

**SUBSTITUTE FOR  
SENATE BILL NO. 870**

A bill to amend 1976 PA 267, entitled  
"Open meetings act,"  
by amending section 3a (MCL 15.263a), as amended by 2023 PA 214.

**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 (d), on and after March 31, 2021  
3 through December 31, 2021, only those circumstances requiring  
4 accommodation of absent members described in section 3(2). For the  
5 purpose of permitting an electronic meeting due to a local state of  
6 emergency or state of disaster, this subdivision applies only as  
7 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 subdivisions (d) ~~, (e), and (f),~~ **to (g)**, 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 ~~the effective date of the amendatory act that~~  
2 ~~added this subdivision, February 13, 2024,~~ for a public body that  
3 is responsible for the investment, administration, or management of  
4 a municipal public employee retirement system, any circumstances,  
5 including, but not limited to, any of the circumstances requiring  
6 accommodation of absent members described in section 3(2). As used  
7 in this subdivision, "municipal public employee retirement system"  
8 means a retirement system as that term is defined in section 3 of  
9 the protecting local government retirement and benefits act, 2017  
10 PA 202, MCL 38.2803. A public body that is eligible to meet  
11 remotely under this subdivision shall set and publish an attendance  
12 policy that includes the determination of a quorum with 1 or more  
13 members participating electronically.

14           (f) On and after ~~the effective date of the amendatory act that~~  
15 ~~added this subdivision, February 13, 2024,~~ for a public body that  
16 is a joint agency formed under article 3 of the Michigan energy  
17 employment act of 1976, 1976 PA 448, MCL 460.831 to 460.848, any  
18 circumstances, including, but not limited to, any of the  
19 circumstances requiring accommodation of absent members described  
20 in section 3(2). As used in this subdivision, "joint agency"  
21 includes a joint agency's board of commissioners and any committee  
22 of the joint agency.

23           **(g) Notwithstanding any other provision of this subsection, on**  
24 **and after the effective date of the amendatory act that added this**  
25 **subdivision, as an accommodation to a member with a disability who**  
26 **requests remote access in order to fully participate in the**  
27 **meeting. A member who seeks an accommodation under this subdivision**  
28 **must not be required to disclose the nature or extent of the**  
29 **disability. This subdivision is subject to all of the following:**

1           (i) Electronic attendance and participation under this  
2 subdivision are permitted only if the member with a disability is  
3 an appointed member of the public body. A member elected directly  
4 by the electors to serve on the public body is not eligible for  
5 electronic attendance and participation under this subdivision.

6           (ii) Electronic attendance and participation under this  
7 subdivision are permitted only if the member with a disability is  
8 physically present in this state throughout the meeting.

9           (iii) Electronic attendance and participation under this  
10 subdivision apply only to those members absent due to a disability.  
11 This subdivision does not authorize a member who does not have a  
12 disability to participate electronically.

13           (iv) This subdivision does not apply to a meeting of a state  
14 legislative body at which a formal vote is taken.

15           (v) As used in this subdivision:

16           (A) "Disability" means a determinable physical or mental  
17 characteristic of an individual, which may result from disease,  
18 injury, congenital condition of birth, or functional disorder, if  
19 the characteristic substantially limits 1 or more of the major life  
20 activities of that individual.

21           (B) "Formal vote" means that term as defined in section 3(12).

22           (C) "Participate" and "participation" include, but are not  
23 limited to, discussing, debating, or voting on a motion, proposal,  
24 recommendation, resolution, order, ordinance, bill, or any other  
25 measure on which a vote by members of the public body is required  
26 and by which the public body effectuates or formulates public  
27 policy.

28           (2) A meeting of a public body held electronically under this  
29 section must be conducted in a manner that permits 2-way

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

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

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

1 describes its purpose for public notification of nonregularly  
2 scheduled or electronic public meetings. Subject to the  
3 requirements of this section, any scheduled meeting of a public  
4 body may be held as an electronic meeting under this section if a  
5 notice consistent with this section is posted at least 18 hours  
6 before the meeting begins. Notice of a meeting of a public body  
7 held electronically must clearly explain all of the following:

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

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

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

16 (d) How ~~persons~~**members of the public** with disabilities may  
17 participate in the meeting.

18 (5) Beginning on October 16, 2020, if an agenda exists for an  
19 electronic meeting held under this section by a public body that  
20 directly or indirectly maintains an official internet presence that  
21 includes monthly or more frequent updates of public meeting agendas  
22 or minutes, the public body shall, on a portion of the website that  
23 is fully accessible to the public, make the agenda available to the  
24 public at least 2 hours before the electronic meeting begins. This  
25 publication of the agenda does not prohibit subsequent amendment of  
26 the agenda at the meeting.

27 (6) A public body shall not, as a condition of participating  
28 in an electronic meeting of the public body held under this  
29 section, require a person to register or otherwise provide the

1 person's name or other information or otherwise to fulfill a  
2 condition precedent to attendance, other than mechanisms  
3 established and required by the public body necessary to permit the  
4 person to participate in a public comment period of the meeting.

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

11 (8) At a meeting held under this section that accommodates  
12 members absent due to military duty or a medical condition, only  
13 those members absent due to military duty or a medical condition  
14 may participate remotely. Any member who is not on military duty or  
15 does not have a medical condition must be physically present at the  
16 meeting to participate. This subsection does not apply to a meeting  
17 of a public body held electronically under subsection (1)(d), (e),  
18 or (f).