

**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,~~**section**, except a meeting of any state legislative
7 body **at which a formal vote is taken**, the public body shall,
8 **subject to section 3a**, establish the following procedures to
9 accommodate the absence of any member of the public body due to
10 military duty, **medical condition, or a statewide or local state of**
11 **emergency declared pursuant to law or charter by the governor or a**
12 **local 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,~~**but not limited to**, procedures that ~~ensure 2-way~~**provide**
18 **for both of the following:**

19 (i) **Two-way** communication.

20 (ii) **For each member of the public body attending the meeting**
21 **remotely from a location outside this state for a reason unrelated**
22 **to obtaining medical treatment, a public announcement at the outset**
23 **of the meeting by that member, to be included in the meeting**
24 **minutes, that the member is in fact attending the meeting remotely**
25 **from a location outside this state. This subparagraph does not**
26 **require the member to identify specifically where he or she is**
27 **physically located at the time of the meeting.**

28 (b) Procedures by which the public is provided notice of the
29 absence of the member and information about how to contact that



1 member sufficiently in advance of a meeting of the public body to
2 provide input on any business that will come before the public
3 body.

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

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

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

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

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

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

23 (i) Section 274 of the worker's disability compensation act of
24 1969, 1969 PA 317, MCL 418.274.

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

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



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

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

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

10 (9) This act does not apply to a committee of a public body
 11 that adopts a nonpolicymaking resolution of tribute or memorial, if
 12 the resolution is not adopted at a meeting.

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

15 (11) This act does not apply to the Michigan veterans' trust
 16 fund board of trustees or a county or district committee created
 17 under 1946 (1st Ex Sess) PA 9, MCL 35.602 to 35.610, when the board
 18 of trustees or county or district committee is deliberating the
 19 merits of an emergent need. A decision of the board of trustees or
 20 county or district committee made under this subsection ~~shall~~**must**
 21 be reconsidered by the board or committee at its next regular or
 22 special meeting consistent with the requirements of this act.
 23 "Emergent need" means a situation that the board of trustees, by
 24 rules promulgated under the administrative procedures act of 1969,
 25 1969 PA 306, MCL 24.201 to 24.328, determines requires immediate
 26 action.

27 **(12) As used in subsection (2):**

28 **(a) "Formal vote" means a vote on a bill, amendment,**
 29 **resolution, motion, proposal, recommendation, or any other measure**



1 on which a vote by members of a state legislative body is required
 2 and by which the state legislative body effectuates or formulates
 3 public policy.

4 (b) "Medical condition" means an illness, injury, disability,
 5 or other health-related condition substantiated in writing by an
 6 appropriate medical provider without disclosure of any specific
 7 diagnosis or other private medical information.

8 Sec. 3a. (1) A meeting of a public body held, in whole or in
 9 part, electronically by telephonic or video conferencing in
 10 compliance with this section and, except as otherwise required in
 11 this section, all of the provisions of this act applicable to a
 12 nonelectronic meeting, is permitted by this act in the following
 13 circumstances:

14 (a) Before March 1, 2021 and retroactive to April 30, 2020,
 15 any circumstances, including, but not limited to, any of the
 16 circumstances requiring accommodation of absent members described
 17 in section 3(2).

18 (b) On and after March 1, 2021, only those circumstances
 19 requiring accommodation of absent members described in section
 20 3(2).

21 (2) A meeting of a public body held electronically under this
 22 section must be conducted in a manner that permits 2-way
 23 communication so that members of the public body can hear and be
 24 heard by other members of the public body, and so that public
 25 participants can hear members of the public body and can be heard
 26 by members of the public body and other participants during a
 27 public comment period. A public body may use technology to
 28 facilitate typed public comments during the meeting submitted by
 29 members of the public participating in the meeting that may be read



1 to or shared with members of the public body and other participants
2 to satisfy the requirement under this subsection that members of
3 the public be heard by others during the electronic meeting and the
4 requirement under section 3(5) that members of the public be
5 permitted to address the electronic meeting.

6 (3) A physical place is not required for an electronic meeting
7 held under this section, and members of a public body and members
8 of the public participating electronically in a meeting held under
9 this section that occurs in a physical place are to be considered
10 present and in attendance at the meeting for all purposes.

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

- 28 (a) Why the public body is meeting electronically.
29 (b) How members of the public may participate in the meeting



1 electronically. If a telephone number, internet address, or both
2 are needed to participate, that information must be provided
3 specifically.

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

7 (d) How persons with disabilities may participate in the
8 meeting.

9 (5) Beginning on the effective date of the amendatory act that
10 added this section, if an agenda exists for an electronic meeting
11 held under this section, a public body that directly or indirectly
12 maintains an official internet presence shall make the agenda
13 available to the public on the internet at least 2 hours before the
14 electronic meeting begins. This publication of the agenda does not
15 prohibit subsequent amendment of the agenda at the meeting.

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

23 (7) Members of the general public otherwise participating in a
24 meeting of a public body held electronically under this section are
25 to be excluded from participation in a closed session of the public
26 body held electronically during that meeting if the closed session
27 is convened and held in compliance with the requirements of this
28 act applicable to a closed session.

