

SENATE BILL NO. 705

October 26, 2021, Introduced by Senator IRWIN and referred to the Committee on Local Government.

A bill to amend 1976 PA 267, entitled
"Open meetings act,"
by amending section 3a (MCL 15.263a), as amended by 2021 PA 54.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3a. (1) A meeting of a public body held, in whole or in
2 part, electronically by telephonic or video conferencing in
3 compliance with this section and, except as otherwise required in
4 this section, all of the provisions of this act applicable to a
5 nonelectronic meeting, is permitted by this act in the following
6 circumstances:

1 (a) Before March 31, ~~2021~~**2022** and retroactive to March 18,
2 2020, any circumstances, including, but not limited to, any of the
3 circumstances requiring accommodation of absent members described
4 in section 3(2).

5 ~~(b) Subject to subdivision (d), on and after March 31, 2021~~
6 ~~through December 31, 2021, only those circumstances requiring~~
7 ~~accommodation of members absent for the reasons described in~~
8 ~~section 3(2). For the purpose of permitting an electronic meeting~~
9 ~~due to a local state of emergency or state of disaster, this~~
10 ~~subdivision applies only as follows:~~

11 ~~(i) To permit the electronic attendance of a member of the~~
12 ~~public body who resides in the affected area.~~

13 ~~(ii) To permit the electronic meeting of a public body that~~
14 ~~usually holds its meetings in the affected area.~~

15 **(b) ~~(e)~~ Subject to subdivision ~~(d)~~, ~~(c)~~, on and after December**
16 **31, 2021, **March 31, 2022**, only in the circumstances requiring**
17 **accommodation of members absent due to military duty as described**
18 **in section 3(2). **At a meeting held under this subdivision, only****
19 **those members absent due to military duty may participate remotely.**
20 **Any member who is not on military duty must be physically present**
21 **at the meeting to participate.**

22 **(c) ~~(d)~~ On and after March 31, ~~2021~~,**2022**, for a public body**
23 **that is an agricultural commodity group, any circumstances,**
24 **including, but not limited to, any of the circumstances requiring**
25 **accommodation of absent members described in section 3(2). As used**
26 **in this subdivision, "agricultural commodity group" means any of**
27 **the following:**

28 **(i) A committee as that term is defined in section 2 of the**
29 **agricultural commodities marketing act, 1965 PA 232, MCL 290.652.**

1 (ii) The state beef industry commission created in section 3 of
2 the beef industry commission act, 1972 PA 291, MCL 287.603.

3 (iii) The potato industry commission created in section 2 of
4 1970 PA 29, MCL 290.422.

5 (iv) The Michigan bean commission created in section 3 of 1965
6 PA 114, MCL 290.553.

7 (2) A meeting of a public body held electronically under this
8 section must be conducted in a manner that permits 2-way
9 communication so that members of the public body can hear and be
10 heard by other members of the public body, and so that public
11 participants can hear members of the public body and can be heard
12 by members of the public body and other participants during a
13 public comment period. A public body may use technology to
14 facilitate typed public comments during the meeting submitted by
15 members of the public participating in the meeting that may be read
16 to or shared with members of the public body and other participants
17 to satisfy the requirement under this subsection that members of
18 the public be heard by others during the electronic meeting and the
19 requirement under section 3(5) that members of the public be
20 permitted to address the electronic meeting.

21 (3) Except as otherwise provided in subsection ~~(8)~~, **(1) (b)**, a
22 physical place is not required for an electronic meeting held under
23 this section, and members of a public body and members of the
24 public participating electronically in a meeting held under this
25 section that occurs in a physical place are to be considered
26 present and in attendance at the meeting for all purposes.

27 (4) If a public body directly or indirectly maintains an
28 official internet presence that includes monthly or more frequent
29 updates of public meeting agendas or minutes, the public body

1 shall, in addition to any other notices that may be required under
2 this act, post advance notice of a meeting held electronically
3 under this section on a portion of the public body's website that
4 is fully accessible to the public. The public notice on the website
5 must be included on either the homepage or on a separate webpage
6 dedicated to public notices for nonregularly scheduled or
7 electronic public meetings that is accessible through a prominent
8 and conspicuous link on the website's homepage that clearly
9 describes its purpose for public notification of nonregularly
10 scheduled or electronic public meetings. Subject to the
11 requirements of this section, any scheduled meeting of a public
12 body may be held as an electronic meeting under this section if a
13 notice consistent with this section is posted at least 18 hours
14 before the meeting begins. Notice of a meeting of a public body
15 held electronically must clearly explain all of the following:

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

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

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

24 (d) How persons with disabilities may participate in the
25 meeting.

26 (5) ~~Beginning on the effective date of the amendatory act that~~
27 ~~added this section, **October 16, 2020,**~~ if an agenda exists for an
28 electronic meeting held under this section by a public body that
29 directly or indirectly maintains an official internet presence that

1 includes monthly or more frequent updates of public meeting agendas
2 or minutes, the public body shall, on a portion of the website that
3 is fully accessible to the public, make the agenda available to the
4 public at least 2 hours before the electronic meeting begins. This
5 publication of the agenda does not prohibit subsequent amendment of
6 the agenda at the meeting.

7 (6) A public body shall not, as a condition of participating
8 in an electronic meeting of the public body held under this
9 section, require a person to register or otherwise provide his or
10 her name or other information or otherwise to fulfill a condition
11 precedent to attendance, other than mechanisms established and
12 required by the public body necessary to permit the person to
13 participate in a public comment period of the meeting.

14 (7) Members of the general public otherwise participating in a
15 meeting of a public body held electronically under this section are
16 to be excluded from participation in a closed session of the public
17 body held electronically during that meeting if the closed session
18 is convened and held in compliance with the requirements of this
19 act applicable to a closed session.

20 ~~(8) At a meeting held under this section that accommodates~~
21 ~~members absent due to military duty or a medical condition, only~~
22 ~~those members absent due to military duty or a medical condition~~
23 ~~may participate remotely. Any member who is not on military duty or~~
24 ~~does not have a medical condition must be physically present at the~~
25 ~~meeting to participate.~~