

HOUSE BILL NO. 4099

February 20, 2025, Introduced by Reps. Frisbie, Neyer, Rigas, Martin, BeGole, Rheingans, Pavlov, Johnsen, Harris, Borton, Hoadley, Woolford, Robinson, Kunse, Cavitt and Bruck and referred to Committee on Finance.

A bill to amend 1976 PA 267, entitled
"Open meetings act,"
by amending section 3a (MCL 15.263a), as amended by 2023 PA 214.

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

1 circumstances:

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

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

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

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

16 (c) Subject to subdivisions (d) ~~, (e), and (f),~~ **to (g)**, after
17 December 31, 2021, only in the circumstances requiring
18 accommodation of members absent due to military duty as described
19 in section 3(2).

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

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

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

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

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

5 (e) On and after ~~the effective date of the amendatory act that~~
6 ~~added this subdivision,~~ **February 13, 2024**, for a public body that
7 is responsible for the investment, administration, or management of
8 a municipal public employee retirement system, any circumstances,
9 including, but not limited to, any of the circumstances requiring
10 accommodation of absent members described in section 3(2). As used
11 in this subdivision, "municipal public employee retirement system"
12 means a retirement system as that term is defined in section 3 of
13 the protecting local government retirement and benefits act, 2017
14 PA 202, MCL 38.2803. A public body that is eligible to meet
15 remotely under this subdivision shall set and publish an attendance
16 policy that includes the determination of a quorum with 1 or more
17 members participating electronically.

18 (f) On and after ~~the effective date of the amendatory act that~~
19 ~~added this subdivision,~~ **February 13, 2024**, for a public body that
20 is a joint agency formed under article 3 of the Michigan energy
21 employment act of 1976, 1976 PA 448, MCL 460.831 to 460.848, any
22 circumstances, including, but not limited to, any of the
23 circumstances requiring accommodation of absent members described
24 in section 3(2). As used in this subdivision, "joint agency"
25 includes a joint agency's board of commissioners and any committee
26 of the joint agency.

27 **(g) The prerequisite circumstances to holding an electronic**
28 **meeting described in subdivision (c) do not apply to an electronic**
29 **proceeding held under section 26, 34, or 62 of the tax tribunal**

1 **act, 1973 PA 186, MCL 205.726, 205.734, and 205.762.**

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

16 (3) Except as otherwise provided in subsection (8), a physical
17 place is not required for an electronic meeting held under this
18 section, and members of a public body and members of the public
19 participating electronically in a meeting held under this section
20 that occurs in a physical place are to be considered present and in
21 attendance at the meeting for all purposes.

22 (4) If a public body directly or indirectly maintains an
23 official internet presence that includes monthly or more frequent
24 updates of public meeting agendas or minutes, the public body
25 shall, in addition to any other notices that may be required under
26 this act, post advance notice of a meeting held electronically
27 under this section on a portion of the public body's website that
28 is fully accessible to the public. The public notice on the website
29 must be included on either the homepage or on a separate webpage

1 dedicated to public notices for nonregularly scheduled or
2 electronic public meetings that is accessible through a prominent
3 and conspicuous link on the website's homepage that clearly
4 describes its purpose for public notification of nonregularly
5 scheduled or electronic public meetings. Subject to the
6 requirements of this section, any scheduled meeting of a public
7 body may be held as an electronic meeting under this section if a
8 notice consistent with this section is posted at least 18 hours
9 before the meeting begins. Notice of a meeting of a public body
10 held electronically must clearly explain all of the following:

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

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

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

19 (d) How persons with disabilities may participate in the
20 meeting.

21 (5) Beginning on October 16, 2020, if an agenda exists for an
22 electronic meeting held under this section by a public body that
23 directly or indirectly maintains an official internet presence that
24 includes monthly or more frequent updates of public meeting agendas
25 or minutes, the public body shall, on a portion of the website that
26 is fully accessible to the public, make the agenda available to the
27 public at least 2 hours before the electronic meeting begins. This
28 publication of the agenda does not prohibit subsequent amendment of
29 the agenda at the meeting.

1 (6) A public body shall not, as a condition of participating
2 in an electronic meeting of the public body held under this
3 section, require a person to register or otherwise provide the
4 person's name or other information or otherwise to fulfill a
5 condition precedent to attendance, other than mechanisms
6 established and required by the public body necessary to permit the
7 person to participate in a public comment period of the meeting.

8 (7) Members of the general public otherwise participating in a
9 meeting of a public body held electronically under this section are
10 to be excluded from participation in a closed session of the public
11 body held electronically during that meeting if the closed session
12 is convened and held in compliance with the requirements of this
13 act applicable to a closed session.

14 (8) At a meeting held under this section that accommodates
15 members absent due to military duty or a medical condition, only
16 those members absent due to military duty or a medical condition
17 may participate remotely. Any member who is not on military duty or
18 does not have a medical condition must be physically present at the
19 meeting to participate. This subsection does not apply to a meeting
20 of a public body held electronically under subsection (1)(d), (e),
21 or (f) **or to a proceeding described in subsection (1)(g).**

22 Enacting section 1. This amendatory act does not take effect
23 unless House Bill No. 4098 (request no. H01216'25) of the 103rd
24 Legislature is enacted into law.