

**SUBSTITUTE FOR
HOUSE BILL NO. 4346**

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:

7 (a) Before March 31, 2021 and retroactive to March 18, 2020,
8 any circumstances, including, but not limited to, any of the
9 circumstances requiring accommodation of absent members described

1 in section 3(2).

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

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

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

12 (c) Subject to ~~subdivision~~ **subdivisions** (d), **(e), and (f)**,
13 after December 31, 2021, only in the circumstances requiring
14 accommodation of members absent due to military duty as described
15 in section 3(2).

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

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

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

26 (iii) The potato industry commission created in section 2 of
27 1970 PA 29, MCL 290.422.

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

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

14 (f) On and after the effective date of the amendatory act that
15 added this subdivision, for a public body that is a joint agency
16 formed under article 3 of the Michigan energy employment act of
17 1976, 1976 PA 448, MCL 460.831 to 460.848, any circumstances,
18 including, but not limited to, any of the circumstances requiring
19 accommodation of absent members described in section 3(2). As used
20 in this subdivision, "joint agency" includes a joint agency's board
21 of commissioners and any committee of the joint agency.

22 (2) A meeting of a public body held electronically under this
23 section must be conducted in a manner that permits 2-way
24 communication so that members of the public body can hear and be
25 heard by other members of the public body, and so that public
26 participants can hear members of the public body and can be heard
27 by members of the public body and other participants during a
28 public comment period. A public body may use technology to
29 facilitate typed public comments during the meeting submitted by

1 members of the public participating in the meeting that may be read
2 to or shared with members of the public body and other participants
3 to satisfy the requirement under this subsection that members of
4 the public be heard by others during the electronic meeting and the
5 requirement under section 3(5) that members of the public be
6 permitted to address the electronic meeting.

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

13 (4) If a public body directly or indirectly maintains an
14 official internet presence that includes monthly or more frequent
15 updates of public meeting agendas or minutes, the public body
16 shall, in addition to any other notices that may be required under
17 this act, post advance notice of a meeting held electronically
18 under this section on a portion of the public body's website that
19 is fully accessible to the public. The public notice on the website
20 must be included on either the homepage or on a separate webpage
21 dedicated to public notices for nonregularly scheduled or
22 electronic public meetings that is accessible through a prominent
23 and conspicuous link on the website's homepage that clearly
24 describes its purpose for public notification of nonregularly
25 scheduled or electronic public meetings. Subject to the
26 requirements of this section, any scheduled meeting of a public
27 body may be held as an electronic meeting under this section if a
28 notice consistent with this section is posted at least 18 hours
29 before the meeting begins. Notice of a meeting of a public body

1 held electronically must clearly explain all of the following:

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

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

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

10 (d) How persons with disabilities may participate in the
11 meeting.

12 (5) Beginning on ~~the effective date of the amendatory act that~~
13 ~~added this section, **October 16, 2020**~~, if an agenda exists for an
14 electronic meeting held under this section by a public body that
15 directly or indirectly maintains an official internet presence that
16 includes monthly or more frequent updates of public meeting agendas
17 or minutes, the public body shall, on a portion of the website that
18 is fully accessible to the public, make the agenda available to the
19 public at least 2 hours before the electronic meeting begins. This
20 publication of the agenda does not prohibit subsequent amendment of
21 the agenda at the meeting.

22 (6) A public body shall not, as a condition of participating
23 in an electronic meeting of the public body held under this
24 section, require a person to register or otherwise provide ~~his or~~
25 ~~her~~ **the person's** name or other information or otherwise to fulfill
26 a condition precedent to attendance, other than mechanisms
27 established and required by the public body necessary to permit the
28 person to participate in a public comment period of the meeting.

29 (7) Members of the general public otherwise participating in a

1 meeting of a public body held electronically under this section are
2 to be excluded from participation in a closed session of the public
3 body held electronically during that meeting if the closed session
4 is convened and held in compliance with the requirements of this
5 act applicable to a closed session.

6 (8) At a meeting held under this section that accommodates
7 members absent due to military duty or a medical condition, only
8 those members absent due to military duty or a medical condition
9 may participate remotely. Any member who is not on military duty or
10 does not have a medical condition must be physically present at the
11 meeting to participate. **This subsection does not apply to a meeting**
12 **of a public body held electronically under subsection (1) (d), (e),**
13 **or (f).**