

TO: BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee recommends passage of “A Local Law authorizing the use of videoconferencing for members of public bodies of the County’s executive branch.”

Your Committee is aware that on April 9, 2022, Governor Hochul signed Chapter 56 of the Laws of 2022, relating to the New York State budget for the 2022-2023 fiscal year. This law also included an amendment to the Open Meetings Law (“OML”)—amending section 103(c) of the New York State Public Officers law, and adding a new section 103-a—enabling public bodies to expand, until July 1, 2024, the use of videoconferencing to conduct open meetings.

Your Committee understands that under the new State law, a county’s governing board—i.e., the County Board—may adopt a local law if it wishes to authorize members of the County’s other public bodies, at the discretion of the chair of each public body, to attend meetings through videoconferencing without disclosing their remote locations due to extraordinary circumstances. Such a local law would allow members of public bodies of the County, including boards and commissions whose members are appointed by the County Executive (hereafter, the “executive branch public bodies”), and excluding the County Board of Legislators and its committees and subcommittees, to participate in a meeting from a remote location that is not open to the public, provided that a quorum of board members is present in the same physical location or locations where the public can attend. The new State law explains that the term “extraordinary circumstances” includes “disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance” at a meeting.

Your Committee is aware that, prior to the passage of the new State law, the OML authorized remote participation in meetings by public body members through videoconferencing only if “an opportunity for the public to attend, listen and observe at any site at which a member participates” was provided. The unprecedented nature of the COVID-19 pandemic demonstrated the unworkability of in-person meetings and public attendance at any location from which a member participated. Emergency declarations and authorizations during the height of the pandemic allowed public bodies to use remote means, such as videoconferencing and teleconferencing, on a temporary basis to conduct their open meetings. Currently, these measures are set to expire on June 14, 2022. Your Committee understands that the New York State Legislature modified the OML by adding section 103-a in an attempt to expand the pre-pandemic scope of videoconferencing, and make such videoconferencing available for a longer duration.

Your Committee has been informed that in order to conduct meetings through videoconferencing pursuant to new OML § 103-a, the following conditions apply: the public body must follow written procedures, as established by the Office of the County Executive, that govern member and public attendance, setting forth the contours of the “extraordinary circumstances” under which a member may participate through videoconferencing, and the public body must post the procedures conspicuously to its public website; any member videoconferencing into a meeting from a remote location not open to in-person public attendance due to extraordinary circumstances may not count towards a quorum, but may participate and vote in the meeting if there is a quorum of members convened at a location (or locations) open to the public; members must be heard, seen, and identified while the meeting is being conducted; the notice for the meeting must inform the public about the use of videoconferencing, and must provide instructions so the public can view

and/or participate in—to the extent participation is permitted—the meeting and locate relevant records; the minutes of meetings involving videoconferencing must explicitly identify which, if any, members participated in the meeting remotely; all meetings conducted using videoconferencing must be recorded, with the recordings posted on or linked to the public body’s website within five business days, and must remain available on the site for at least five years; upon request, the recorded meetings must be transcribed; local public bodies using videoconferencing must maintain an official website; and meetings that are broadcast or videoconferenced must use technology that permits access by individuals with disabilities, consistent with the Americans with Disabilities Act. The new State law provides that the in-person participation requirements do not apply during states of emergency declared at the state or local levels, if the public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability to hold an in-person meeting.

Your Committee believes that it is in the best interests of the County to pass a local law authorizing the use of videoconferencing for members of executive branch public bodies, their committees, and their subcommittees, consistent with New York State Public Officers Law § 103-a, and the written procedures established by the Office of the County Executive.

Finally, your Committee is informed that this Local Law does not meet the definition of an action under SEQRA and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning dated January 14, 2022, which is on file with the Clerk of the Board of Legislators.

Your Committee recommends adoption of this Local Law.

Dated: *June 13*, 2022  
White Plains, New York

*Don. Mize*  
*Joseph Pan*  
*Colin [Signature]*

COMMITTEE ON  
*Legislation*

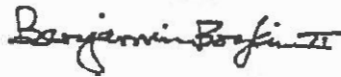
SCM-06/13/2022

Dated: June 13, 2022  
White Plains, New York

The following members attended the meeting remotely, pursuant to Chapter 1 of the New York State Laws of 2022 and Executive Order 11, as extended, which authorize any public body to meet and take such action authorized by law without permitting in public-in-person access to meetings and authorize such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.

Committee on:

**Legislation**



# FISCAL IMPACT STATEMENT

SUBJECT: Video Conferencing (CEO)

NO FISCAL IMPACT PROJECTED

## OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

### SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

### SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$           -

Total Current Year Revenue \$           -

Source of Funds (check one):  Current Appropriations  Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: \_\_\_\_\_

Potential Related Operating Budget Expenses: Annual Amount \$           -

Describe: \_\_\_\_\_

Potential Related Operating Budget Revenues: Annual Amount \$           -

Describe: \_\_\_\_\_

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: \_\_\_\_\_

Next Four Years: \_\_\_\_\_

Prepared by: Gideon Grande

Title: Deputy Director

Department: Budget

Date: June 13, 2022

Reviewed By: 

Budget Director

Date: 6/13/22

LOCAL LAW INTRO. NO. - 2022

A LOCAL LAW authorizing the use of videoconferencing for members of public bodies of the County's executive branch.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Chapter 110 of the Laws of Westchester County is hereby amended to read as follows:

**Sec. 110.61. Authorization for the use of videoconferencing to conduct meetings.**

1. All public bodies of the County, including boards and commissions whose members are appointed by the County Executive, their committees, and their subcommittees (hereafter, the "executive branch public bodies"), and excluding the County Board of Legislators and its committees and subcommittees, are authorized to use videoconferencing to conduct meetings in a manner consistent with the requirements set forth in New York State Public Officers Law §103-a, and subject to the following conditions:
  - a. A quorum of the subject executive branch public body shall be physically present in the same physical location or locations where the public can attend;
  - b. Members of executive branch public bodies, at the respective Chair's discretion and under extraordinary circumstances, may participate in meetings through the use of videoconferencing from locations not accessible to the public. Each executive branch public body shall follow written procedures established by the Office of the County Executive, governing member and public attendance, and setting forth what constitutes "extraordinary circumstances" (which shall include disability, illness,

caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at a meeting), and the procedures for the certification of extraordinary circumstances by members on a case-by-case basis. The written procedures shall be conspicuously posted on the public website of each executive branch public body as applicable;

- c. A member of an executive branch public body experiencing an extraordinary circumstance and participating in a meeting through videoconferencing need not (i) notice the remote location from which the member participates or (ii) allow for in-person physical attendance by the public at the member's remote location;
- d. Any member of an executive branch public body not physically present at a meeting and participating remotely in a meeting through the use of videoconferencing due to extraordinary circumstances shall not count towards a quorum; however, such member may participate and vote through the use of videoconferencing if there is a quorum of other members physically present at the meeting in the same physical location or locations where the public can attend;
- e. Except in the case of executive sessions, all members of an executive branch public body, including any member experiencing an extraordinary circumstance and participating in a meeting through videoconferencing, must be heard, seen, and identified while the meeting is being conducted;
- f. The minutes of meetings involving videoconferencing must include which, if any, members of an executive branch public body participated remotely;
- g. If videoconferencing is used to conduct a meeting, the public notice for the meeting shall (i) inform the public (A) that videoconferencing will be used, (B) where the



public can view and/or participate in the meeting, (C) where required documents and records will be posted or available, and (ii) identify the physical location for the meeting where the public can attend;

h. Meetings conducted using videoconferencing shall be recorded and the recording shall be posted on or linked to the public website of the subject executive branch public body within five (5) business days following the meeting, and shall remain so available for a minimum of five (5) years thereafter. These recordings must be transcribed upon request;

i. If videoconferencing is used to conduct a meeting, the subject executive branch public body shall provide the public with the opportunity to view the meeting through video and participate, to the extent public participation is authorized, through videoconferencing in real time, and shall ensure that videoconferencing authorizes the same public participation or testimony as in-person participation or testimony.

2. Severability. If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

## **Section 2. Effective Date.**

This Local Law shall take effect immediately and shall expire and be deemed repealed July 1, 2024, unless extended.