

Legislative Analysis



ELECTRONIC MEETINGS OF CERTAIN PUBLIC BODIES

Phone: (517) 373-8080
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House Bill 4346 (H-3) as adopted

Sponsor: Rep. Kevin Coleman

Committee: Local Government and Municipal Finance

Complete to 10-25-23

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 214 of 2023)

SUMMARY:

House Bill 4346 would amend the Open Meetings Act to allow electronic meetings to be held by a joint action agency or a public body responsible for the investment, administration, or management of a municipal public employee retirement system.

The act generally requires all meetings of a public body to be open to the public and held in a place available to the public, and all decisions of a public body must be made at a meeting open to the public. The act defines “public body” as any of the following:

- A 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 a body described above that is performing an essential public purpose and function under the lease agreement.
- The board of a nonprofit corporation formed by a city under section 40 of the Home Rule City Act.

Except for an agricultural commodity group, which can hold a meeting electronically (in whole or in part) for any reason,¹ the act allows meetings of a public body to be held electronically or with remote participation only to accommodate the absence of one of its members due to military duty, and then only that member may participate remotely.

The bill would amend the above provisions to allow a public body responsible for the investment, administration, or management of a *municipal public employee retirement system* to hold a meeting electronically for any reason. The public body would have to set and publish an attendance policy that includes the determination of a quorum for when one or more members are participating electronically.

Municipal public employee retirement system would mean a retirement system, trust, plan, or reserve fund that a local unit of government establishes, maintains, or participates in and that, by its express terms or as a result of surrounding circumstances, provides retirement pension benefits or retirement health benefits, or both. It would not include a retirement system established under the State Employees’ Retirement Act, the Public School Employees Retirement Act, the Judges Retirement Act, the State Police Retirement Act, or the Michigan Legislative Retirement System Act.

¹ See <https://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-4603-FA690029.pdf>

The bill would also allow a meeting of a joint agency formed under the Michigan Energy Employment Act, including a meeting of the agency's board of commissioners or of an agency committee, to be held electronically for any reason. (A joint agency is formed under that act by the governing bodies of two or more municipalities to plan, finance, develop, or take other actions on a project or projects to supply electric power and energy as an alternative or supplemental method of obtaining the benefits and assuming the responsibilities of ownership in a project.)

The bill would specify that members of these public bodies, in addition to members of an agricultural commodity group, would not be subject to the requirement that only members of a public body who are absent from a meeting due to military duty can participate remotely.

MCL 15.263a

BACKGROUND:

With regard to public bodies responsible for municipal public employee retirement systems, the bill is similar to House Bill 5427 of the 2021-22 legislative session,² which was passed by the House and reported from the Senate Local Government committee but did not advance to a full Senate vote.

With regard to joint agencies under the Michigan Energy Employment Act, the bill is similar to House Bill 5292 and Senate Bill 633 of the 2021-22 legislative session and House Bill 4892 of the current session. House Bill 5292 was reported from the House Energy committee,³ and Senate Bill 633 was passed by the Senate.⁴ Neither advanced further. House Bill 4892 is in the Ethics and Oversight committee.

In addition to other requirements for meetings held under the Open Meetings Act, meetings held electronically must be conducted in a way that allows for two-way communication so that members of the public body can hear one another, public participants can hear the members, and the members of the public body and other public participants can hear public participants during a public comment period. A public body can use technology to allow for typed comments to be submitted by public participants and read to or shared with the members of the public body and other public participants. A public body cannot require a person to register or provide his or her name or other information as a condition of participating in or attending an electronic meeting, except for mechanisms established and required by the public body that are necessary to allow the person to participate in a public comment period.

The public body must post advance notice of a meeting held electronically in a publicly accessible place on its website, if it has an active official internet presence, at least 18 hours before the meeting starts. The notice must include explanations of why the public body is meeting electronically and how members of the public can participate in the meeting, how members of the public can contact members of the public body, and how persons with

² A summary of House Bill 5427 can be found here: <http://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-5427-E4BD6016.pdf>.

³ <https://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-5292-81179D22.pdf>

⁴ <https://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-0633-9555C2AA.pdf>

disabilities can participate in the meeting. If there is an agenda for the meeting, it must be made available to the public at least two hours before the start of the meeting.

BRIEF DISCUSSION:

Supporters of the bill argue that since board members do not always live in the same municipality (or even state) as where a meeting is located, allowing for a remote participation option could increase efficiency and save transportation costs.

No arguments opposing the bill were presented in committee testimony, although concerns were raised about targeting one type of public meeting rather than finding a comprehensive solution for all bodies under the Open Meetings Act.

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

HOUSE FLOOR ACTION:

The H-3 substitute adopted on the House floor added the provisions described above that relate to joint agencies under the Michigan Energy Employment Act.

POSITIONS:

A representative of the Retired Detroit Police and Firefighters Association testified in support of the bill. (5-17-23)

The following entities indicated support for the bill:

- Michigan Association of Public Employee Retirement Systems (9-27-23)
- Municipal Employees' Retirement System of Michigan (5-17-23)

Legislative Analyst: Holly Kuhn
Fiscal Analyst: Michael Cnossen

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.