

HOUSE BILL NO. 5686

April 25, 2024, Introduced by Reps. Wendzel, Alexander, Breen, Wozniak and Bezotte and referred to the Committee on Ethics and Oversight.

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) On and after the effective date of the amendatory act that
28 added this subdivision, for a public body that is a governing body
29 of a public community or junior college established under section 7

1 of article VIII of the state constitution of 1963 or part 25 of the
2 revised school code, 1976 PA 451, MCL 380.1601 to 380.1607, any
3 circumstances, including, but not limited to, any of the
4 circumstances requiring accommodation of absent members described
5 in section 3(2), if all of the following conditions are met:

6 (i) The public body has passed a resolution that permits its
7 members to participate remotely in meetings subject to this act.

8 (ii) At least a quorum of the public body attends the meeting
9 in person in a physical location open to the public as described in
10 section 3(1).

11 (iii) In addition to the 2-way communication required under
12 subsection (2), members of the public body participating remotely,
13 when speaking or voting, are visible to other members of the public
14 body and members of the general public who are attending the
15 meeting in person or remotely.

16 (2) A meeting of a public body held electronically under this
17 section must be conducted in a manner that permits 2-way
18 communication so that members of the public body can hear and be
19 heard by other members of the public body, and so that public
20 participants can hear members of the public body and can be heard
21 by members of the public body and other participants during a
22 public comment period. A public body may use technology to
23 facilitate typed public comments during the meeting submitted by
24 members of the public participating in the meeting that may be read
25 to or shared with members of the public body and other participants
26 to satisfy the requirement under this subsection that members of
27 the public be heard by others during the electronic meeting and the
28 requirement under section 3(5) that members of the public be
29 permitted to address the electronic meeting.

1 (3) Except as otherwise provided in ~~subsection~~**subsections**
2 **(1) (g) (ii) and** (8), a physical place is not required for an
3 electronic meeting held under this section, and members of a public
4 body and members of the public participating electronically in a
5 meeting held under this section that occurs in a physical place are
6 to be considered present and in attendance at the meeting for all
7 purposes.

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

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

27 (b) How members of the public may participate in the meeting
28 electronically. If a telephone number, internet address, or both
29 are needed to participate, that information must be provided

1 specifically.

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

5 (d) How persons with disabilities may participate in the
6 meeting.

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

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

23 (7) Members of the general public otherwise participating in a
24 meeting of a public body held electronically under this section are
25 to be excluded from participation in a closed session of the public
26 body held electronically during that meeting if the closed session
27 is convened and held in compliance with the requirements of this
28 act applicable to a closed session.

29 (8) At a meeting held under this section that accommodates

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