

SENATE BILL NO. 854

February 01, 2022, Introduced by Senators MCCANN, CHANG, WOJNO, GEISS, BULLOCK, ALEXANDER, POLEHANKI, BAYER, IRWIN, HOLLIER and SANTANA and referred to the Committee on Oversight.

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

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) 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) Subject to subdivision (d), after December 31, 2021, only
17 in the circumstances requiring accommodation of members absent due
18 to military duty **or a medical condition**, as described in section
19 3(2). **At a meeting held under this subdivision, only those members**
20 **absent due to military duty or a medical condition may attend and**
21 **participate electronically. Any member who is not on military duty**
22 **or does not have a medical condition must be physically present at**
23 **the meeting to attend and participate. As used in this subdivision,**
24 **"participate" includes, but is not limited to, discussing,**
25 **debating, or voting on a bill, amendment, resolution, motion,**
26 **proposal, recommendation, or any other measure on which a vote by**
27 **members of the public body is required and by which the public body**
28 **effectuates or formulates public policy.**

29 (d) On and after March 31, 2021, for a public body that is an

1 agricultural commodity group, any circumstances, including, but not
2 limited to, any of the circumstances requiring accommodation of
3 absent members described in section 3(2). As used in this
4 subdivision, "agricultural commodity group" means any of the
5 following:

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

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

10 (iii) The potato industry commission created in section 2 of
11 1970 PA 29, MCL 290.422.

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

14 (2) A meeting of a public body held electronically under this
15 section must be conducted in a manner that permits 2-way
16 communication so that members of the public body can hear and be
17 heard by other members of the public body, and so that public
18 participants can hear members of the public body and can be heard
19 by members of the public body and other participants during a
20 public comment period. A public body may use technology to
21 facilitate typed public comments during the meeting submitted by
22 members of the public participating in the meeting that may be read
23 to or shared with members of the public body and other participants
24 to satisfy the requirement under this subsection that members of
25 the public be heard by others during the electronic meeting and the
26 requirement under section 3(5) that members of the public be
27 permitted to address the electronic meeting.

28 (3) Except as otherwise provided in subsection ~~(8)~~, **(1) (c)**, a
29 physical place is not required for an electronic meeting held under

1 this section, and members of a public body and members of the
2 public participating electronically in a meeting held under this
3 section that occurs in a physical place are to be considered
4 present and in attendance at the meeting for all purposes.

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

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

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

28 (c) How members of the public may contact members of the
29 public body to provide input or ask questions on any business that

1 will come before the public body at the meeting.

2 (d) How persons with disabilities may participate in the
3 meeting.

4 (5) Beginning on ~~the effective date of the amendatory act that~~
5 ~~added this section, **October 16, 2020,**~~ if an agenda exists for an
6 electronic meeting held under this section by a public body that
7 directly or indirectly maintains an official internet presence that
8 includes monthly or more frequent updates of public meeting agendas
9 or minutes, the public body shall, on a portion of the website that
10 is fully accessible to the public, make the agenda available to the
11 public at least 2 hours before the electronic meeting begins. This
12 publication of the agenda does not prohibit subsequent amendment of
13 the agenda at the meeting.

14 (6) A public body shall not, as a condition of participating
15 in an electronic meeting of the public body held under this
16 section, require a person to register or otherwise provide his or
17 her name or other information or otherwise to fulfill a condition
18 precedent to attendance, other than mechanisms established and
19 required by the public body necessary to permit the person to
20 participate in a public comment period of the meeting.

21 (7) Members of the general public otherwise participating in a
22 meeting of a public body held electronically under this section are
23 to be excluded from participation in a closed session of the public
24 body held electronically during that meeting if the closed session
25 is convened and held in compliance with the requirements of this
26 act applicable to a closed session.

27 ~~(8) At a meeting held under this section that accommodates~~
28 ~~members absent due to military duty or a medical condition, only~~
29 ~~those members absent due to military duty or a medical condition~~

- 1 ~~may participate remotely. Any member who is not on military duty or~~
- 2 ~~does not have a medical condition must be physically present at the~~
- 3 ~~meeting to participate.~~