

Section 1. Chapter 34 (Meetings) of Part I (Administrative Legislation) of the Code of the City of Albany is hereby amended by adding a new section 34-4 to such chapter, to read as follows:

§ 34-4 Videoconferencing.

- A. All public bodies of the City of Albany are authorized to use videoconferencing technology to conduct their meetings in accordance with the provisions of section 103-a of the Public Officers Law, subject to the following conditions:
 - (1) A minimum number of members of the public body sufficient to fulfill the public body's quorum requirement must be present in the same physical location where the public can attend;
 - (2) All members of the public body shall be physically present at any meeting of the public body unless a member is unable to be physically present due to extraordinary circumstances including, but not limited to: disability; illness; quarantine order; the death of an immediate family member where such term is defined to include a spouse, parent, sibling, child, domestic partner, or individual for whom the member is the designated guardian; caregiving responsibilities for an immediate family member, or any other significant or unexpected factor that may preclude physical attendance.
 - (3) A member who wishes to participate in a meeting by videoconference must provide advance notice and justification for their absence to the extent possible to the appointed leadership of the public body. For purposes of the Common Council, such notice shall be provided to the President Pro Tempore, or in the President Pro Tempore's absence to the President of the Common Council.
 - (4) The leadership of a public body may require any member requesting to participate in a meeting by teleconference to provide documentation, to the extent possible, supporting such request and may publicly confirm that such documentation was received without publicly stating the contents of such documentation.

- (5) Except in the case of executive sessions, the public body shall ensure that members who are participating remotely can be heard, seen, and identified at all times when the meeting is being conducted.
- (6) The minutes of meetings involving videoconferencing shall state which members, if any, participated by videoconference, and shall be available to the public.
- (7) If videoconferencing is being used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used, where the public can view and/or participate in such meeting, where required documents and records will be posted or available, and identify the physical location for the meeting where the public can attend.
- (8) If videoconferencing is used to conduct a meeting, the public body shall provide the opportunity for members of the public to view such meeting via video, and to participate in proceedings via videoconference in real time where public comment or participation is authorized and shall ensure that videoconferencing authorizes the same public participation as in person participation.
- (9) Any and all videoconferencing technology used for public meetings shall be made accessible to members of the body and the public with disabilities in accordance with the Americans with Disabilities Act of 1990, as amended.
- (10) Nothing herein shall prohibit a City of Albany public body from holding meetings entirely by videoconference, with no in-person requirement, during a state of emergency declared by the Governor of New York pursuant to Executive Law § 28 or by the Albany County Executive or Mayor of Albany pursuant to Executive Law § 24 if such public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in-person meeting.

B. These written procedures governing member attendance by videoconference at meetings of public bodies, together with any supplemental, but not contrary, written procedures that public bodies may adopt on the subject of videoconferencing, shall be conspicuously posted on the City of Albany's website.

Section 2. This local law shall take effect upon passage, public hearing, and filing with the Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

Section 3. This local law shall be deemed repealed pursuant to section 4 of Part WW of Chapter 56 of the Laws of 2022.

**APPROVED AS TO FORM THIS
10TH DAY OF MAY, 2022**

Corporation Counsel

To: **Danielle Gillespie, City Clerk**

From: **Brett Williams, Senior Assistant Corporation Counsel**

Re: **Common Council Legislation**
Supporting Memorandum

Date: **May 6, 2022, Updated May 10, 2022**

Sponsor: **Council Member Keegan**

LOCAL LAW E OF 2022

TITLE

A LOCAL LAW AMENDING CHAPTER 34 (MEETINGS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO AUTHORIZING VIDEOCONFERENCE FOR CITY OF ALBANY PUBLIC BODIES

GENERAL PURPOSE OF LEGISLATION

As it currently stands, the Open Meetings Law (Public Officers Law Art. 7) authorizes remote participation in meetings by members of a public body only if “an opportunity for the public to attend, listed and observe at any site at which a member participates” is provided. Thus, for example, a sick member participating from home would need to open his or her home to all members of the public. The unprecedented circumstances of the COVID-19 pandemic obviously demonstrated the impracticality of both in-person meetings and inviting strangers into one’s home during a public health crisis.

Now that we are attempting to move beyond the COVID-19 pandemic, the state legislature has modified the Public Officers Law to make videoconferencing more available to public bodies than it had been before the pandemic, without authorizing fully remote meetings permanently.

Now, with approval by local law from the Common Council, members of all City of Albany public boards will be allowed to participate in meetings by videoconference, but only when 1) a quorum of members are present in the physical location of the meeting, and 2) the member(s) seeking to participate remotely satisfy one of the “extraordinary circumstances” that prevent physical presence, as laid out in § 34-4 (A)(2), above.

NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW

As part of its package of budget bills, the state legislature passed a new law adding a new section 103-a to the Open Meetings Law, entitled “Videoconferencing by public bodies.” Under that law, “A public body may, in its discretion, use videoconferencing to conduct its meetings...” once “the governing board of [the] city ... has adopted a local law... following a public hearing, authorizing

the use of video conferencing for itself and its committees or subcommittees.” Pub. Ofc. L. § 103-a (2)(a)(i).

Before they may conduct meetings by videoconference in accordance with section 103-a or this local law, public bodies must “establish written procedures governing member and public attendance consistent with this section, and such written procedures shall be conspicuously posted on the public website of the public body.” Pub. Ofc. L. § 103-a (2)(b).

This local law authorizes all public bodies of the City of Albany to conduct meetings by videoconference in accordance with state and local law, and lays out written procedures therefor, which will be posted online.

Section 4 of Part WW of Chapter 56 of the Laws of 2022, which enshrined Pub. Ofc. L. § 103-a into state law states that “This act … shall expire and be deemed repealed July 1, 2024.” Section 3 of this local law ties repeal of this local law to the repeal of the state law. If the state amends its law to do away with the repealer clause, this local law will remain in effect without any action required by the Council.

REQUESTED TIMEFRAME FOR PASSAGE

Part WW of Chapter 56 of the Laws of 2022, which enshrined the new section 103-a into law provided that public bodies could continue to meet fully remotely for 60 days from the effective date of that act. In effect, this means that fully remote meetings are only authorized through June 8, 2022, after which point local public bodies may not meet by videoconference unless authorized to do so by a local law of the governing body.

This local law is being introduced at the second meeting in May. It must then age for at least seven days, putting its earliest date of passage (absent a mayoral message of necessity) at the first meeting June, to be held on June 6th. It is requested for passage at that meeting to ensure seamless authorization for videoconferencing once the current authorization for fully remote meetings two days later.

FISCAL IMPACT

None.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Local Law E of 2022 was co-sponsored by Council Member Adams, Anane, Balarin, Clarke, Farrell, Flynn, Frederick, Hoey, Johnson, Love, and Zamer

Affirmative – Adams, Anane, Balarin, Clarke, Farrell, Flynn, Frederick, Hoey, Johnson, Keegan, Kimbrough, Love, and Zamer

Affirmative 13 Negative 0 Abstain 0

Clerk of the Common Council

President of the Common Council

Mayor

Date

I, Danielle Gillespie, City Clerk and Clerk of the Common Council, do hereby certify that Local Law E of 2022 was passed at a meeting of the Albany Common Council on June 6, 2022.

In Affirmation thereof, I hereto set my hand and affix The Seal of the City of Albany this _____ day of _____ 2022.

Clerk of the Common Council

1 allocation of statewide ceiling to a state agency made to or used by
2 such agency pursuant to the internal revenue code, as amended, on or
3 after January 1, 2022 and prior to the effective date of this act, shall
4 be first chargeable to the state agency set-aside established pursuant
5 to section five of this act, and, thereafter, to the statewide bond
6 reserve established by section six of this act.

7 § 17. Nothing contained in this act shall be deemed to supersede,
8 alter or impair any allocation used by or committed by the director or
9 commissioner to a state or local agency or other issuer pursuant to the
10 federal tax reform act of 1986 and prior to the effective date of this
11 act.

12 § 18. This act shall take effect immediately; provided, however, that
13 sections three, four, five, six, seven, eight, nine, ten, twelve, thirteen
14 and fourteen of this act shall expire July 1, 2025 when upon such
15 date the provisions of such sections shall be deemed repealed; except
16 that the provisions of subdivisions two and three of section thirteen of
17 this act shall expire and be deemed repealed February 15, 2025.

18 **PART MW**

19 Section 1. Subdivision (c) of section 103 of the public officers law,
20 as added by chapter 289 of the laws of 2000, is amended to read as
21 follows:

22 (c) A public body [~~that uses videoconferencing to conduct its meetings~~] shall provide an opportunity for the public to attend, listen and
23 observe [~~at any site~~] meetings in at least one physical location at
24 which a member participates.

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

27 § 103-a. Videoconferencing by public bodies. 1. For the purposes of
28 this section, "local public body" shall mean a public corporation as
29 defined in section sixty-six of the general construction law, a political
30 subdivision as defined in section one hundred of the general
31 municipal law or a committee or subcommittee or other similar body of
32 such entity, or any entity for which a quorum is required in order to
33 conduct public business and which consists of two or more members,
34 performing a governmental function for an entity limited in the
35 execution of its official functions to a portion only of the state, or a
36 political subdivision of the state, or for an agency or department there-
37 of. For the purposes of this section, a public body shall be as
38 defined in subdivision two of section one hundred two of this article.

39 2. A public body may, in its discretion, use videoconferencing to
40 conduct its meetings pursuant to the requirements of this article
41 provided that a minimum number of members are present to fulfill the
42 public body's quorum requirement in the same physical location or
43 locations where the public can attend and the following criteria are
44 met:

45 (a) the governing board of a county, city, town or village has adopted
46 a local law, or a public body has adopted a resolution, or the senate
47 and assembly have adopted a joint resolution, following a public hear-
48 ing, authorizing the use of videoconferencing;

49 (i) for itself and its committees or subcommittees; or,

50 (ii) specifying that each committee or subcommittee may make its own
51 determination;

52 (iii) provided however, each community board in a city with a popu-
53 lation of one million or more shall make its own determination;

1 (b) the public body has established written procedures governing
2 member and public attendance consistent with this section, and such
3 written procedures shall be conspicuously posted on the public website
4 of the public body;

5 (c) members of the public body shall be physically present at any such
6 meeting unless such member is unable to be physically present at any
7 such meeting location due to extraordinary circumstances, as set forth
8 in the resolution and written procedures adopted pursuant to paragraphs
9 (a) and (b) of this subdivision, including disability, illness, caregiv-
10 ing responsibilities, or any other significant or unexpected factor or
11 event which precludes the member's physical attendance at such meeting;

12 (d) except in the case of executive sessions conducted pursuant to
13 section one hundred five of this article, the public body shall ensure
14 that members of the public body can be heard, seen and identified, while
15 the meeting is being conducted, including but not limited to any
16 motions, proposals, resolutions, and any other matter formally discussed
17 or voted upon;

18 (e) the minutes of the meetings involving videoconferencing shall
19 include which, if any, members participated remotely and shall be avail-
20 able to the public pursuant to section one hundred six of this article;

21 (f) if videoconferencing is used to conduct a meeting, the public
22 notice for the meeting shall inform the public that videoconferencing
23 will be used, where the public can view and/or participate in such meet-
24 ing, where required documents and records will be posted or available,
25 and identify the physical location for the meeting where the public can
26 attend;

27 (g) the public body shall provide that each meeting conducted using
28 videoconferencing shall be recorded and such recordings posted or linked
29 on the public website of the public body within five business days
30 following the meeting, and shall remain so available for a minimum of
31 five years thereafter. Such recordings shall be transcribed upon
32 request;

33 (h) if videoconferencing is used to conduct a meeting, the public body
34 shall provide the opportunity for members of the public to view such
35 meeting via video, and to participate in proceedings via videoconference
36 in real time where public comment or participation is authorized and
37 shall ensure that videoconferencing authorizes the same public partic-
38 ipation or testimony as in person participation or testimony; and

39 (i) a local public body electing to utilize videoconferencing to
40 conduct its meetings must maintain an official website.

41 3. The in person participation requirements of paragraph (c) of subdivi-
42 sion two of this section shall not apply during a state disaster emer-
43 gency declared by the governor pursuant to section twenty-eight of the
44 executive law, or a local state of emergency proclaimed by the chief
45 executive of a county, city, village or town pursuant to section twen-
46 ty-four of the executive law, if the public body determines that the
47 circumstances necessitating the emergency declaration would affect or
48 impair the ability of the public body to hold an in person meeting.

49 4. No later than January first, two thousand twenty-four, the commit-
50 tee on open government, created by paragraph (a) of subdivision one of
51 section eighty-nine of this chapter, shall issue a report to the gover-
52 nor, the temporary president of the senate, the speaker of the assembly,
53 the chair of the senate standing committee on local government, the
54 chair of the senate standing committee on investigations and government
55 operations, the chair of the assembly standing committee on local
56 governments, and the chair of the assembly standing committee on govern-

1 mental operations concerning the application and implementation of such
2 law and any further recommendations governing the use of videoconferenc-
3 ing by public bodies to conduct meetings pursuant to this section.

4 5. Open meetings of any public body that are broadcast or that use
5 videoconferencing shall utilize technology to permit access by members
6 of the public with disabilities consistent with the 1990 Americans with
7 Disabilities Act (ADA), as amended, and corresponding guidelines. For
8 the purposes of this section, "disability" shall have the meaning
9 defined in section two hundred ninety-two of the executive law.

10 § 3. Notwithstanding the provisions of article 7 of the public offi-
11 cers law to the contrary, for sixty days after the effective date of
12 this act any public body shall be authorized to meet and take such
13 action authorized by law without permitting in public-in-person access
14 to meetings and authorize such meetings to be held remotely by confer-
15 ence call or similar service, provided that the public has the ability
16 to view or listen to such proceeding and that such meetings are recorded
17 and later transcribed.

18 § 4. This act shall take effect immediately and shall expire and be
19 deemed repealed July 1, 2024.

20

PART XX

21 Section 1. The public health law is amended by adding a new section
22 3614-f to read as follows:

23 § 3614-f. Home care minimum wage increase. 1. For the purpose of this
24 section, "home care aide" shall have the same meaning as defined in
25 section thirty-six hundred fourteen-c of this article.

26 2. In addition to the otherwise applicable minimum wage under section
27 six hundred fifty-two of the labor law, or any otherwise applicable wage
28 rule or order under article nineteen of the labor law, the minimum wage
29 for a home care aide shall be increased by an amount of three dollars
30 and zero cents in accordance with the following schedule:

31 (a) beginning October first, two thousand twenty-two, the minimum wage
32 for a home care aide shall be increased by an amount of two dollars and
33 zero cents, and

34 (b) beginning October first, two thousand twenty-three, the minimum
35 wage for a home care aide shall be increased by an additional amount of
36 one dollar and zero cents.

37 3. Where any home care aide is paid less than required by subdivision
38 two of this section, the home care aide, or the commissioner of labor
39 acting on behalf of the home care aide, may bring a civil action under
40 article six or nineteen of the labor law; provided that this shall not
41 preclude the commissioner of labor from taking direct administrative
42 enforcement action under article six of the labor law.

43 § 2. Section 3614-d of the public health law, as added by section 49
44 of part B of chapter 57 of the laws of 2015, is amended to read as
45 follows:

46 § 3614-d. Universal standards for coding of payment for medical
47 assistance claims for long term care. Claims for payment submitted under
48 contracts or agreements with insurers under the medical assistance
49 program for home and community-based long-term care services provided
50 under this article, by fiscal intermediaries operating pursuant to
51 section three hundred sixty-five-f of the social services law, and by
52 residential health care facilities operating pursuant to article twen-
53 ty-eight of this chapter shall have standard billing codes. Such insur-
54 ers shall include but not be limited to Medicaid managed care plans and