

SENATE BILL NO. 1108

September 15, 2020, Introduced by Senators THEIS, HOLLIER, LASATA, MACDONALD, LUCIDO, VICTORY, DALEY, ZORN, WOJNO, MCMORROW, MOSS and SCHMIDT and referred to the Committee on Local Government.

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

1 tape-record, to videotape, to broadcast live on radio, and to
 2 telecast live on television the proceedings of a public body at a
 3 public meeting. The exercise of this right does not depend on the
 4 prior approval of the public body. However, a public body may
 5 establish reasonable rules and regulations in order to minimize the
 6 possibility of disrupting the meeting.

7 (2) All decisions of a public body ~~shall~~**must** be made at a
 8 meeting open to the public. For purposes of any meeting subject to
 9 this subsection, except a meeting of any state legislative body,
 10 the public body shall establish the following procedures to
 11 accommodate the absence of any member of the public body due to
 12 military duty, **medical condition, or a statewide or locally**
 13 **declared state of emergency that would risk the personal health or**
 14 **safety of members of the public or the public body if the meeting**
 15 **were held in person:**

16 (a) Procedures by which the absent member may participate in,
 17 and vote on, business before the public body, including ~~if~~
 18 ~~feasible,~~ procedures that ~~ensure~~**provide for** 2-way communication
 19 **consistent with section 3a. For a member absent due to military**
 20 **duty, the requirement of 2-way communication applies only if it is**
 21 **feasible in the circumstances.**

22 (b) Procedures by which the public is provided notice of the
 23 absence of the member and information about how to contact that
 24 member sufficiently in advance of a meeting of the public body to
 25 provide input on any business that will come before the public
 26 body.

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

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

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

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

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

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

17 (i) Section 274 of the worker's disability compensation act of
18 1969, 1969 PA 317, MCL 418.274.

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

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

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

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

29 (8) This act does not apply to an association of insurers

1 created under the insurance code of 1956, 1956 PA 218, MCL 500.100
2 to 500.8302, or other association or facility formed under that act
3 as a nonprofit organization of insurer members.

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

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

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

21 **Sec. 3a. (1) A meeting of a public body may be held**
22 **electronically by telephonic or video conferencing in compliance**
23 **with this section. Except as provided in this section, an**
24 **electronic meeting is subject to the same requirements as a**
25 **nonelectronic meeting under this act.**

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

1 members of the public body and can be heard by members of the
2 public body and other participants during a public comment period.
3 A public body may use technology to facilitate typed public
4 comments during the meeting that may be read to or shared with
5 members of the public body and other participants to satisfy the
6 requirement that members of the public can be heard by others
7 during the electronic meeting.

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

13 (4) If a public body directly or indirectly maintains an
14 official internet presence, the public body shall, in addition to
15 any other notices that may be required under this act, post advance
16 notice of a meeting held electronically on a portion of the public
17 body's website that is fully accessible to the public. The public
18 notice on the website must be included on either the homepage or on
19 a separate webpage dedicated to public notices for nonregularly
20 scheduled or electronic public meetings that is accessible through
21 a prominent and conspicuous link on the website's homepage that
22 clearly describes its purpose for public notification of
23 nonregularly scheduled or electronic public meetings. Any scheduled
24 meeting of a public body may be held as an electronic meeting if a
25 notice consistent with this section is posted at least 18 hours
26 before the meeting begins. Notice of a meeting of a public body
27 held electronically must clearly explain 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) If an agenda exists for an electronic meeting, a public
10 body that directly or indirectly maintains an official internet
11 presence shall make the agenda available to the public on the
12 internet at least 2 hours before the electronic meeting begins.
13 This publication of the agenda does not prohibit subsequent
14 amendment of the agenda at the meeting.

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

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