

HOUSE BILL NO. 4934

May 27, 2021, Introduced by Rep. Marino 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 the effective date of the amendatory act that**
20 **added this subdivision, for a qualified public body, any**
21 **circumstances, including, but not limited to, any of the**
22 **circumstances requiring accommodation of absent members described**
23 **in section 3(2). As used in this subdivision, "qualified public**
24 **body" means a public body that meets both of the following:**

25 (i) **Is a local, nonlegislative governing body, including a**
26 **board, commission, committee, subcommittee, authority, or council.**

27 (ii) **Is comprised of members each of whom serves by appointment**
28 **or ex-officio, or was elected in a manner other than a general or**
29 **special election.**

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

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

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

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

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

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

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

18 (d) How persons with disabilities may participate in the
19 meeting.

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

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

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

14 (8) At a meeting held under this section that accommodates
15 members absent due to military duty or a medical condition, only
16 those members absent due to military duty or a medical condition
17 may participate remotely. Any member who is not on military duty or
18 does not have a medical condition must be physically present at the
19 meeting to participate.