

HOUSE BILL NO. 6283

June 30, 2022, Introduced by Rep. Calley 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 3 (MCL 15.263), as amended by 2020 PA 254, and
by adding section 3b; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) ~~All~~ **Subject to subsections (7) to (11), all**
2 meetings of a public body must be open to the public and, **except as**
3 **otherwise provided in section 3b,** must be ~~held~~ **attended in person**
4 **by every participating member of the public body** in a **physical**
5 place available to the general public. All persons must be

1 permitted to attend any meeting except as otherwise provided in
2 this act. The right of a person to attend a meeting of a public
3 body includes the right to tape-record, to videotape, to broadcast
4 live on radio, and to telecast live on television the proceedings
5 of a public body at a public meeting. The exercise of this right
6 does not depend on the prior approval of the public body. However,
7 a public body may establish reasonable rules and regulations in
8 order to minimize the possibility of disrupting the meeting. ~~For a~~
9 ~~meeting of a public body held in person before April 1, 2021, the~~
10 ~~public body shall do both of the following:~~

11 ~~(a) To the extent feasible under the circumstances, ensure~~
12 ~~adherence to social distancing and mitigation measures recommended~~
13 ~~by the Centers for Disease Control and Prevention for purposes of~~
14 ~~preventing the spread of COVID-19, including the measure that an~~
15 ~~individual remain at least 6 feet from anyone from outside the~~
16 ~~individual's household.~~

17 ~~(b) Adopt heightened standards of facility cleaning and~~
18 ~~disinfection to limit participant exposure to COVID-19, as well as~~
19 ~~protocols to clean and disinfect in the event of a positive COVID-~~
20 ~~19 case in the public body's meeting place.~~

21 (2) All decisions of a public body must be made at a meeting
22 open to the public, **as provided in subsection (1)**. ~~For purposes of~~
23 ~~any meeting subject to this section, except a meeting of any state~~
24 ~~legislative body at which a formal vote is taken, the public body~~
25 ~~shall, subject to section 3a, establish the following procedures to~~
26 ~~accommodate the absence of any member of the public body due to~~
27 ~~military duty, a medical condition, or a statewide or local state~~
28 ~~of emergency or state of disaster declared pursuant to law or~~
29 ~~charter or local ordinance by the governor or a local official,~~

1 ~~governing body, or chief administrative officer that would risk the~~
2 ~~personal health or safety of members of the public or the public~~
3 ~~body if the meeting were held in person:~~

4 ~~(a) Procedures by which the absent member may participate in,~~
5 ~~and vote on, business before the public body, including, but not~~
6 ~~limited to, procedures that provide for both of the following:~~

7 ~~(i) Two-way communication.~~

8 ~~(ii) For each member of the public body attending the meeting~~
9 ~~remotely, a public announcement at the outset of the meeting by~~
10 ~~that member, to be included in the meeting minutes, that the member~~
11 ~~is in fact attending the meeting remotely. If the member is~~
12 ~~attending the meeting remotely for a purpose other than for~~
13 ~~military duty, the member's announcement must further identify~~
14 ~~specifically the member's physical location by stating the county,~~
15 ~~city, township, or village and state from which he or she is~~
16 ~~attending the meeting remotely.~~

17 ~~(b) Procedures by which the public is provided notice of the~~
18 ~~absence of the member and information about how to contact that~~
19 ~~member sufficiently in advance of a meeting of the public body to~~
20 ~~provide input on any business that will come before the public~~
21 ~~body.~~

22 (3) All deliberations of a public body ~~constituting a quorum~~
23 ~~of its members~~ must take place at a meeting open to the public,
24 ~~except as provided in this section and sections 7 and 8.~~ **as provided**
25 **in subsection (1).**

26 (4) A person must not be required as a condition of attendance
27 at a meeting of a public body to register or otherwise provide his
28 or her name or other information or otherwise to fulfill a
29 condition precedent to attendance.

1 (5) A person must be permitted to address a meeting of a
2 public body under rules established and recorded by the public
3 body. The legislature or a house of the legislature may provide by
4 rule that the right to address may be limited to prescribed times
5 at hearings and committee meetings only.

6 (6) A person must not be excluded from a meeting otherwise
7 open to the public except for a breach of the peace actually
8 committed at the meeting.

9 (7) This act does not apply to the following public bodies,
10 but only when deliberating the merits of a case:

11 (a) The Michigan compensation appellate commission operating
12 as described in either of the following:

13 (i) Section 274 of the worker's disability compensation act of
14 1969, 1969 PA 317, MCL 418.274.

15 (ii) Section 34 of the Michigan employment security act, 1936
16 (Ex Sess) PA 1, 421.34.

17 (b) The state tenure commission created in section 1 of
18 article VII of 1937 (Ex Sess) PA 4, MCL 38.131, when acting as a
19 board of review from the decision of a controlling board.

20 (c) The employment relations commission or an arbitrator or
21 arbitration panel created or appointed under 1939 PA 176, MCL 423.1
22 to 423.30.

23 (d) The Michigan public service commission created under 1939
24 PA 3, MCL 460.1 to 460.11.

25 (8) This act does not apply to an association of insurers
26 created under the insurance code of 1956, 1956 PA 218, MCL 500.100
27 to 500.8302, or other association or facility formed under that act
28 as a nonprofit organization of insurer members.

29 (9) This act does not apply to a committee of a public body

1 that adopts a ~~nonpolicymaking~~ **non-policy-making** resolution of
 2 tribute or memorial, if the resolution is not adopted at a meeting.

3 (10) This act does not apply to a meeting that is a social or
 4 chance gathering or conference not designed to avoid this act.

5 (11) This act does not apply to the Michigan veterans' trust
 6 fund board of trustees or a county or district committee created
 7 under 1946 (1st Ex Sess) PA 9, MCL 35.602 to 35.610, when the board
 8 of trustees or county or district committee is deliberating the
 9 merits of an emergent need. A decision of the board of trustees or
 10 county or district committee made under this subsection must be
 11 reconsidered by the board or committee at its next regular or
 12 special meeting consistent with the requirements of this act.
 13 "Emergent need" means a situation that the board of trustees, by
 14 rules promulgated under the administrative procedures act of 1969,
 15 1969 PA 306, MCL 24.201 to 24.328, determines requires immediate
 16 action.

17 ~~(12) As used in subsection (2):~~

18 ~~(a) "Formal vote" means a vote on a bill, amendment,~~
 19 ~~resolution, motion, proposal, recommendation, or any other measure~~
 20 ~~on which a vote by members of a state legislative body is required~~
 21 ~~and by which the state legislative body effectuates or formulates~~
 22 ~~public policy.~~

23 ~~(b) "Medical condition" means an illness, injury, disability,~~
 24 ~~or other health-related condition.~~

25 **Sec. 3b. (1) Remote attendance electronically by telephonic or**
 26 **video conferencing or other similar means at a meeting of a public**
 27 **body, as described in section 3(1), (2), or (3), is permitted under**
 28 **this act only as provided in this section. Except as otherwise**
 29 **provided in this section, all of the provisions of this act**

1 applicable to meetings of a public body held in person in a
2 physical place apply to a meeting of a public body held remotely in
3 whole or in part under this section.

4 (2) Subject to subsection (4), all of the following apply to a
5 meeting of a public body as described in section 3(1), (2), or (3),
6 except a meeting of any state legislative body at which a formal
7 vote is taken, if the public body has 1 or more members who either
8 are elected to serve or are compensated for their service on the
9 public body, or both:

10 (a) If at least a quorum of the public body's members attend
11 the meeting in person in a physical place available to the general
12 public, 1 or more other members may attend the meeting remotely and
13 fully participate in all deliberations and decisions that may occur
14 at the meeting, subject to subdivision (b).

15 (b) A member's remote attendance under subdivision (a) is
16 subject to all of the following:

17 (i) The number of meetings that may be attended remotely by a
18 member must not exceed the lesser of the following:

19 (A) 10% of the public body's meetings per year.

20 (B) 3 meetings per year.

21 (ii) A member may not attend a meeting remotely unless the
22 member has provided written notice to all other members of the
23 public body of his or her intent to attend remotely at least 18
24 hours before the meeting.

25 (iii) A member may attend a meeting remotely only with the
26 unanimous consent of the entire public body, which may be presumed
27 absent a motion by a member not to permit that remote attendance.
28 For any reason, a member of the public body may make a motion not
29 to permit another member's remote attendance, and if the motion

1 carries by 1 or more votes, the member seeking to participate
2 remotely must be considered absent.

3 (iv) A member attending a meeting remotely shall declare the
4 state from which he or she is participating.

5 (c) A public body described in this subsection may make any
6 meeting, whether or not attended remotely by any of its members,
7 accessible to the public remotely and is encouraged to do so.

8 (3) Except as provided in subdivision (d) and subject to
9 subsection (4), all of the following apply to a meeting of a public
10 body as described in section 3(1), (2), or (3), other than a public
11 body described in subsection (2):

12 (a) Subject to subdivisions (b) and (c), the public body may
13 hold the meeting in either of the following places:

14 (i) A physical place available to the general public at which
15 at least 1 of the public body's participating members attends in
16 person and other members attend remotely.

17 (ii) A virtual place at which all of the public body's
18 participating members attend remotely.

19 (b) Whether attending a meeting in person or remotely under
20 subdivision (a), a member may fully participate in all
21 deliberations and decisions that may occur at the meeting.

22 (c) If a meeting is held virtually under subdivision (a) (ii),
23 the public body shall make the meeting accessible to the public
24 remotely. For all other meetings subject to this subsection,
25 including a meeting under subdivisions (a) (i) or (d), the public
26 body may make the meeting accessible to the public remotely and is
27 encouraged to do so.

28 (d) Notwithstanding any provisions of subdivisions (a) to (c)
29 to the contrary, a meeting of a public body described in this

1 subsection must be attended in person by the public body's members
2 in a physical place available to the general public in both of the
3 following circumstances:

4 (i) One annual meeting of the public body.

5 (ii) Any meeting at which the public body conducts a public
6 hearing.

7 (4) Notwithstanding any provision of this section to the
8 contrary, a public body shall accommodate the need for remote
9 meeting attendance and participation of a member of the public body
10 or a member of the public who, because of his or her disability,
11 desires and is entitled to an accommodation in the form of remote
12 meeting attendance and participation under the Americans with
13 disability act, the persons with disabilities civil rights act, or
14 both. An accommodation under this subsection may be made only for
15 those members of the public body and members of the public who,
16 because of their disabilities, are entitled to an accommodation in
17 the form of remote meeting attendance and participation under the
18 Americans with disabilities act, the persons with disabilities
19 civil rights act, or both, and the remote meeting attendance and
20 participation of any other member of the public body or member of
21 the public is permitted, if at all, only as provided in subsections
22 (2) and (3). As used in this subsection:

23 (a) "Americans with disabilities act" means the Americans with
24 disabilities act of 1990, Public Law 101-336.

25 (b) "Persons with disabilities civil rights act" means the
26 persons with disabilities civil rights act, 1976 PA 220, MCL
27 37.1101 to 37.1607.

28 (c) "Disability" means 1 of the following, as applicable:

29 (i) Those conditions that qualify one as a qualified individual

1 with a disability under the Americans with disabilities act.

2 (ii) Those conditions that qualify one as a person with a
3 disability under the persons with disabilities civil rights act.

4 Enacting section 1. Section 3a of the open meetings act, 1976
5 PA 267, MCL 15.263a, is repealed.

6 Enacting section 2. Section 3b(4) of the open meetings act,
7 1976 PA 267, MCL 15.263b, as added by this amendatory act, is
8 curative and must be retroactively applied, expressing the
9 legislature's original intent that any limitations in the open
10 meetings act, 1976 PA 267, MCL 15.261 to 15.275, on the remote
11 attendance or participation of an individual at a meeting of a
12 public body subject to the open meetings act, 1976 PA 267, MCL
13 15.261 to 15.275, do not prevent either of the following:

14 (a) A public body from complying with the Americans with
15 disabilities act of 1990, Public Law 101-336, or the persons with
16 disabilities civil rights act, 1976 PA 220, MCL 37.1101 to 37.1607,
17 insofar as either or both of these acts require the public body to
18 provide a member of the public body or a member of the public with
19 an accommodation in the form of remote attendance and participation
20 in a meeting of the public body due to his or her disability.

21 (b) A public body from permitting members of the public to
22 attend and participate remotely in a meeting of the public body
23 whether or not the meeting is attended remotely by any of the
24 public body's members.