

**SUBSTITUTE FOR
HOUSE BILL NO. 4693**

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
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 described in section 3(2). For the
5 purpose of permitting an electronic meeting due to a local state of
6 emergency or state of disaster, this subdivision applies only as
7 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 subdivisions (d) ~~, (e), and (f), after to (g),~~
13 **only in the following circumstances:**

14 (i) **After** December 31, 2021, ~~only in the~~ **those** circumstances
15 requiring accommodation of members absent due to military duty as
16 described in section 3(2).

17 (ii) **On and after the effective date of the amendatory act that**
18 **added this subparagraph, those circumstances requiring**
19 **accommodation of members absent due to a declared statewide or**
20 **local state of emergency or state of disaster as described in**
21 **section 3(2). This subparagraph is subject to the limitations**
22 **described in subdivision (b) (i) and (ii).**

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

29 (i) A committee as that term is defined in section 2 of the



1 agricultural commodities marketing act, 1965 PA 232, MCL 290.652.

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

4 (iii) The potato industry commission created in section 2 of
5 1970 PA 29, MCL 290.422.

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

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

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



1 (g) On and after the effective date of the amendatory act that
2 added this subdivision, any circumstances, including, but not
3 limited to, any of the circumstances requiring accommodation of
4 absent members described in section 3(2), if all of the following
5 conditions are met:

6 (i) No member of the public body is elected directly by the
7 electors to serve on the public body.

8 (ii) No member of the public body receives compensation for
9 serving on the public body. As used in this subparagraph,
10 "compensation" does not include a payment authorized by the public
11 body, including a per diem payment, to reimburse a member's
12 reasonable expenses incurred incident to serving on the public
13 body.

14 (iii) The public body is not authorized by law to directly raise
15 revenue by imposing any tax, millage, assessment, or fee on
16 persons, property, or transactions within the jurisdiction of the
17 public body. A public body's receipt of 1-time funding from this
18 state, the federal government, or any other governmental entity
19 does not disqualify the public body from meeting remotely under
20 this subparagraph.

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



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

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

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

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

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

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

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

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

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

27 (7) Members of the general public otherwise participating in a
28 meeting of a public body held electronically under this section are
29 to be excluded from participation in a closed session of the public



body held electronically during that meeting if the closed session is convened and held in compliance with the requirements of this act applicable to a closed session.

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