

# HOUSE BILL NO. 6021

April 14, 2022, Introduced by Reps. Brenda Carter, Cherry, Sneller, Garza, Scott, Steckloff, Stone, Kuppa, Breen, Hope, Manoogian, Koleszar, Morse, Pohutsky, Lasinski, Ellison, Weiss, Haadsma, Sowerby, Hertel, Tyrone Carter, Cynthia Johnson, Brabec, Young and Jones 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  
6 circumstances:

1 (a) Before March 31, 2021 and retroactive to March 18, 2020,  
2 any circumstances, including, but not limited to, any of the  
3 circumstances requiring accommodation of absent members described  
4 in section 3(2).

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

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

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

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

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

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

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

29 (iii) The potato industry commission created in section 2 of

1 1970 PA 29, MCL 290.422.

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

4 (e) On and after the effective date of the amendatory act that  
5 added this subdivision, for a local public body, any circumstances,  
6 including, but not limited to, any of the circumstances requiring  
7 accommodation of absent members described in section 3(2), if all  
8 of the following conditions are met:

9 (i) The local public body provides, in addition to remote  
10 access to the meeting by electronic means, a physical place for the  
11 meeting open to members of the public who wish to attend in person  
12 and at which at least 1 member of the local public body attends in  
13 person.

14 (ii) The local public body records the meeting in a manner that  
15 allows for the capture of sound, including, without limitation, in  
16 any of the following formats:

17 (A) A sound-only recording.

18 (B) A video recording with sound and picture.

19 (C) A digital or analog broadcast capable of being recorded.

20 (iii) The local public body maintains, and provides public  
21 access to, the recording required under subparagraph (ii) for at  
22 least 1 year.

23 (iv) Members of the local public body attending the meeting  
24 remotely by electronic means are either physically located within  
25 the boundaries of the county, city, township, village, school  
26 district, or other local governmental unit served by the local  
27 public body or, if not physically located within those boundaries,  
28 are counted as absent from the meeting and ineligible to vote on  
29 any matter requiring a vote of the members of the local public

1 **body.**

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

16 (3) Except as otherwise provided in ~~subsection~~ **subsections**  
17 **(1) (e) and** (8), a physical place is not required for an electronic  
18 meeting held under this section, and members of a public body and  
19 members of the public participating electronically in a meeting  
20 held under this section that occurs in a physical place are to be  
21 considered present and in attendance at the meeting for all  
22 purposes.

23 (4) If a public body directly or indirectly maintains an  
24 official internet presence that includes monthly or more frequent  
25 updates of public meeting agendas or minutes, the public body  
26 shall, in addition to any other notices that may be required under  
27 this act, post advance notice of a meeting held electronically  
28 under this section on a portion of the public body's website that  
29 is fully accessible to the public. The public notice on the website

1 must be included on either the homepage or on a separate webpage  
2 dedicated to public notices for nonregularly scheduled or  
3 electronic public meetings that is accessible through a prominent  
4 and conspicuous link on the website's homepage that clearly  
5 describes its purpose for public notification of nonregularly  
6 scheduled or electronic public meetings. Subject to the  
7 requirements of this section, any scheduled meeting of a public  
8 body may be held as an electronic meeting under this section if a  
9 notice consistent with this section is posted at least 18 hours  
10 before the meeting begins. Notice of a meeting of a public body  
11 held electronically must clearly explain all of the following:

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

13 (b) How members of the public may participate in the meeting  
14 electronically. If a telephone number, internet address, or both  
15 are needed to participate, that information must be provided  
16 specifically.

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

20 (d) How persons with disabilities may participate in the  
21 meeting.

22 (5) Beginning on ~~the effective date of the amendatory act that~~  
23 ~~added this section,~~ **October 16, 2020**, if an agenda exists for an  
24 electronic meeting held under this section by a public body that  
25 directly or indirectly maintains an official internet presence that  
26 includes monthly or more frequent updates of public meeting agendas  
27 or minutes, the public body shall, on a portion of the website that  
28 is fully accessible to the public, make the agenda available to the  
29 public at least 2 hours before the electronic meeting begins. This

1 publication of the agenda does not prohibit subsequent amendment of  
2 the agenda at the meeting.

3 (6) A public body shall not, as a condition of participating  
4 in an electronic meeting of the public body held under this  
5 section, require a person to register or otherwise provide his or  
6 her name or other information or otherwise to fulfill a condition  
7 precedent to attendance, other than mechanisms established and  
8 required by the public body necessary to permit the person to  
9 participate in a public comment period of the meeting.

10 (7) Members of the general public otherwise participating in a  
11 meeting of a public body held electronically under this section are  
12 to be excluded from participation in a closed session of the public  
13 body held electronically during that meeting if the closed session  
14 is convened and held in compliance with the requirements of this  
15 act applicable to a closed session.

16 (8) At a meeting held under this section that accommodates  
17 members absent due to military duty or a medical condition, only  
18 those members absent due to military duty or a medical condition  
19 may participate remotely. Any member who is not on military duty or  
20 does not have a medical condition must be physically present at the  
21 meeting to participate. **This subsection does not apply to a meeting**  
22 **held under subsection (1) (d) or (e) .**