

# HOUSE BILL NO. 5725

May 14, 2024, Introduced by Reps. Alexander, St. Germaine, Martin, Kunse and Bierlein 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 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,

1 any circumstances, including, but not limited to, any of the  
2 circumstances requiring accommodation of absent members described  
3 in section 3(2).

4 (b) Subject to subdivision (d), on and after March 31, 2021  
5 through December 31, 2021, only those circumstances requiring  
6 accommodation of absent members described in section 3(2). For the  
7 purpose of permitting an electronic meeting due to a local state of  
8 emergency or state of disaster, this subdivision applies only as  
9 follows:

10 (i) To permit the electronic attendance of a member of the  
11 public body who resides in the affected area.

12 (ii) To permit the electronic meeting of a public body that  
13 usually holds its meetings in the affected area.

14 (c) Subject to subdivisions (d) ~~, (e), and (f),~~ **to (g)**, after  
15 December 31, 2021, only in the circumstances requiring  
16 accommodation of members absent due to military duty as described  
17 in section 3(2).

18 (d) On and after March 31, 2021, for a public body that is an  
19 agricultural commodity group, any circumstances, including, but not  
20 limited to, any of the circumstances requiring accommodation of  
21 absent members described in section 3(2). As used in this  
22 subdivision, "agricultural commodity group" means any of the  
23 following:

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

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

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

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

3 (e) On and after ~~the effective date of the amendatory act that~~  
4 ~~added this subdivision,~~ **February 13, 2024**, for a public body that  
5 is responsible for the investment, administration, or management of  
6 a municipal public employee retirement system, any circumstances,  
7 including, but not limited to, any of the circumstances requiring  
8 accommodation of absent members described in section 3(2). As used  
9 in this subdivision, "municipal public employee retirement system"  
10 means a retirement system as that term is defined in section 3 of  
11 the protecting local government retirement and benefits act, 2017  
12 PA 202, MCL 38.2803. A public body that is eligible to meet  
13 remotely under this subdivision shall set and publish an attendance  
14 policy that includes the determination of a quorum with 1 or more  
15 members participating electronically.

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

25 (g) On and after the effective date of the amendatory act that  
26 added this subdivision, any circumstances, including, but not  
27 limited to, any of the circumstances requiring accommodation of  
28 absent members described in section 3(2), for a public body that is  
29 meeting as a board or other governing body of a prepaid inpatient

1 health plan, including a board or other governing body of a  
2 regional entity described in section 204b of the mental health  
3 code, 1974 PA 258, MCL 330.1204b, or of a community mental health  
4 services program described in section 202 of the mental health  
5 code, 1974 PA 258, MCL 330.1202, if all of the following conditions  
6 are met:

7 (i) The public body has passed a resolution that permits its  
8 members to participate remotely in meetings subject to this act.

9 (ii) At least a quorum of the public body attends the meeting  
10 in person in a physical location open to the public as described in  
11 section 3(1).

12 (iii) In addition to the 2-way communication required under  
13 subsection (2), members of the public body participating remotely,  
14 when speaking or voting, are visible to other members of the public  
15 body and members of the general public who are attending the  
16 meeting in person or remotely.

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

1 permitted to address the electronic meeting.

2 (3) Except as otherwise provided in ~~subsection~~**subsections**  
3 **(1) (g) (ii) and** (8), a physical place is not required for an  
4 electronic meeting held under this section, and members of a public  
5 body and members of the public participating electronically in a  
6 meeting held under this section that occurs in a physical place are  
7 to be considered present and in attendance at the meeting for all  
8 purposes.

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

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

28 (b) How members of the public may participate in the meeting  
29 electronically. If a telephone number, internet address, or both

1 are needed to participate, that information must be provided  
2 specifically.

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

6 (d) How persons with disabilities may participate in the  
7 meeting.

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

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

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

1           (8) At a meeting held under this section that accommodates  
2 members absent due to military duty or a medical condition, only  
3 those members absent due to military duty or a medical condition  
4 may participate remotely. Any member who is not on military duty or  
5 does not have a medical condition must be physically present at the  
6 meeting to participate. This subsection does not apply to a meeting  
7 of a public body held electronically under subsection (1)(d), (e),  
8 ~~or (f)~~, or (g).

9           (9) **This section must not be construed to prevent a public**  
10 **body from doing any of the following:**

11           (a) **Permitting members of the public to observe and**  
12 **participate remotely in any meeting of the public body.**

13           (b) **As to a public body described in subsection (1)(d), (e),**  
14 **(f), or (g), except when required to make an accommodation**  
15 **described in subsection (1)(c), either of the following:**

16           (i) **Applying conditions in addition to those described in this**  
17 **section to the remote meeting attendance and participation of**  
18 **members of the public body.**

19           (ii) **Prohibiting remote meeting attendance and participation of**  
20 **members of the public body altogether.**