

HOUSE BILL NO. 4371

February 25, 2021, Introduced by Reps. Clemente, Steckloff, Liberati, Witwer, Cherry, Manoogian, Scott, Aiyash, Brenda Carter, Shannon, Hope, Brixie, Hood, Brabec, Tyrone Carter, Pohutsky, Young and Bolden 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 2020 PA 254.

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) ~~On~~**Subject to subdivision (d), on** and after March 31, 2021
7 through December 31, 2021, only those circumstances requiring
8 accommodation of members absent for the reasons described in
9 section 3(2). For the purpose of permitting an electronic meeting
10 due to a local state of emergency or state of disaster, this
11 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) ~~After~~**Subject to subdivision (d), after** December 31, 2021,
17 only in the circumstances requiring accommodation of members absent
18 due to military duty as described in section 3(2).

19 (d) **On and after March 31, 2021, for a public body that is a**
20 **local legislative or governing body, any circumstances, including,**
21 **but not limited to, any of the circumstances requiring**
22 **accommodation of absent members described in section 3(2).**

23 (2) A meeting of a public body held electronically under this
24 section must be conducted in a manner that permits 2-way
25 communication so that members of the public body can hear and be
26 heard by other members of the public body, and so that public
27 participants can hear members of the public body and can be heard
28 by members of the public body and other participants during a
29 public comment period. A public body may use technology to

1 facilitate typed public comments during the meeting submitted by
2 members of the public participating in the meeting that may be read
3 to or shared with members of the public body and other participants
4 to satisfy the requirement under this subsection that members of
5 the public be heard by others during the electronic meeting and the
6 requirement under section 3(5) that members of the public be
7 permitted to address the electronic meeting.

8 (3) Except as otherwise provided in subsection (8), a physical
9 place is not required for an electronic meeting held under this
10 section, and members of a public body and members of the public
11 participating electronically in a meeting held under this section
12 that occurs in a physical place are to be considered present and in
13 attendance at the meeting for all purposes.

14 (4) If a public body directly or indirectly maintains an
15 official internet presence that includes monthly or more frequent
16 updates of public meeting agendas or minutes, the public body
17 shall, in addition to any other notices that may be required under
18 this act, post advance notice of a meeting held electronically
19 under this section on a portion of the public body's website that
20 is fully accessible to the public. The public notice on the website
21 must be included on either the homepage or on a separate webpage
22 dedicated to public notices for nonregularly scheduled or
23 electronic public meetings that is accessible through a prominent
24 and conspicuous link on the website's homepage that clearly
25 describes its purpose for public notification of nonregularly
26 scheduled or electronic public meetings. Subject to the
27 requirements of this section, any scheduled meeting of a public
28 body may be held as an electronic meeting under this section if a
29 notice consistent with this section is posted at least 18 hours

1 before the meeting begins. Notice of a meeting of a public body
2 held electronically must clearly explain all of the following:

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

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

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

11 (d) How persons with disabilities may participate in the
12 meeting.

13 (5) Beginning on the effective date of the amendatory act that
14 added this section, if an agenda exists for an electronic meeting
15 held under this section by a public body that directly or
16 indirectly maintains an official internet presence that includes
17 monthly or more frequent updates of public meeting agendas or
18 minutes, the public body shall, on a portion of the website that is
19 fully accessible to the public, make the agenda available to the
20 public at least 2 hours before the electronic meeting begins. This
21 publication of the agenda does not prohibit subsequent amendment of
22 the agenda at the meeting.

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

1 (7) Members of the general public otherwise participating in a
2 meeting of a public body held electronically under this section are
3 to be excluded from participation in a closed session of the public
4 body held electronically during that meeting if the closed session
5 is convened and held in compliance with the requirements of this
6 act applicable to a closed session.

7 (8) At a meeting held under this section that accommodates
8 members absent due to military duty or a medical condition, only
9 those members absent due to military duty or a medical condition
10 may participate remotely. Any member who is not on military duty or
11 does not have a medical condition must be physically present at the
12 meeting to participate.