

HOUSE BILL NO. 6423

September 28, 2022, Introduced by Rep. Calley and referred to the Committee on Rules and Competitiveness.

A bill to amend 1976 PA 267, entitled
"Open meetings act,"
by amending sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 9a, 10, 11, 12, 13,
and 13a (MCL 15.261, 15.262, 15.263, 15.264, 15.265, 15.266,
15.267, 15.268, 15.269, 15.269a, 15.270, 15.271, 15.272, 15.273,
and 15.273a), section 2 as amended by 2001 PA 38, section 3 as
amended by 2020 PA 254, section 4 as amended by 1984 PA 87, section
5 as amended by 2012 PA 528, section 7 as amended and section 13a
as added by 1996 PA 464, section 8 as amended by 2021 PA 166,
section 9 as amended by 2004 PA 305, and section 9a as added by
2022 PA 63, and by adding section 5a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) This act ~~shall be known and~~ may be cited as the
2 ~~"Open"~~**open** meetings act".

3 (2) This act ~~shall supersede~~**supersedes** all local charter
4 provisions, ordinances, or resolutions ~~which~~**that** relate to
5 requirements for meetings of local public bodies to be open to the
6 public.

7 (3) ~~After the effective date of this act, nothing in this act~~
8 ~~shall prohibit a~~**A** public body ~~from adopting~~**may adopt** an
9 ordinance, resolution, rule, or charter provision ~~which would~~
10 ~~require a greater degree of~~**requiring more** openness ~~relative to~~
11 ~~meetings of public bodies than the standards provided for in~~**than**
12 this act **requires**.

13 Sec. 2. As used in this act:

14 (a) "Closed session" means a meeting or part of a meeting
15 closed to the public. Closed session includes a quorum of a public
16 body deliberating by email, text message, or other electronic
17 communication during an open session.

18 (b) "Decision" means a determination, action, vote, or
19 disposition upon a motion, proposal, recommendation, resolution,
20 order, ordinance, bill, or measure on which a vote by members of a
21 public body is required and by which a public body effectuates or
22 formulates public policy.

23 (c) "Deliberation" means the act of carefully considering
24 issues and options before making a decision or taking some action.

25 (d) "Meeting" means the formal or informal convening of a
26 public body at which a quorum is present for the purpose of
27 deliberating toward or rendering a decision on a public policy, or
28 any meeting of the board of a nonprofit corporation formed by a

city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o. Meeting does not include a social, professional, or chance gathering not designed to avoid this act. For example, meeting does not include addressing a civic organization, listening to neighborhood concerns, or observing demonstrations; nor does it include attending a workshop, training, seminar, informational gathering, or professional conference if the event is designed to convey information about areas of interest common to all event participants.

(e) "Online" means on a portion of a public body's website that is fully accessible to the public, such as a homepage or separate webpage dedicated to public notices or minutes.

(f) ~~(a)~~—"Public body" means any 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 such a body performing an essential public purpose and function pursuant to the lease agreement; or the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o. Public body does not include any of the following:

(i) A committee or subcommittee that is merely advisory and is capable only of making recommendations concerning the exercise of governmental authority.

(ii) A single person.

(iii) A private, nonprofit corporation.

~~(b) "Meeting" means the convening of a public body at which a quorum is present for the purpose of deliberating toward or~~

~~rendering a decision on a public policy, or any meeting of the board of a nonprofit corporation formed by a city under section 40 of the home rule city act, 1909 PA 279, MCL 117.40.~~

~~(c) "Closed session" means a meeting or part of a meeting of a public body that is closed to the public.~~

~~(d) "Decision" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.~~

Sec. 3. (1) All meetings of a public body must be open to the public and must be held in a place available to the general public. ~~All persons must be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right does not depend on the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting. For a meeting of a public body held in person before April 1, 2021, the public body shall do both of the following:~~

~~(a) To the extent feasible under the circumstances, ensure adherence to social distancing and mitigation measures recommended by the Centers for Disease Control and Prevention for purposes of preventing the spread of COVID-19, including the measure that an individual remain at least 6 feet from anyone from outside the individual's household.~~

~~(b) Adopt heightened standards of facility cleaning and disinfection to limit participant exposure to COVID-19, as well as protocols to clean and disinfect in the event of a positive COVID-19 case in the public body's meeting place.~~

(2) All decisions of a public body must be made at **an open session of** a meeting. ~~open to the public. For purposes of any meeting subject to this section, except a meeting of any state legislative body at which a formal vote is taken, the public body shall, subject to section 3a, establish the following procedures to accommodate the absence of any member of the public body due to military duty, a medical condition, or a statewide or local state of emergency or state of disaster declared pursuant to law or charter or local ordinance by the governor or a local official, governing body, or chief administrative officer that would risk the personal health or safety of members of the public or the public body if the meeting were held in person:~~

~~(a) Procedures by which the absent member may participate in, and vote on, business before the public body, including, but not limited to, procedures that provide for both of the following:~~

~~(i) Two-way communication.~~

~~(ii) For each member of the public body attending the meeting remotely, a public announcement at the outset of the meeting by that member, to be included in the meeting minutes, that the member is in fact attending the meeting remotely. If the member is attending the meeting remotely for a purpose other than for military duty, the member's announcement must further identify specifically the member's physical location by stating the county, city, township, or village and state from which he or she is attending the meeting remotely.~~

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

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

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

(3) All persons have the right to attend any meeting except as otherwise provided in this act. That right may not be conditioned on a person providing their name or other information or satisfying any other requirement.

(4) A person's right to attend a meeting includes the right to record or to broadcast live without prior approval the proceedings of the public body at the meeting. However, a public body may establish reasonable rules governing recording or broadcasting to minimize the possibility of disrupting the meeting.

~~(5) A person must be permitted~~ **has the right** to address a meeting ~~of a public body under rules established~~ **duly adopted** and recorded by the public body. ~~The legislature or a house of the legislature may provide by rule that the right to address may be limited to prescribed times at hearings and committee meetings only.~~ **These rules may not be applied to deny a person the right to address the public body, such as by limiting all public comment to 1 hour.**

(6) A person must not be excluded from a meeting ~~otherwise open to the public~~ except for a breach of the peace actually committed at the meeting **or for a threat of criminal violence against a member of the public body.**

(7) This act does not apply to ~~the~~ **any of the following:**

(a) The following public bodies ~~, but only when deliberating they deliberate~~ the merits of a case:

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

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

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

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

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

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

(b) ~~(8) This act does not apply to an~~ **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.

(c) ~~(9) This act does not apply to a~~ **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.~~

(d) ~~(11) This act does not apply to the~~ **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 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 **or county or district committee**, by rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, determines requires immediate action. **The board of trustees or county or district committee shall reconsider an emergent need decision at its next meeting.**

~~(12) As used in subsection (2):~~

~~(a) "Formal vote" means a vote on a bill, amendment, resolution, motion, proposal, recommendation, or any other measure on which a vote by members of a state legislative body is required and by which the state legislative body effectuates or formulates public policy.~~

~~(b) "Medical condition" means an illness, injury, disability, or other health-related condition.~~

Sec. 4. ~~The~~ **All of the** following provisions shall apply with respect to public notice of meetings:

(a) A public notice ~~shall always~~ **must** contain the ~~name of the public body to which the notice applies, its telephone number if one exists, and its address.~~ **applicable public body's name, telephone number, address, website, and email address.**

1 (b) A ~~public notice for a~~ public body shall ~~always be posted~~
 2 ~~at~~ **post its public notices in** its principal office, **online**, and ~~any~~
 3 ~~other locations~~ **anywhere else** considered appropriate. ~~by the public~~
 4 ~~body. Cable television may also be utilized for purposes of posting~~
 5 ~~public notice.~~

6 ~~(c) If a public body is a part of a state department, part of~~
 7 ~~the legislative or judicial branch of state government, part of an~~
 8 ~~institution of higher education, or part of a political subdivision~~
 9 ~~or school district, a public notice shall also be posted in the~~
 10 ~~respective principal office of the state department, the~~
 11 ~~institution of higher education, clerk of the house of~~
 12 ~~representatives, secretary of the state senate, clerk of the~~
 13 ~~supreme court, or political subdivision or school district.~~

14 (c) A public body that is part of the legislative branch of
 15 state government shall post its public notices in the Capitol.

16 (d) A public body that is part of the judicial branch of state
 17 government shall post its public notices in the Hall of Justice.

18 (e) ~~(d) If a~~ A local public body that does not have a
 19 principal office ~~, the required public notice for a local public~~
 20 ~~body shall be posted~~ **post its public notices** in the office of the
 21 county clerk in ~~which~~ **the county where** the local public body
 22 serves. ~~and the required public notice for a~~

23 (f) A state public body that does not have a principal office
 24 shall ~~be posted~~ **post its public notices** in the office of the
 25 secretary of state.

26 (g) A public notice must be accessible to the public until the
 27 meeting that is the subject of the notice is completed or canceled.

28 Sec. 5. (1) A ~~meeting of a public body shall not be held~~
 29 ~~unless public notice is given as provided in this section by~~ **may**

1 **hold a meeting only if** a person designated by the public body **gives**
2 **public notice as provided in this section.**

3 ~~(2) For regular meetings of a public body, there shall be~~
4 ~~posted within~~ **Within** 10 days after the ~~a public body's~~ first
5 ~~meeting of the public body in each~~ **in a new** calendar **year** or fiscal
6 year, **it shall post** a public notice stating the dates, times, and
7 places of its regular meetings.

8 ~~(3) If there is a change in the schedule of regular meetings~~
9 ~~of a public body, there shall be posted~~ **a public body changes its**
10 **regular meeting schedule,** within 3 days after the meeting at which
11 the change is made, **it shall post** a public notice stating the new
12 dates, times, and places of its regular meetings.

13 ~~(4) Except as provided in this subsection or in subsection~~
14 ~~(6), for a rescheduled regular or a special meeting of a public~~
15 ~~body,~~ **If a public body reschedules a regular meeting or holds a**
16 **special meeting, at least 18 hours before the meeting, it shall**
17 **post** a public notice stating the date, time, and place of the
18 meeting. ~~shall be posted at least 18 hours before the meeting in a~~
19 ~~prominent and conspicuous place at both the public body's principal~~
20 ~~office and, if the public body directly or indirectly maintains an~~
21 ~~official internet presence that includes monthly or more frequent~~
22 ~~updates of public meeting agendas or minutes, on a portion of the~~
23 ~~website that is fully accessible to the public. The public notice~~
24 ~~on the website shall be included on either the homepage or on a~~
25 ~~separate webpage dedicated to public notices for nonregularly~~
26 ~~scheduled public meetings and accessible via a prominent and~~
27 ~~conspicuous link on the website's homepage that clearly describes~~
28 ~~its purpose for public notification of those nonregularly scheduled~~
29 ~~public meetings. The~~ **This** requirement of 18-hour notice does not

1 apply to special meetings of subcommittees of a public body or
2 conference committees of the state legislature. ~~A conference~~
3 ~~committee shall give a 6-hour notice. A second conference committee~~
4 ~~shall give a 1-hour notice. Notice of a conference committee~~
5 ~~meeting shall include written notice to each member of the~~
6 ~~conference committee and the majority and minority leader of each~~
7 ~~house indicating time and place of the meeting.~~

8 (5) ~~A meeting of a public body that is recessed for more than~~
9 ~~36 hours shall~~ **may** ~~be reconvened only after public notice that is~~
10 ~~equivalent to that required under subsection (4) has been posted.~~
11 ~~If either house of the state legislature is adjourned or recessed~~
12 ~~for less than 18 hours, the notice provisions of subsection (4) are~~
13 ~~not applicable. Nothing in this section bars a public body from~~
14 ~~meeting in emergency session in the event of a severe and imminent~~
15 ~~threat to the health, safety, or welfare of the public when 2/3 of~~
16 ~~the members serving on the body decide that delay would be~~
17 ~~detrimental to efforts to lessen or respond to the threat. However,~~
18 ~~if a public body holds an emergency public meeting that does not~~
19 ~~comply with the 18-hour posted notice requirement, it shall make~~
20 ~~paper copies of the public notice for the emergency meeting~~
21 ~~available to the public at that meeting. The notice shall include~~
22 ~~an explanation of the reasons that the public body cannot comply~~
23 ~~with the 18-hour posted notice requirement. The explanation shall~~
24 ~~be specific to the circumstances that necessitated the emergency~~
25 ~~public meeting, and the use of generalized explanations such as "an~~
26 ~~imminent threat to the health of the public" or "a danger to public~~
27 ~~welfare and safety" does not meet the explanation requirements of~~
28 ~~this subsection. If the public body directly or indirectly~~
29 ~~maintains an official internet presence that includes monthly or~~

~~more frequent updates of public meeting agendas or minutes, it shall post the public notice of the emergency meeting and its explanation on its website in the manner described for an internet posting in subsection (4). Within 48 hours after the emergency public meeting, the public body shall send official correspondence to the board of county commissioners of the county in which the public body is principally located, informing the commission that an emergency public meeting with less than 18 hours' public notice has taken place. The correspondence shall also include the public notice of the meeting with explanation and shall be sent by either the United States postal service or electronic mail. Compliance with the notice requirements for emergency meetings in this subsection does not create, and shall not be construed to create, a legal basis or defense for failure to comply with other provisions of this act and does not relieve the public body from the duty to comply with any provision of this act.~~

(6) A meeting ~~of a public body may only~~ take place in a residential dwelling **only** if a nonresidential building within the boundary of the local governmental unit or school system is ~~not~~ available **unavailable** without cost to the public body. ~~For a meeting of a public body that is held in a residential dwelling, notice of the meeting shall be published as a display advertisement in a newspaper of general circulation in the city or township in which the meeting is to be held. The notice shall be published not less than 2 days before the day on which the meeting is held, and shall state~~ **If a public body meets in a residential dwelling, at least 2 days before the meeting, it shall post a public notice online and anywhere else considered appropriate stating** the date, time, and place of the meeting. ~~The~~ **That public notice shall be at**

1 ~~the bottom of the display advertisement, set off in a conspicuous~~
2 ~~manner, and must~~ include the following language: "This meeting is
3 open to all members of the public under Michigan's open meetings
4 act".~~act.~~".

5 ~~(7) A durational requirement for posting a public notice of a~~
6 ~~meeting under this act is the time that the notice is required to~~
7 ~~be accessible to the public.~~

8 Sec. 5a. (1) A public body may hold an emergency meeting only
9 if both of the following apply:

10 (a) There is a severe and imminent threat to the health,
11 safety, or welfare of the public.

12 (b) Two thirds of the members serving on the public body
13 decide that delay would be detrimental to efforts to lessen or
14 respond to the threat.

15 (2) If a public body holds an emergency meeting that does not
16 comply with the 18-hour posted notice requirement under section 5,
17 it shall do both of the following:

18 (a) Make paper copies of the public notice for the emergency
19 meeting available to the public at that meeting.

20 (b) Before the emergency meeting, post the public notice
21 online.

22 (3) The public notice must explain the specific circumstances
23 that prevent the public body from complying with the 18-hour posted
24 notice requirement under section 5. Generalized explanations such
25 as "an imminent threat to the health of the public" or "a danger to
26 public welfare and safety" do not satisfy this specificity
27 requirement.

28 (4) Within 48 hours after any emergency meeting, the public
29 body shall transmit to the board of county commissioners of the

1 county in which the public body is principally located the public
2 notice of that emergency meeting.

3 (5) Compliance with the public notice requirements for
4 emergency meetings in this section does not create, and must not be
5 construed to create, a legal basis or defense for failure to comply
6 with other provisions of this act and does not relieve the public
7 body from the duty to comply with any provision of this act.

8 Sec. 6. ~~(1) Upon the written request of an individual,~~
9 ~~organization, firm, or corporation, and upon the requesting party's~~
10 ~~payment of a yearly fee of not more than the reasonable estimated~~
11 ~~cost for printing and postage of such notices, a public body shall~~
12 ~~send to the requesting party by first class mail a copy of any~~
13 ~~notice required to be posted pursuant to section 5(2) to (5).~~

14 ~~(2) Upon written request, a~~ **A** ~~public body, at the same time a~~
15 ~~public notice of a meeting is posted pursuant to section 5, shall~~
16 ~~provide a copy of the~~ **a** ~~public notice of that meeting to any~~
17 ~~newspaper published~~ **media outlet** ~~in the~~ **this** ~~state and to any radio~~
18 ~~and television station located in the state, that submits a written~~
19 **request. The public body shall provide that copy free of charge and**
20 **at the same time the public notice is posted.**

21 Sec. 7. (1) A 2/3 roll call vote of members elected or
22 appointed and serving is required to call a closed session, except
23 for the closed sessions permitted under section ~~8(a),~~ **8(1)(a)**, (b),
24 (c), ~~(g),~~ **(h)**, and (i). ~~, and (j).~~ The roll call vote and the
25 ~~purpose~~ **reason** or ~~purposes~~ **reasons** for calling the closed session
26 ~~shall~~ **must** be entered into the minutes of the meeting at which the
27 vote is taken.

28 (2) ~~A~~ **During the closed session, the public body's clerk or**
29 **designated secretary shall take separate** ~~set of~~ **minutes that comply**

1 ~~with section 9(1). shall be taken by the clerk or the designated~~
 2 ~~secretary of the public body at the closed session. These minutes~~
 3 ~~shall must~~ be retained by the clerk, ~~of the public body,~~ are not
 4 available to the public, and ~~shall only may~~ be disclosed **only** if
 5 required by a civil action filed under section 10, 11, or 13. These
 6 minutes may be destroyed 1 year and 1 day after approval of the
 7 minutes of the ~~regular~~ meeting at which the closed session was
 8 approved.

9 **(3) A majority vote of the members elected or appointed and**
 10 **serving is required to leave a closed session.**

11 Sec. 8. (1) Except as otherwise provided in subsection (2), a
 12 public body may meet in a closed session only for the following
 13 ~~purposes:~~**reasons:**

14 (a) To consider the dismissal, suspension, or ~~disciplining~~
 15 **discipline** of, or to hear complaints or charges brought against, or
 16 to consider a periodic personnel evaluation of, ~~a public officer,~~
 17 **an employee, public officer,** staff member, or individual agent, if
 18 the named ~~individual person~~ requests a closed hearing. ~~An~~
 19 ~~individual session. A person~~ requesting a closed hearing ~~session~~
 20 may rescind the request at any time, ~~in which case the matter at~~
 21 ~~issue must be considered after the rescission only~~ **after which the**
 22 **matter must be considered** in open sessions.

23 (b) To consider the dismissal, suspension, or ~~disciplining~~
 24 **discipline** of a student if the public body is part of the school
 25 district, intermediate school district, or institution of higher
 26 education that the student is attending. ~~, and if the student or~~
 27 ~~the student's parent or guardian requests a closed hearing. A school~~
 28 **board considering such dismissal, suspension, or discipline shall**
 29 **meet in closed session unless the student or the student's parent**

1 or guardian requests an open session. A person requesting an open
 2 session may rescind the request at any time, after which the matter
 3 must be considered in closed sessions.

4 (c) For strategy and negotiation sessions connected with the
 5 negotiation of a collective bargaining agreement if either
 6 negotiating party requests a closed ~~hearing-session~~.

7 (d) To consider ~~the purchase or lease of~~ **selling, purchasing,**
 8 **or leasing** real property. ~~up to the time~~ **Once the public body**
 9 **obtains** an option to purchase or lease that real property, ~~is~~
 10 ~~obtained.~~ **it must consider the matter in open sessions.**

11 (e) To consult with its attorney regarding trial or settlement
 12 strategy in connection with specific pending litigation, but only
 13 if an open ~~meeting-session~~ would have a detrimental financial
 14 effect on the litigating or settlement position of the public body.

15 (f) To review ~~and consider the contents of~~ an application for
 16 employment or appointment to a public office if the candidate
 17 requests that the application remain confidential. However, ~~except~~
 18 ~~as otherwise provided in this subdivision,~~ all interviews by a
 19 public body for employment or appointment to a public office must
 20 be held in an open ~~meeting-session~~ pursuant to this act. This
 21 subdivision does not apply to a public office described in
 22 subdivision ~~(j)~~ **(i)**.

23 ~~(g) Partisan caucuses of members of the state legislature.~~

24 **(g)** ~~(h)~~ To consider material exempt from discussion or
 25 disclosure by state or federal statute.

26 **(h)** ~~(i)~~ For a compliance conference conducted under section
 27 16231 of the public health code, 1978 PA 368, MCL 333.16231, before
 28 a complaint is issued.

29 **(i)** ~~(j)~~ In the process of searching for and selecting a

1 president of an institution of higher education established under
 2 section 4, 5, or 6 of article VIII of the state constitution of
 3 1963, to review the specific contents of an application, to conduct
 4 an interview with a candidate, or to discuss the specific
 5 qualifications of a candidate, if the particular process ~~of~~
 6 ~~searching for and selecting a president of an institution of higher~~
 7 ~~education~~ meets all of the following requirements:

8 (i) The search committee in the process, appointed by the
 9 governing board, consists of at least 1 student of the institution,
 10 1 faculty member of the institution, 1 administrator of the
 11 institution, 1 alumnus of the institution, and 1 representative of
 12 the general public. The search committee also may include 1 or more
 13 members of the governing board of the institution, but ~~the number~~
 14 ~~does not constitute~~ **may not include** a quorum of the governing
 15 board. ~~However, the search committee must not be constituted in~~
 16 ~~such a way that any 1 of the groups described in this subparagraph~~
 17 ~~constitutes a majority of the search committee.~~ **None of the groups**
 18 **described in this subparagraph may constitute a majority of the**
 19 **search committee.**

20 (ii) After the search committee recommends the 5 final
 21 candidates, the governing board ~~does~~ **may** not take a vote on a final
 22 selection for the president until at least 30 days after ~~the 5~~
 23 ~~final candidates have been publicly identified by the search~~
 24 committee **publicly identifies those candidates.**

25 (iii) The deliberations and vote of the governing board ~~of the~~
 26 ~~institution~~ on selecting the president **must** take place in ~~an~~ open
 27 session. ~~of the governing board.~~

28 (j) ~~(k)~~ For a school board to consider security planning to
 29 address existing threats or prevent potential threats to the safety

1 of the students ~~and~~ or staff. As used in this subdivision, "school
2 board" means any of the following:

3 (i) That term as defined in section 3 of the revised school
4 code, 1976 PA 451, MCL 380.3.

5 (ii) An intermediate school board as that term is defined in
6 section 4 of the revised school code, 1976 PA 451, MCL 380.4.

7 (iii) A board of directors of a public school academy as
8 described in section 502 of the revised school code, 1976 PA 451,
9 MCL 380.502.

10 (iv) The local governing board of a public community or junior
11 college as described in section 7 of article VIII of the state
12 constitution of 1963.

13 (k) ~~(l)~~ For a county veteran services committee to interview a
14 veteran or a veteran's spouse or dependent regarding that
15 ~~individual's~~ **person's** application for benefits or financial
16 assistance and **to** discuss that ~~individual's~~ **person's** application,
17 ~~for benefits or financial assistance,~~ if the applicant requests a
18 closed hearing. **session.** This subdivision does not apply to a
19 county veteran services committee voting on whether to grant or
20 deny **such** an ~~individual's~~ application. ~~for benefits or financial~~
21 ~~assistance.~~ As used in this subdivision, "county veteran services
22 committee" means a committee created by a county board of
23 commissioners under section 1 of 1953 PA 192, MCL 35.621, or a
24 soldiers' relief commission created under section 2 of 1899 PA 214,
25 MCL 35.22.

26 (2) This act does not permit the independent citizens
27 redistricting commission to meet in closed session for any ~~purpose.~~
28 **reason.** As used in this subsection, "independent citizens
29 redistricting commission" means the independent citizens

1 redistricting commission for state legislative and congressional
 2 districts created in section 6 of article IV of the state
 3 constitution of 1963.

4 **(3) Partisan caucuses of the state legislature may meet in**
 5 **closed session for any reason.**

6 Sec. 9. (1) Each public body shall keep minutes of each
 7 meeting showing the date, time, place, members present, members
 8 absent, ~~any decisions, made at a meeting open to the public,~~
 9 **actions, roll call votes,** and the ~~purpose-reason~~ or ~~purposes~~
 10 **reasons** for which a closed session is held. ~~The minutes shall~~
 11 ~~include all roll call votes taken at the meeting.~~

12 **(2)** ~~The public body shall make any corrections in the correct~~
 13 ~~a meeting's minutes at the its next meeting. after the meeting to~~
 14 ~~which the minutes refer. The public body shall make corrected~~
 15 ~~minutes available at or before the next subsequent by its meeting~~
 16 ~~after following the correction. The corrected minutes shall must~~
 17 ~~show both the original entry and the correction.~~

18 **(3)** ~~(2) Minutes are public records open to public inspection.~~
 19 ~~, and a public body shall make the minutes available at the address~~
 20 ~~designated on posted public notices pursuant to section 4. The~~
 21 ~~public body shall make copies of the minutes available to the~~
 22 ~~public at the reasonable estimated cost for printing and copying. A~~
 23 **public body shall therefore do both of the following:**

24 **(a)** ~~(3) A public body shall make Make~~ proposed minutes
 25 available for public inspection **at its principal office and online**
 26 within 8 business days after the meeting to which the minutes
 27 refer.

28 **(b)** ~~The public body shall make Make~~ approved minutes available
 29 for public inspection **at its principal office and online** within 5

1 business days after the meeting at which the minutes are approved.
 2 ~~by the public body.~~

3 **(4) A public body may recoup reasonable printing and copying**
 4 **costs when providing physical copies of minutes.**

5 **(5)** ~~(4)~~ A public body shall not include in or with its minutes
 6 any personally identifiable information that, if released, would
 7 prevent the public body from complying with section 444 of subpart
 8 4 of part C of the general education provisions act, 20 USC 1232g,
 9 commonly referred to as the family educational rights and privacy
 10 act of 1974.

11 Sec. 9a. ~~(1) Every meeting of a~~ **A** public body that is a state
 12 licensing board, state commission panel, or state rule-making board
 13 ~~, except a meeting or part of a meeting held in closed session,~~
 14 ~~must be recorded in a manner that allows for the capture of sound,~~
 15 ~~including, without limitation, in any of the following formats:~~

16 ~~(a) A sound-only recording.~~

17 ~~(b) A video recording with sound and picture.~~

18 ~~(c) A digital or analog broadcast capable of being recorded.~~

19 ~~(2) A recording required under subsection (1) must be~~
 20 ~~maintained for a minimum of~~ **shall retain an audio or audio-and-**
 21 **video recording of every open session for at least** 1 year from the
 22 date of the meeting in a format that can be reproduced upon a
 23 request under the freedom of information act, 1976 PA 442, MCL
 24 15.231 to 15.246.

25 Sec. 10. (1) ~~Decisions of a public body shall be presumed to~~
 26 ~~have been adopted in compliance with the requirements of this act.~~
 27 The attorney general, the prosecuting attorney of the county in
 28 which the public body serves, or any person may ~~commence a civil~~
 29 ~~action~~ **sue** in ~~the~~ **a** circuit court to challenge ~~the validity of a~~

~~decision of a public body made in violation of~~ **under** this act. **A court shall presume that a public body's decisions were adopted in compliance with this act.**

(2) A **public body's** ~~decision made by a public body~~ may be invalidated if ~~the~~ **both of the following apply:**

(a) ~~The public body has not complied with the requirements of section 3(1), (2), and (3) in making the decision or if failure~~ **does either of the following:**

(i) **Makes a decision that does not comply with section 3(1) or (2).**

(ii) **Fails** to give notice in accordance with section 5 ~~has interfered and that failure interferes~~ with substantial compliance with section 3(1) ~~, and (2). , and (3) and the~~

(b) **The** court finds that the noncompliance or failure has impaired the rights of the public under this act.

(3) ~~The circuit court shall not have jurisdiction to invalidate a decision of a public body for a violation of this act unless an action is commenced pursuant to this section within the following specified period of time:~~ **A person must sue under this act within the following time frames:**

(a) **Within 30 days after the approved minutes are made publicly available if the decision involves approving contracts, receiving or accepting bids, making assessments, adopting or amending procedures for issuing bonds or other evidences of indebtedness, or submitting a borrowing proposal to the electors.**

(b) ~~(a) Within~~ **In all other cases, within 60 days after the approved minutes are made publicly available. to the public by the public body except as otherwise provided in subdivision (b).**

~~(b) If the decision involves the approval of contracts, the~~

~~receipt or acceptance of bids, the making of assessments, the procedures pertaining to the issuance of bonds or other evidences of indebtedness, or the submission of a borrowing proposal to the electors, within 30 days after the approved minutes are made available to the public pursuant to that decision.~~

(4) ~~Venue for an action~~ **A lawsuit filed** under this section shall be any **against a local public body must be filed in the circuit court of a** county in which ~~a local~~ **that** public body serves or, ~~if the decision of~~ **when against** a state public body, ~~is at issue, in Ingham county.~~ **the court of claims.**

(5) ~~In any case where an action has been initiated to invalidate a decision of a public body on the ground that it was not taken in conformity with the requirements of this act,~~ **If a lawsuit is filed under subsection (1),** the public body may ~~without being deemed to make any admission contrary to its interest,~~ reenact the disputed decision in ~~conformity~~ **compliance** with this act. A ~~decision reenacted in this manner shall be~~ **decision is** effective from the date of reenactment. ~~and shall not be declared invalid by reason~~ **A court may not declare a reenactment invalid because** of a deficiency in the ~~procedure used for its~~ initial enactment, **nor may it treat the reenactment as an admission contrary to the public body's interest.**

(6) If the court finds that a lawsuit filed under this section was frivolous, the court shall award to the prevailing party reasonable costs and attorney fees. As used in this subsection, "frivolous" and "prevailing party" mean those terms as defined in section 2591 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2591.

Sec. 11. (1) If a public body is not complying with this act,

1 the attorney general, prosecuting attorney of the county in which
 2 the public body serves, or ~~a any~~ person may ~~commence a civil action~~
 3 **sue** to compel compliance or to enjoin further noncompliance with
 4 this act.

5 ~~(2) An action for injunctive relief against a local public~~
 6 ~~body shall be commenced in the circuit court, and venue is proper~~
 7 ~~in any county in which the public body serves. An action for an~~
 8 ~~injunction against a state public body shall be commenced in the~~
 9 ~~circuit court and venue is proper in any county in which the public~~
 10 ~~body has its principal office, or in Ingham county. If a person~~
 11 ~~commences an action for injunctive relief, that person shall not be~~
 12 ~~required to post security as a condition for obtaining a~~
 13 ~~preliminary injunction or a temporary restraining order.~~ **A lawsuit**
 14 **filed under subsection (1) against a local public body must be**
 15 **filed in the circuit court of a county in which that public body**
 16 **serves or, when against a state public body, the court of claims.**

17 **(3) A person suing under subsection (1) must not be required**
 18 **to post security as a condition for obtaining injunctive relief.**

19 ~~(4) (3) An action for~~ **A lawsuit seeking mandamus relief**
 20 **against a public body under this act shall must be commenced filed**
 21 **in the court of appeals.**

22 ~~(5) (4) If a public body is not complying with this act, and a~~
 23 ~~person commences a civil action against the public body for~~
 24 ~~injunctive relief to compel compliance or to enjoin further~~
 25 ~~noncompliance with the act and succeeds in obtaining relief in the~~
 26 ~~action, the person shall recover court~~ **If a person suing under**
 27 **subsection (1) or (4) prevails, the court shall award that person**
 28 **reasonable costs and actual attorney fees. for the action.**

29 **(6) If the court finds that a lawsuit filed under this section**

1 was frivolous, the court shall award to the prevailing party
 2 reasonable costs and attorney fees. As used in this subsection,
 3 "frivolous" and "prevailing party" mean those terms as defined in
 4 section 2591 of the revised judicature act of 1961, 1961 PA 236,
 5 MCL 600.2591.

6 Sec. 12. (1) A ~~public official~~ **member of a public body** who
 7 intentionally violates this act is guilty of a misdemeanor
 8 punishable by a fine of not more than ~~\$1,000.00.~~ **\$5,000.00.**

9 (2) A ~~public official~~ **member of a public body** who is convicted
 10 of intentionally violating ~~a provision of this act~~ for a second
 11 time within the same term ~~shall be~~ **is** guilty of a misdemeanor and
 12 ~~shall may~~ be fined not more than ~~\$2,000.00,~~ **\$10,000.00,** or
 13 imprisoned for not more than 1 year, or both.

14 (3) **A court may not use the rule of lenity to interpret this**
 15 **act.**

16 Sec. 13. (1) A ~~public official~~ **member of a public body** who
 17 intentionally violates this act ~~shall may~~ be personally liable in a
 18 civil action for actual and exemplary damages of not more than
 19 ~~\$500.00~~ **\$2,500.00** total, plus ~~court~~ **reasonable** costs and actual
 20 attorney fees. ~~to a person or group of persons bringing the action.~~

21 (2) ~~Not more than 1 action~~ **A person may bring only 1 lawsuit**
 22 under this section ~~shall be brought against a public official for a~~
 23 single meeting. ~~An action~~ **A lawsuit** under this section ~~shall must~~
 24 be ~~commenced~~ **filed** within 180 days after the date of the **alleged**
 25 violation. ~~which gives rise to the cause of action.~~

26 (3) ~~An action for damages~~ **A lawsuit** under this section may be
 27 joined with an ~~action for injunctive or exemplary relief~~ **a lawsuit**
 28 under section 11.

29 Sec. 13a. If the governing board of an institution of higher

1 education established under section 4, 5, or 6 of article VIII of
2 the state constitution of 1963 violates ~~this act with respect to~~
3 ~~the process of selecting a president of the institution at any time~~
4 ~~after the recommendation of final candidates to the governing~~
5 ~~board, as described in section 8(j), 8(1) (i) ,~~ the institution is
6 responsible for the payment of **shall pay** a civil fine of not more
7 than \$500,000.00. This civil fine is in addition to any other
8 remedy or penalty under this act. To the extent possible, ~~any~~
9 ~~payment of the institution shall pay~~ fines imposed under this
10 section ~~shall be paid from funds allocated by the institution of~~
11 ~~higher education to pay for the travel and expenses of the members~~
12 of the governing board.