

HOUSE BILL No. 6509

November 27, 2018, Introduced by Rep. Howrylak and referred to the Committee on Government Operations.

A bill to amend 1976 PA 267, entitled "Open meetings act," by amending sections 3, 7, 8, and 13a (MCL 15.263, 15.267, 15.268, and 15.273a), section 3 as amended by 2016 PA 504 and sections 7 and 8 as amended and section 13a as added by 1996 PA 464.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) All meetings of a public body shall be open to the
2 public and shall be held in a place available to the general
3 public. All persons shall be permitted to attend any meeting except
4 as otherwise provided in this act. The right of a person to attend
5 a meeting of a public body includes the right to tape-record, to
6 videotape, to broadcast live on radio, and to telecast live on
7 television the proceedings of a public body at a public meeting.
8 The exercise of this right shall not be dependent upon the prior
9 approval of the public body. However, a public body may establish

1 reasonable rules and regulations in order to minimize the
2 possibility of disrupting the meeting.

3 (2) All decisions of a public body shall be made at a meeting
4 open to the public.

5 (3) All deliberations of a public body constituting a quorum
6 of its members shall take place at a meeting open to the public
7 except as provided in this section and sections 7 and 8. **FOR**
8 **PURPOSES OF THIS SUBSECTION, PUBLIC BODY INCLUDES A PARTISAN CAUCUS**
9 **OF MEMBERS OF A STATE OR LOCAL LEGISLATIVE OR GOVERNING BODY TO**
10 **CONSIDER MATTERS BEFORE THE LEGISLATIVE OR GOVERNING BODY.**

11 (4) A person shall not be required as a condition of
12 attendance at a meeting of a public body to register or otherwise
13 provide his or her name or other information or otherwise to
14 fulfill a condition precedent to attendance.

15 (5) A person shall be permitted to address a meeting of a
16 public body under rules established and recorded by the public
17 body. The legislature or a house of the legislature may provide by
18 rule that the right to address may be limited to prescribed times
19 at hearings and committee meetings only.

20 (6) A person shall not be excluded from a meeting otherwise
21 open to the public except for a breach of the peace actually
22 committed at the meeting.

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

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

27 (i) Section 274 of the worker's disability compensation act of

1 1969, 1969 PA 317, MCL 418.274.

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

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

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

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

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

16 (9) This act does not apply to a committee of a public body
17 that adopts a nonpolicymaking resolution of tribute or memorial,
18 which resolution is not adopted at a meeting.

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

21 (11) This act does not apply to the Michigan veterans' trust
22 fund board of trustees or a county or district committee created
23 under 1946 (1st Ex Sess) PA 9, MCL 35.602 to 35.610, when the board
24 of trustees or county or district committee is deliberating the
25 merits of an emergent need. A decision of the board of trustees or
26 county or district committee made under this subsection shall be
27 reconsidered by the board or committee at its next regular or

1 special meeting consistent with the requirements of this act.
2 "Emergent need" means a situation that the board of trustees, by
3 rules promulgated under the administrative procedures act of 1969,
4 1969 PA 306, MCL 24.201 to 24.328, determines requires immediate
5 action.

6 Sec. 7. (1) A 2/3 roll call vote of members elected or
7 appointed and serving is required to call a closed session, except
8 for the closed sessions permitted under section 8(a), (b), (c),
9 ~~(g), (i), and (j)~~. **(H), AND (I)**. The roll call vote and the purpose
10 or purposes for calling the closed session shall be entered into
11 the minutes of the meeting at which the vote is taken.

12 (2) A separate set of minutes shall be taken by the clerk or
13 the designated secretary of the public body at the closed session.
14 These minutes shall be retained by the clerk of the public body,
15 are not available to the public, and shall only be disclosed if
16 required by a civil action filed under section 10, 11, or 13. These
17 minutes may be destroyed 1 year and 1 day after approval of the
18 minutes of the regular meeting at which the closed session was
19 approved.

20 Sec. 8. A public body may meet in a closed session only for
21 the following purposes:

22 (a) To consider the dismissal, suspension, or disciplining of,
23 or to hear complaints or charges brought against, or to consider a
24 periodic personnel evaluation of, a public officer, employee, staff
25 member, or individual agent, if the named person requests a closed
26 hearing. A person requesting a closed hearing may rescind the
27 request at any time, in which case the matter at issue shall be

1 considered after the rescission only in open sessions.

2 (b) To consider the dismissal, suspension, or disciplining of
3 a student if the public body is part of the school district,
4 intermediate school district, or institution of higher education
5 that the student is attending, and if the student or the student's
6 parent or guardian requests a closed hearing.

7 (c) For strategy and negotiation sessions connected with the
8 negotiation of a collective bargaining agreement if either
9 negotiating party requests a closed hearing.

10 (d) To consider the purchase or lease of real property up to
11 the time an option to purchase or lease that real property is
12 obtained.

13 (e) To consult with its attorney regarding trial or settlement
14 strategy in connection with specific pending litigation, but only
15 if an open meeting would have a detrimental financial effect on the
16 litigating or settlement position of the public body.

17 (f) To review and consider the contents of an application for
18 employment or appointment to a public office if the candidate
19 requests that the application remain confidential. However, except
20 as otherwise provided in this subdivision, all interviews by a
21 public body for employment or appointment to a public office shall
22 be held in an open meeting pursuant to this act. This subdivision
23 does not apply to a public office described in subdivision ~~(j)~~. **(I)**.

24 ~~— (g) Partisan caucuses of members of the state legislature.~~

25 **(G)** ~~(h)~~ To consider material exempt from discussion or
26 disclosure by state or federal statute.

27 **(H)** ~~(i)~~ For a compliance conference conducted by the

1 ~~department of commerce~~ under section 16231 of the public health
2 code, ~~Act No. 368 of the Public Acts of 1978, being section~~
3 ~~333.16231 of the Michigan Compiled Laws, 1978 PA 368, MCL~~
4 **333.16231**, before a complaint is issued.

5 (I) ~~(j)~~—In the process of searching for and selecting a
6 president of an institution of higher education established under
7 section 4, 5, or 6 of article VIII of the state constitution of
8 1963, to review the specific contents of an application, to conduct
9 an interview with a candidate, or to discuss the specific
10 qualifications of a candidate if the particular process of
11 searching for and selecting a president of an institution of higher
12 education meets all of the following requirements:

13 (i) The search committee in the process, appointed by the
14 governing board, consists of at least 1 student of the institution,
15 1 faculty member of the institution, 1 administrator of the
16 institution, 1 alumnus of the institution, and 1 representative of
17 the general public. The search committee also may include 1 or more
18 members of the governing board of the institution, but the number
19 shall not constitute a quorum of the governing board. However, the
20 search committee shall not be constituted in such a way that any 1
21 of the groups described in this subparagraph constitutes a majority
22 of the search committee.

23 (ii) After the search committee recommends the 5 final
24 candidates, the governing board does not take a vote on a final
25 selection for the president until at least 30 days after the 5
26 final candidates have been publicly identified by the search
27 committee.

1 (iii) The deliberations and vote of the governing board of the
2 institution on selecting the president take place in an open
3 session of the governing board.

4 Sec. 13a. If the governing board of an institution of higher
5 education established under section 4, 5, or 6 of article VIII of
6 the state constitution of 1963 violates this act with respect to
7 the process of selecting a president of the institution at any time
8 after the recommendation of final candidates to the governing
9 board, as described in section ~~8(j)~~, **8(I)**, the institution is
10 responsible for the payment of a civil fine of not more than
11 \$500,000.00. This civil fine is in addition to any other remedy or
12 penalty under this act. To the extent possible, any payment of
13 fines imposed under this section shall be paid from funds allocated
14 by the institution of higher education to pay for the travel and
15 expenses of the members of the governing board.

16 Enacting section 1. This amendatory act takes effect 90 days
17 after the date it is enacted into law.

18 Enacting section 2. This amendatory act does not take effect
19 unless Senate Bill No. _____ or House Bill No. 6510 (request no.
20 05687'18 a) of the 99th Legislature is enacted into law.