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## BILL ANALYSIS



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Senate Bill 1108 (as introduced 9-15-20)  
Sponsor: Senator Lana Theis  
Committee: Local Government

Date Completed: 9-24-20

**CONTENT**

**The bill would amend the Open Meetings Act to do the following:**

- **Require a public body to establish procedures to accommodate the absence of a member due to a medical condition or a statewide or locally declared state of emergency that would risk the health and safety of members or the public.**
- **Allow a meeting of a public body to be held electronically and specify that a meeting held in that manner would be subject to the same requirements as an in-person meeting.**
- **Require an electronically held meeting to be conducted in a manner that permitted two-way communication between members and participants.**
- **Prescribe notice requirements for meetings held electronically.**
- **Prohibit a public body from requiring a person to register or provide his or her name as a condition of participating in an electronic meeting.**
- **Require members of the public to be excluded from participating in a closed session of a public body held electronically, if that session complied with the Act.**

Procedures to Accommodate Absent Members

Under the Act, all decisions of a public body must be made at a meeting open to the public and, except a meeting of any State legislative body, the public body must establish certain procedures to accommodate the absence of any member of the public body due to military duty. The bill also would require those procedures to be adopted to accommodate the absence of a member due to a medical condition or a statewide or locally declared state of emergency that would risk the personal health or safety of members of the public or the public body if the meeting were held in person.

To comply with the requirement above, a public body must establish a procedure by which the absent member may participate in, and vote on, business before the public body, including, if feasible, procedures that ensure two-way communication. The bill would remove the *if feasible* language and, instead, specify that, for a member who was absent due to military duty, the requirement for two-way communication would apply only if it were feasible in the circumstances.

Electronic Public Meetings

The bill would allow a meeting of a public body to be held electronically by telephonic or video conferencing as described below. An electronic meeting would be subject to the same requirements as a nonelectronic meeting.

A meeting held electronically would have to be conducted in a manner that permitted two-way communication so that members of the public body could hear and be heard by other members, and so that public participants could hear and be heard by members of the body and other participants during a public comment period. A public body could use technology to facilitate typed public comments during the meeting that could be read to or shared with members of the public body and other participants to satisfy this requirement.

A physical place would not be required for an electronic meeting, and members of a public body and of the public participating electronically in a meeting that was held in a physical place would be considered present and in attendance at the meeting for all purposes.

If a public body directly or indirectly maintained an official internet presence, the body would have to post, in addition to other notices required under the Act, advance notice of a meeting held electronically on a portion of the public body's website that was fully accessible to the public. The notice would have to be included on either the homepage or on a separate webpage dedicated to public notices for nonregularly scheduled or electronic public meeting that was accessible through a prominent and conspicuous link on the website's homepage that clearly described its purpose for public notification of nonregularly scheduled or electronic public meetings. Any scheduled meeting of a public body could be held as an electronic meeting if a notice consistent with the bill's requirements were posted at least 18 hours before the meeting began. Notice of a meeting would have to clearly explain all the following:

- Why the public body was meeting electronically.
- How members of the public could participate in the meeting electronically (if a telephone number, internet address, or both were needed to participate, that information would have to be provided).
- How members of the public could contact members of the public body to provide input or ask questions on any business that came before the public body at the meeting.
- How individuals with disabilities could participate in the meeting.

If an agenda existed for an electronic meeting, a public body that directly or indirectly maintained an official internet presence would have to make the agenda available to the public on the internet at least two hours before the meeting began. This publication of the agenda would not prohibit subsequent amendment of the agenda at the meeting.

A public body could not, as a condition of participating in an electronic meeting of the public body, require a person to register or otherwise provide his or her name or other information or to fulfill a condition precedent to attendance, other than mechanisms necessary to permit the person to participate in a public comment period of the meeting.

Members of the general public otherwise participating in a meeting of a public body held electronically would have to be excluded from participation in a closed session of the public body held electronically during that meeting if the closed session were convened and held in compliance with the requirements of the Act applicable to a closed session.

MCL 15.263 et al.

Legislative Analyst: Dana Adams

### **FISCAL IMPACT**

The bill could have a negative fiscal on State and local government. Under the bill, all meetings of a public body held electronically would have to make available to absent members and the public the ability for members and the public to participate in those meetings via two-way communication. Any costs associated with the public body making this communication available would be the public body's responsibility. The costs are indeterminate and would

depend on the extent to which the public body had to purchase any hardware or software necessary to comply with the bill's requirements. However, a public body would be exempt from providing two-way communication to a member of a public body who was absent due to military duty if doing so were not feasible under the circumstances.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.