

HOUSE BILL No. 5194

(as amended May 20, 2014)

December 11, 2013, Introduced by Reps. McMillin and Hooker and referred to the Committee on Oversight.

A bill to amend 1976 PA 267, entitled
"Open meetings act,"
by amending section 10 (MCL 15.270).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10. (1) Decisions of a public body shall be presumed to
2 have been adopted in compliance with the requirements of this act.
3 The attorney general, the prosecuting attorney of the county in
4 which the public body serves, or any person may commence a civil
5 action in the circuit court[, OR, IF THE DECISION OF A STATE PUBLIC BODY
6 IS AT ISSUE, THE COURT OF CLAIMS,] to challenge the validity of a
7 decision

8 of a public body made in violation of this act.

9 (2) A decision made by a public body may be invalidated if the
10 public body has not complied with the requirements of section 3(1),
11 (2), and (3) in making the decision or if failure to give notice in
12 accordance with section 5 has interfered with substantial

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1 compliance with section 3(1), (2), and (3) and the court finds that
2 the noncompliance or failure has impaired the rights of the public
3 under this act.

4 (3) The ~~[circuit]~~ court shall not have jurisdiction to
5 invalidate a decision of a public body for a violation of this act
6 unless an action is commenced pursuant to this section within the
7 following specified period of time:

8 (a) Within 60 days after the approved minutes are made
9 available to the public by the public body except as otherwise
10 provided in subdivision (b).

11 (b) If the decision involves the approval of contracts, the
12 receipt or acceptance of bids, the making of assessments, the
13 procedures pertaining to the issuance of bonds or other evidences
14 of indebtedness, or the submission of a borrowing proposal to the
15 electors, within 30 days after the approved minutes are made
16 available to the public pursuant to that decision.

17 (4) Venue for an action ~~[under this section shall be any county~~
18 ~~in which a local public body serves or, if the decision of a state~~
19 ~~public body is at issue, in Ingham county. AGAINST A LOCAL PUBLIC BODY~~
20 ~~UNDER THIS SECTION SHALL BE IN THE CIRCUIT COURT OF ANY COUNTY IN WHICH~~
21 ~~THAT LOCAL PUBLIC BODY SERVES.]~~

22 (5) In any case where an action has been initiated to
23 invalidate a decision of a public body on the ground that it was
24 not taken in conformity with the requirements of this act, the
25 public body may, without being deemed to make any admission
26 contrary to its interest, reenact the disputed decision in
27 conformity with this act. A decision reenacted in this manner shall
be effective from the date of reenactment and shall not be declared
invalid by reason of a deficiency in the procedure used for its

1 initial enactment. REENACTMENT OF A DECISION UNDER THIS SUBSECTION
2 IS NOT A DEFENSE TO A CRIMINAL ACTION UNDER SECTION 12 OR TO A
3 CIVIL ACTION UNDER SECTION 13.