

**SUBSTITUTE FOR  
HOUSE BILL NO. 5096**

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:

7           (a) Before March 31, 2021 and retroactive to March 18, 2020,  
8 any circumstances, including, but not limited to, any of the  
9 circumstances requiring accommodation of absent members described



1 in section 3(2).

2 (b) Subject to ~~subdivision~~**subdivisions** (d) **and (e)**, on and  
3 after March 31, 2021 through December 31, 2021, only those  
4 circumstances requiring accommodation of members absent for the  
5 reasons described in section 3(2). For the purpose of permitting an  
6 electronic meeting due to a local state of emergency or state of  
7 disaster, this subdivision applies only as follows:

8 (i) To permit the electronic attendance of a member of the  
9 public body who resides in the affected area.

10 (ii) To permit the electronic meeting of a public body that  
11 usually holds its meetings in the affected area.

12 (c) Subject to ~~subdivision~~**subdivisions** (d) **and (e)**, after  
13 December 31, 2021, only in the circumstances requiring  
14 accommodation of members absent due to military duty as described  
15 in section 3(2).

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

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

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

26 (iii) The potato industry commission created in section 2 of  
27 1970 PA 29, MCL 290.422.

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



1 (e) On and after March 31, 2021 through December 31, 2026, for  
2 meetings of the Michigan state housing development authority held  
3 pursuant to section 21(5) of the state housing development  
4 authority act of 1966, 1966 PA 346, MCL 125.1421, any  
5 circumstances, including, but not limited to, any of the  
6 circumstances requiring accommodation of absent members described  
7 in section 3(2).

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

22 (3) Except as otherwise provided in subsection (8), a physical  
23 place is not required for an electronic meeting held under this  
24 section, and members of a public body and members of the public  
25 participating electronically in a meeting held under this section  
26 that occurs in a physical place are to be considered present and in  
27 attendance at the meeting for all 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 name or other information or otherwise to fulfill a condition  
12 precedent to attendance, other than mechanisms established and  
13 required by the public body necessary to permit the person to  
14 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.

27 Enacting section 1. This amendatory act does not take effect  
28 unless House Bill No. 4950 of the 101st Legislature is enacted into  
29 law.

