

HOUSE BILL No. 5459

March 8, 2012, Introduced by Rep. Opsommer and referred to the Committee on Oversight, Reform, and Ethics.

A bill to amend 1976 PA 267, entitled
"Open meetings act,"
by amending section 5 (MCL 15.265), as amended by 1984 PA 167.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) A meeting of a public body shall not be held
2 unless public notice is given as provided in this section by a
3 person designated by the public body.

4 (2) For regular meetings of a public body, there shall be
5 posted within 10 days after the first meeting of the public body in
6 each calendar or fiscal year a public notice stating the dates,
7 times, and places of its regular meetings.

8 (3) If there is a change in the schedule of regular meetings
9 of a public body, there shall be posted within 3 days after the
10 meeting at which the change is made, a public notice stating the

1 new dates, times, and places of its regular meetings.

2 (4) Except as provided in this subsection or in subsection
3 (6), for a rescheduled regular or a special meeting of a public
4 body, a public notice stating the date, time, and place of the
5 meeting shall be posted at least 18 hours before the meeting. The
6 requirement of 18-hour notice shall not apply to special meetings
7 of subcommittees of a public body or conference committees of the
8 state legislature. A conference committee shall give a 6-hour
9 notice. A second conference committee shall give a 1-hour notice.
10 Notice of a conference committee meeting shall include written
11 notice to each member of the conference committee and the majority
12 and minority leader of each house indicating time and place of the
13 meeting. ~~This subsection does not apply to a public meeting held
14 pursuant to section 4(2) to (5) of Act No. 239 of the Public Acts
15 of 1955, as amended, being section 200.304 of the Michigan Compiled
16 Laws.~~

17 (5) A meeting of a public body ~~which~~ **THAT** is recessed for more
18 than 36 hours shall be reconvened only after public notice, which
19 is equivalent to that required under subsection (4), has been
20 posted. If either house of the state legislature is adjourned or
21 recessed for less than 18 hours, the notice provisions of
22 subsection (4) are not applicable. Nothing in this section ~~shall~~
23 ~~bar~~ **BARS** a public body from meeting in emergency session in the
24 event of a severe and imminent threat to the health, safety, or
25 welfare of the public when 2/3 of the members serving on the body
26 decide that delay would be detrimental to efforts to lessen or
27 respond to the threat. **HOWEVER, BEFORE A PUBLIC BODY HOLDS AN**

1 EMERGENCY PUBLIC MEETING THAT DOES NOT COMPLY WITH THE 18-HOUR
2 POSTED NOTICE REQUIREMENT OF THIS SECTION, THE PUBLIC BODY SHALL
3 NOTIFY THE SECRETARY OF STATE OF ITS INTENT. THE NOTICE TO THE
4 SECRETARY OF STATE SHALL BE SENT BY ELECTRONIC MAIL, FACSIMILE, AND
5 THE UNITED STATES POSTAL SERVICE AND SHALL INCLUDE AN EXPLANATION
6 OF THE REASONS THAT THE PUBLIC BODY WILL NOT COMPLY WITH THE
7 REQUIREMENT TO GIVE THE PUBLIC 18 HOURS OF POSTED PUBLIC NOTICE OF
8 THE MEETING. THE PUBLIC BODY SHALL MAKE PAPER COPIES OF THE NOTICE
9 THAT WAS SENT TO THE SECRETARY OF STATE AVAILABLE TO THE PUBLIC AT
10 THE MEETING TO WHICH THE NOTICE APPLIES. NOTICE TO THE SECRETARY OF
11 STATE DOES NOT CREATE, AND SHALL NOT BE CONSTRUED TO CREATE, A
12 LEGAL BASIS OR DEFENSE FOR FAILURE TO COMPLY WITH PROVISIONS OF
13 THIS ACT AND DOES NOT RELIEVE A PUBLIC BODY FROM THE DUTY TO COMPLY
14 WITH ANY PROVISION IN THIS ACT.

15 (6) A meeting of a public body may only take place in a
16 residential dwelling if a nonresidential building within the
17 boundary of the local governmental unit or school system is not
18 available without cost to the public body. For a meeting of a
19 public body which is held in a residential dwelling, notice of the
20 meeting shall be published as a display advertisement in a
21 newspaper of general circulation in the city or township in which
22 the meeting is to be held. The notice shall be published not less
23 than 2 days before the day on which the meeting is held, and shall
24 state the date, time, and place of the meeting. The notice ~~, which~~
25 shall be at the bottom of the display advertisement, ~~and which~~
26 ~~shall be set off in a conspicuous manner, shall~~ **AND** include the
27 following language: "This meeting is open to all members of the

1 public under Michigan's open meetings act".

2 (7) A DURATIONAL REQUIREMENT FOR POSTING A PUBLIC NOTICE OF A
3 MEETING UNDER THIS ACT IS THE TIME THAT THE NOTICE IS REQUIRED TO
4 BE ACCESSIBLE TO THE PUBLIC.