

HOUSE BILL NO. 4817

June 15, 2023, Introduced by Reps. Brenda Carter, Rheingans, Scott, McKinney, O'Neal, Neeley, Dievendorf, Edwards, Koleszar, Arbit, MacDonell, Wilson, Puri, Breen, Conlin, Paiz, Morgan, Pohutsky, Young, Price, Farhat, Tsernoglou and Coleman and referred to the Committee on Local Government and Municipal Finance.

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 and retroactive to March 18, 2020,
2 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 **absent** 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 (c) Subject to ~~subdivision~~ **subdivisions** (d) **and (e)**, after
16 December 31, 2021, only in the circumstances requiring
17 accommodation of members absent due to military duty as described
18 in section 3(2).

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

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

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

29 (iii) The potato industry commission created in section 2 of

1 1970 PA 29, MCL 290.422.

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

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

9 (i) The public body provides, in addition to remote access to
10 the meeting by electronic means, a physical place for the meeting
11 open to members of the public who wish to attend in person and at
12 which at least 1 member of the public body attends in person.

13 (ii) The public body records the meeting in a manner that
14 allows for the capture of sound, including, without limitation, in
15 any of the following formats:

16 (A) A sound-only recording.

17 (B) A video recording with sound and picture.

18 (C) A digital or analog broadcast capable of being recorded.

19 (iii) The public body maintains, and provides public access to,
20 the recording required under subparagraph (ii) for at least 1 year.

21 (iv) One of the following, as applicable:

22 (A) For a meeting of a local public body, members of the local
23 public body attending the meeting remotely by electronic means are
24 either physically located within the boundaries of the county,
25 city, township, village, school district, or other local
26 governmental unit served by the local public body or, if not
27 physically located within those boundaries, are counted as absent
28 from the meeting and ineligible to vote on any matter requiring a
29 vote of the members of the local public body.

1 **(B) For a meeting of a state public body, members of the state**
2 **public body attending the meeting remotely by electronic means are**
3 **either physically located within the boundaries of this state or,**
4 **if not physically located within those boundaries, are counted as**
5 **absent from the meeting and ineligible to vote on any matter**
6 **requiring a vote of the members of the state public body.**

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

28 (4) If a public body directly or indirectly maintains an
29 official internet presence that includes monthly or more frequent

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

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

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

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

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

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

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

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

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

21 (8) At a meeting held under this section that accommodates
22 members absent due to military duty or a medical condition, only
23 those members absent due to military duty or a medical condition
24 may participate remotely. Any member who is not on military duty or
25 does not have a medical condition must be physically present at the
26 meeting to participate. **This subsection does not apply to a meeting**
27 **held under subsection (1) (d) or (e).**