

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.

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

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

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

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

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

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

(12) As used in subsection (2):

(a) "Formal vote" means a vote on a bill, amendment, 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 **January 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 **January 1, 2021 through December 31, 2021,**
19 only those circumstances requiring accommodation **of members absent**
20 **due to a medical condition or statewide or local state of emergency**
21 **as described in section 3(2).**

22 (c) On and after **January 1, 2021, only in the circumstances**
23 **requiring accommodation of members absent due to military duty as**
24 **described in section 3(2).**

25 (2) A meeting of a public body held electronically under this
26 section must be conducted in a manner that permits 2-way
27 communication so that members of the public body can hear and be
28 heard by other members of the public body, and so that public
29 participants can hear members of the public body and can be heard

1 by members of the public body and other participants during a
2 public comment period. A public body may use technology to
3 facilitate typed public comments during the meeting submitted by
4 members of the public participating in the meeting that may be read
5 to or shared with members of the public body and other participants
6 to satisfy the requirement under this subsection that members of
7 the public be heard by others during the electronic meeting and the
8 requirement under section 3(5) that members of the public be
9 permitted to address the electronic meeting.

10 (3) A physical place is not required for an electronic meeting
11 held under this section, and members of a public body and members
12 of the public participating electronically in a meeting held under
13 this section 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 this section 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. Subject to the requirements of this section, any
27 scheduled meeting of a public body may be held as an electronic
28 meeting under this section if a notice consistent with this section
29 is posted at least 18 hours before the meeting begins. Notice of a

1 meeting of a public body held electronically must clearly explain
2 all of the following:

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

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

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

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

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

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

27 (7) Members of the general public otherwise participating in a
28 meeting of a public body held electronically under this section are
29 to be excluded from participation in a closed session of the public

- 1 body held electronically during that meeting if the closed session
- 2 is convened and held in compliance with the requirements of this
- 3 act applicable to a closed session.