

REMOTE ATTENDANCE UNDER OPEN MEETINGS ACT

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Senate Bill 1246 as passed by the Senate

Sponsor: Sen. Lana Theis

House Committee: Government Operations

Senate Committee: Committee of the Whole

Complete to 12-10-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 1246 would amend the Open Meetings Act to revise provisions recently added to the act by 2020 PA 228 (SB 1108)¹ that deal with remote attendance at meetings of a public body.

The Open Meetings Act generally requires all meetings of a public body to be open to the public and held in a place available to the general public, and all decisions of a public body must be made at a meeting open to the public. The act defines “public body” as any of the following:

- A state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function
- A lessee of a body described above that is performing an essential public purpose and function under the lease agreement.
- The board of a nonprofit corporation formed by a city under section 40 of the Home Rule City Act.

2020 PA 228 amended the act to allow meetings of a public body to be held electronically or with remote participation under certain circumstances and to provide procedures and requirements for a meeting held that way. Among other things, the act now requires a public body to establish procedures to accommodate the absence of a member of the body due to any of the following:

- Military duty.
- A medical condition.
- A statewide or local state of emergency or state of disaster declared pursuant to law or charter by the governor or a local official or local governing body that would risk the personal health or safety of members of the public or the public body if the meeting were held in person.

Senate Bill 1246 would revise the third bulleted item above to include a state of disaster or emergency declared pursuant to a local ordinance (in addition to those declared under law or charter). The bill would also replace “a local official or local governing body,” as a

¹ <http://legislature.mi.gov/doc.aspx?2020-SB-1108>

person who may declare an applicable state of emergency or disaster, with “a local chief administrative officer.”

2020 PA 228 also contained provisions that gradually narrow the range of acceptable reasons for remote attendance at a meeting of a public body. Under the act, a meeting of a public body may be held electronically, in whole or in part, only under the following circumstances:

- Through December 31, 2020, any circumstances.
- Beginning January 1, 2021, through December 31, 2021, only those circumstances requiring accommodation of members absent due to military duty, a medical condition, or a statewide or local state of emergency or state of disaster. Also, for an electronic meeting due to a local state of emergency or of disaster, these provisions would apply only to allow the electronic attendance of a member of the public body who lives in the affected area or to allow the electronic meeting of a public body that usually holds its meetings in the affected area.
- Beginning January 1, 2022, only circumstances requiring accommodation of members absent due to military duty.

Senate Bill 1246 would revise the above time frames, so that the first provision would apply through March 30, 2021, and the second provision would apply beginning March 31, 2021. The other dates would not be changed.

MCL 15.263 and 15.263a

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.