

HOUSE BILL NO. 5427

October 20, 2021, Introduced by Reps. Howell, Bellino, Sneller and Ellison 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 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

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~~**subdivisions** (d) **and (e)**, on and
7 after March 31, 2021 through December 31, 2021, only those
8 circumstances requiring accommodation of members absent for the
9 reasons described in section 3(2). For the purpose of permitting an
10 electronic meeting due to a local state of emergency or state of
11 disaster, this subdivision applies only as 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 ~~subdivision~~**subdivisions** (d) **and (e)**, 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, for a public body that is responsible for
7 the investment, administration, or management of a municipal public
8 employee retirement system, any circumstances, including, but not
9 limited to, any of the circumstances requiring accommodation of
10 absent members described in section 3(2). As used in this
11 subdivision, "municipal public employee retirement system" means a
12 retirement system as defined in section 3 of the protecting local
13 government retirement and benefits act, 2017 PA 202, MCL 38.2803.
14 This subdivision does not prohibit a public body described in this
15 subdivision from requiring in-person participation of its members
16 at any meeting subject to this act.

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

1 permitted to address the electronic meeting.

2 (3) Except as otherwise provided in subsection (8), a physical
3 place is not required for an electronic meeting held under this
4 section, and members of a public body and members of the public
5 participating electronically in a meeting held under this section
6 that occurs in a physical place are to be considered present and in
7 attendance at the meeting for all 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 ~~the effective date of the amendatory act that~~
8 ~~added this section,~~ **October 16, 2020**, if an agenda exists for an
9 electronic meeting held under this section by a public body that
10 directly or indirectly maintains an official internet presence that
11 includes monthly or more frequent updates of public meeting agendas
12 or minutes, the public body shall, on a portion of the website that
13 is fully accessible to the public, make the agenda available to the
14 public at least 2 hours before the electronic meeting begins. This
15 publication of the agenda does not prohibit subsequent amendment of
16 the agenda at the meeting.

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

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

1 (8) At a meeting held under this section that accommodates
2 members absent due to military duty or a medical condition, only
3 those members absent due to military duty or a medical condition
4 may participate remotely. Any member who is not on military duty or
5 does not have a medical condition must be physically present at the
6 meeting to participate.