

**SUBSTITUTE FOR
SENATE BILL NO. 1108**

A bill to amend 1976 PA 267, entitled
"Open meetings act,"
by amending section 3 (MCL 15.263), as amended by 2018 PA 485, and
by adding section 3a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) All meetings of a public body ~~shall~~**must** be open
2 to the public and ~~shall~~**must** be held in a place available to the
3 general public. All persons ~~shall~~**must** be permitted to attend any
4 meeting except as otherwise provided in this act. The right of a
5 person to attend a meeting of a public body includes the right to
6 tape-record, to videotape, to broadcast live on radio, and to
7 telecast live on television the proceedings of a public body at a
8 public meeting. The exercise of this right does not depend on the



1 prior approval of the public body. However, a public body may
 2 establish reasonable rules and regulations in order to minimize the
 3 possibility of disrupting the meeting.

4 (2) All decisions of a public body ~~shall~~**must** be made at a
 5 meeting open to the public. For purposes of any meeting subject to
 6 this subsection, except a meeting of any state legislative body **at**
 7 **which a formal vote is taken**, the public body shall, **subject to**
 8 **section 3a**, establish the following procedures to accommodate the
 9 absence of any member of the public body due to military duty,
 10 **medical condition, or a statewide or local state of emergency**
 11 **declared pursuant to law or charter by the governor or a local**
 12 **official or local governing body that would risk the personal**
 13 **health or safety of members of the public or the public body if the**
 14 **meeting were held in person:**

15 (a) Procedures by which the absent member may participate in,
 16 and vote on, business before the public body, including ~~, if~~
 17 ~~feasible,~~ procedures that ~~ensure~~**provide for** 2-way communication.

18 (b) Procedures by which the public is provided notice of the
 19 absence of the member and information about how to contact that
 20 member sufficiently in advance of a meeting of the public body to
 21 provide input on any business that will come before the public
 22 body.

23 (3) All deliberations of a public body constituting a quorum
 24 of its members ~~shall~~**must** take place at a meeting open to the
 25 public except as provided in this section and sections 7 and 8.

26 (4) A person ~~shall~~**must** not be required as a condition of
 27 attendance at a meeting of a public body to register or otherwise
 28 provide his or her name or other information or otherwise to
 29 fulfill a condition precedent to attendance.



1 (5) A person ~~shall~~**must** be permitted to address a meeting of a
2 public body under rules established and recorded by the public
3 body. The legislature or a house of the legislature may provide by
4 rule that the right to address may be limited to prescribed times
5 at hearings and committee meetings only.

6 (6) A person ~~shall~~**must** not be excluded from a meeting
7 otherwise open to the public except for a breach of the peace
8 actually committed at the meeting.

9 (7) This act does not apply to the following public bodies,
10 but only when deliberating the merits of a case:

11 (a) The Michigan compensation appellate commission operating
12 as described in either of the following:

13 (i) Section 274 of the worker's disability compensation act of
14 1969, 1969 PA 317, MCL 418.274.

15 (ii) Section 34 of the Michigan employment security act, 1936
16 (Ex Sess) PA 1, 421.34.

17 (b) The state tenure commission created in section 1 of
18 article VII of 1937 (Ex Sess) PA 4, MCL 38.131, when acting as a
19 board of review from the decision of a controlling board.

20 (c) The employment relations commission or an arbitrator or
21 arbitration panel created or appointed under 1939 PA 176, MCL 423.1
22 to 423.30.

23 (d) The Michigan public service commission created under 1939
24 PA 3, MCL 460.1 to 460.11.

25 (8) This act does not apply to an association of insurers
26 created under the insurance code of 1956, 1956 PA 218, MCL 500.100
27 to 500.8302, or other association or facility formed under that act
28 as a nonprofit organization of insurer members.

29 (9) This act does not apply to a committee of a public body



1 that adopts a nonpolicymaking resolution of tribute or memorial, if
2 the resolution is not adopted at a meeting.

3 (10) This act does not apply to a meeting that is a social or
4 chance gathering or conference not designed to avoid this act.

5 (11) This act does not apply to the Michigan veterans' trust
6 fund board of trustees or a county or district committee created
7 under 1946 (1st Ex Sess) PA 9, MCL 35.602 to 35.610, when the board
8 of trustees or county or district committee is deliberating the
9 merits of an emergent need. A decision of the board of trustees or
10 county or district committee made under this subsection ~~shall~~**must**
11 be reconsidered by the board or committee at its next regular or
12 special meeting consistent with the requirements of this act.

13 "Emergent need" means a situation that the board of trustees, by
14 rules promulgated under the administrative procedures act of 1969,
15 1969 PA 306, MCL 24.201 to 24.328, determines requires immediate
16 action.

17 (12) **As used in subsection (2), "formal vote" means a vote on**
18 **a bill, amendment, resolution, motion, proposal, recommendation, or**
19 **any other measure on which a vote by members of a state legislative**
20 **body is required and by which the state legislative body**
21 **effectuates or formulates public policy.**

22 **Sec. 3a. (1) A meeting of a public body may be held**
23 **electronically by telephonic or video conferencing only in the**
24 **circumstances requiring accommodation of absent members described**
25 **in section 3(2). Except as provided in this section, an electronic**
26 **meeting held under this subsection is subject to the same**
27 **requirements as a nonelectronic meeting under this act.**

28 (2) **A meeting of a public body held electronically under**
29 **subsection (1) must be conducted in a manner that permits 2-way**



1 communication so that members of the public body can hear and be
2 heard by other members of the public body, and so that public
3 participants can hear members of the public body and can be heard
4 by members of the public body and other participants during a
5 public comment period. A public body may use technology to
6 facilitate typed public comments during the meeting that may be
7 read to or shared with members of the public body and other
8 participants to satisfy the requirement that members of the public
9 can be heard by others during the electronic meeting.

10 (3) A physical place is not required for an electronic meeting
11 held under subsection (1), and members of a public body and members
12 of the public participating electronically in a meeting held under
13 subsection (1) that occurs in a physical place are to be considered
14 present and in attendance at the meeting for all purposes.

15 (4) If a public body directly or indirectly maintains an
16 official internet presence, the public body shall, in addition to
17 any other notices that may be required under this act, post advance
18 notice of a meeting held electronically under subsection (1) on a
19 portion of the public body's website that is fully accessible to
20 the public. The public notice on the website must be included on
21 either the homepage or on a separate webpage dedicated to public
22 notices for nonregularly scheduled or electronic public meetings
23 that is accessible through a prominent and conspicuous link on the
24 website's homepage that clearly describes its purpose for public
25 notification of nonregularly scheduled or electronic public
26 meetings. Any scheduled meeting of a public body may be held as an
27 electronic meeting under subsection (1) if a notice consistent with
28 this section is posted at least 18 hours before the meeting begins.
29 Notice of a meeting of a public body held electronically must



1 clearly explain all of the following:

2 (a) Why the public body is meeting electronically.

3 (b) How members of the public may participate in the meeting
4 electronically. If a telephone number, internet address, or both
5 are needed to participate, that information must be provided
6 specifically.

7 (c) How members of the public may contact members of the
8 public body to provide input or ask questions on any business that
9 will come before the public body at the meeting.

10 (d) How persons with disabilities may participate in the
11 meeting.

12 (5) If an agenda exists for an electronic meeting held under
13 subsection (1), a public body that directly or indirectly maintains
14 an official internet presence shall make the agenda available to
15 the public on the internet at least 2 hours before the electronic
16 meeting begins. This publication of the agenda does not prohibit
17 subsequent amendment of the agenda at the meeting.

18 (6) A public body shall not, as a condition of participating
19 in an electronic meeting of the public body held under subsection
20 (1), require a person to register or otherwise provide his or her
21 name or other information or otherwise to fulfill a condition
22 precedent to attendance, other than mechanisms necessary to permit
23 the person to participate in a public comment period of the
24 meeting.

25 (7) Members of the general public otherwise participating in a
26 meeting of a public body held electronically under subsection (1)
27 are to be excluded from participation in a closed session of the
28 public body held electronically during that meeting if the closed
29 session is convened and held in compliance with the requirements of



1 this act applicable to a closed session.

