

ELECTRONIC MEETINGS OF CERTAIN PUBLIC BODIES

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Senate Bill 633 as passed by the Senate

Sponsor: Sen. Ed McBroom

House Committee: Energy

Senate Committee: Oversight

Complete to 12-2-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 633 would amend the Open Meetings Act to allow electronic meetings to be held by a joint agency formed under Article 3 of the Michigan Energy Employment Act, including the board of commissioners and any committee of the joint agency. The bill would apply to the Michigan Public Power Agency and the Michigan South Central Power Agency. The bill is identical to House Bill 5292 of the current legislative session.

The Open Meetings Act generally requires all meetings of a public body to be open to the public and held in a place available to the public, and all decisions of a public body must be made at a meeting open to the public. The act defines “public body” as any of the following:

- A state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function.
- A lessee of a body described above that is performing an essential public purpose and function under the lease agreement.
- The board of a nonprofit corporation formed by a city under section 40 of the Home Rule City Act.

The act allows meetings of a public body to be held electronically or with remote participation under certain circumstances. A public body must establish procedures (which can include holding all or part of the meeting electronically) to accommodate the absence of one of its members due to any of the following:

- Military duty.
- A medical condition. (This provision does not apply after December 31, 2021.)
- A statewide or local state of disaster or state of emergency declared by the governor or certain local officials that would risk the personal health or safety of members of the public body or the public if the meeting were held in person. (This provision does not apply after December 31, 2021.)

At a meeting held electronically to accommodate a member absent due to military duty or a medical condition, only that member can participate remotely. During a local state of disaster or emergency, a meeting may be held electronically only to allow the remote attendance of a member who lives in the affected area or to allow for the electronic meeting of a public body that usually holds its meetings in the affected area.

In addition, an agricultural commodity group can hold a meeting electronically due to any circumstances, including those described above.¹

Under the bill, a public body that is a joint agency formed under Article 3 of the Michigan Energy Employment Act, including the board of commissioners and any committee of the joint agency, could hold a meeting electronically due to any circumstances, including those described above.

The Michigan Energy Employment Act allows two or more municipalities to form a joint agency for the planning, financing, development, acquisition, construction, improvement, enlargement, operation, or maintenance of a joint project or projects to supply electric power and energy. Eligible municipalities include cities, counties, incorporated villages, townships, and metropolitan districts. A municipal unit or other political subdivision of another state or a Canadian province also may become a member or associate member of a joint agency under certain circumstances.

The Michigan Public Power Agency and the Michigan South Central Power Agency are joint agencies to which these provisions would apply.²

MCL 15.263a

BACKGROUND:

In addition to other requirements for meetings held under the act, meetings held electronically must be conducted in a way that allows for two-way communication so that members of the public body can hear one another, public participants can hear the members, and the members of the public body and other public participants can hear public participants during a public comment period. A public body can use technology to allow for typed comments to be submitted by public participants and read to or shared with the members of the public body and other public participants. A public body cannot require a person to register or provide his or her name or other information as a condition of participating in or attending an electronic meeting, except for mechanisms established and required by the public body that are necessary to allow the person to participate in a public comment period.

The public body must post advance notice of a meeting held electronically in a publicly accessible place on its website, if it has an active official internet presence, at least 18 hours before the meeting starts. The notice must include explanations of why the public body is meeting electronically and how members of the public can participate in the meeting, how members of the public can contact members of the public body, and how persons with disabilities can participate in the meeting. If there is an agenda for the meeting, it must be made available to the public at least two hours before the start of the meeting.

¹ See <https://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-4603-FA690029.pdf>

² See <http://www.mpower.org/> and <http://www.mscca.net/>

FISCAL IMPACT:

The bill would have no fiscal impact on the state or on local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.