

SENATE BILL NO. 794

March 14, 2024, Introduced by Senators BAYER, CAVANAGH, POLEHANKI, SHINK, GEISS, MCBROOM, RUNESTAD, WOJNO, MCCANN, IRWIN, KLINEFELT and CHANG and referred to the Committee on Finance, Insurance, and Consumer Protection.

A bill to amend 1976 PA 267, entitled "Open meetings act," by amending sections 2 and 3 (MCL 15.262 and 15.263), section 2 as amended by 2001 PA 38 and section 3 as amended by 2020 PA 254.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Public body" means any state or local legislative or
- 3 governing body, including a board, commission, committee,
- 4 subcommittee, authority, or council, that is empowered by state
- 5 constitution, statute, charter, ordinance, resolution, or rule to

1 exercise governmental or proprietary authority or perform a
2 governmental or proprietary function; a lessee of such a body
3 performing an essential public purpose and function pursuant to the
4 lease agreement; ~~or~~ the board of a nonprofit corporation formed by
5 a city under section 4o of the home rule city act, 1909 PA 279, MCL
6 117.4o; **or the board of the catastrophic claims association created**
7 **in section 3104 of the insurance code of 1956, 1956 PA 218, MCL**
8 **500.3104.**

9 (b) "Meeting" means the convening of a public body at which a
10 quorum is present for the purpose of deliberating toward or
11 rendering a decision on a public policy, ~~or~~ any meeting of the
12 board of a nonprofit corporation formed by a city under section 4o
13 of the home rule city act, 1909 PA 279, MCL 117.4o, **or a meeting of**
14 **the board of the catastrophic claims association created in section**
15 **3104 of the insurance code of 1956, 1956 PA 218, MCL 500.3104.**

16 (c) "Closed session" means a meeting or part of a meeting of a
17 public body that is closed to the public.

18 (d) "Decision" means a determination, action, vote, or
19 disposition upon a motion, proposal, recommendation, resolution,
20 order, ordinance, bill, or measure on which a vote by members of a
21 public body is required and by which a public body effectuates or
22 formulates public policy.

23 Sec. 3. (1) All meetings of a public body must be open to the
24 public and must be held in a place available to the general public.
25 All persons must be permitted to attend any meeting except as
26 otherwise provided in this act. The right of a person to attend a
27 meeting of a public body includes the right to tape-record, to
28 videotape, to broadcast live on radio, and to telecast live on
29 television the proceedings of a public body at a public meeting.

1 The exercise of this right does not depend on the prior approval of
2 the public body. However, a public body may establish reasonable
3 rules and regulations ~~in order to~~ minimize the possibility of
4 disrupting the meeting. ~~For a meeting of a public body held in~~
5 ~~person before April 1, 2021, the public body shall do both of the~~
6 ~~following:~~

7 ~~(a) To the extent feasible under the circumstances, ensure~~
8 ~~adherence to social distancing and mitigation measures recommended~~
9 ~~by the Centers for Disease Control and Prevention for purposes of~~
10 ~~preventing the spread of COVID-19, including the measure that an~~
11 ~~individual remain at least 6 feet from anyone from outside the~~
12 ~~individual's household.~~

13 ~~(b) Adopt heightened standards of facility cleaning and~~
14 ~~disinfection to limit participant exposure to COVID-19, as well as~~
15 ~~protocols to clean and disinfect in the event of a positive COVID-~~
16 ~~19 case in the public body's meeting place.~~

17 (2) All decisions of a public body must be made at a meeting
18 open to the public. For purposes of any meeting subject to this
19 section, except a meeting of any state legislative body at which a
20 formal vote is taken, the public body shall, subject to section 3a,
21 establish the following procedures to accommodate the absence of
22 any member of the public body due to military duty, a medical
23 condition, or a statewide or local state of emergency or state of
24 disaster declared pursuant to law or charter or local ordinance by
25 the governor or a local official, governing body, or chief
26 administrative officer that would risk the personal health or
27 safety of members of the public or the public body if the meeting
28 were held in person:

29 (a) Procedures by which the absent member may participate in,

1 and vote on, business before the public body, including, but not
2 limited to, procedures that provide for both of the following:

3 (i) Two-way communication.

4 (ii) For each member of the public body attending the meeting
5 remotely, a public announcement at the outset of the meeting by
6 that member, to be included in the meeting minutes, that the member
7 is in fact attending the meeting remotely. If the member is
8 attending the meeting remotely for a purpose other than for
9 military duty, the member's announcement must further identify
10 specifically the member's physical location by stating the county,
11 city, township, or village and state from which ~~he or she~~ **the**
12 **member** is attending the meeting remotely.

13 (b) Procedures by which the public is provided notice of the
14 absence of the member and information about how to contact that
15 member sufficiently in advance of a meeting of the public body to
16 provide input on any business that will come before the public
17 body.

18 (3) All deliberations of a public body constituting a quorum
19 of its members must take place at a meeting open to the public
20 except as provided in this section and sections 7 and 8.

21 (4) A person must not be required as a condition of attendance
22 at a meeting of a public body to register or otherwise provide ~~his~~
23 ~~or her~~ **the person's** name or other information or otherwise to
24 fulfill a condition precedent to attendance.

25 (5) A person must be permitted to address a meeting of a
26 public body under rules established and recorded by the public
27 body. The legislature or a house of the legislature may provide by
28 rule that the right to address may be limited to prescribed times
29 at hearings and committee meetings only.

1 (6) A person must not be excluded from a meeting otherwise
2 open to the public except for a breach of the peace actually
3 committed at the meeting.

4 (7) This act does not apply to the following public bodies,
5 but only when deliberating the merits of a case:

6 (a) The Michigan compensation appellate commission operating
7 as described in either of the following:

8 (i) Section 274 of the worker's disability compensation act of
9 1969, 1969 PA 317, MCL 418.274.

10 (ii) Section 34 of the Michigan employment security act, 1936
11 (Ex Sess) PA 1, 421.34.

12 (b) The state tenure commission created in section 1 of
13 article VII of 1937 (Ex Sess) PA 4, MCL 38.131, when acting as a
14 board of review from the decision of a controlling board.

15 (c) The employment relations commission or an arbitrator or
16 arbitration panel created or appointed under 1939 PA 176, MCL 423.1
17 to 423.30.

18 (d) The Michigan public service commission created under 1939
19 PA 3, MCL 460.1 to 460.11.

20 **(e) The board of the catastrophic claims association created**
21 **in section 3104 of the insurance code of 1956, 1956 PA 218, MCL**
22 **500.3104.**

23 (8) ~~This~~ **Except as provided in this act for the catastrophic**
24 **claims association created in section 3104 of the insurance code of**
25 **1956, 1956 PA 218, MCL 500.3104, this** act does not apply to an
26 association of insurers created under the insurance code of 1956,
27 1956 PA 218, MCL 500.100 to 500.8302, or other association or
28 facility formed under that act as a nonprofit organization of
29 insurer members.

1 (9) This act does not apply to a committee of a public body
2 that adopts a nonpolicymaking resolution of tribute or memorial, if
3 the resolution is not adopted at a meeting.

4 (10) This act does not apply to a meeting that is a social or
5 chance gathering or conference not designed to avoid this act.

6 (11) This act does not apply to the Michigan veterans' trust
7 fund board of trustees or a county or district committee created
8 under 1946 (1st Ex Sess) PA 9, MCL 35.602 to 35.610, when the board
9 of trustees or county or district committee is deliberating the
10 merits of an emergent need. A decision of the board of trustees or
11 county or district committee made under this subsection must be
12 reconsidered by the board or committee at its next regular or
13 special meeting consistent with the requirements of this act.
14 ~~Emergent~~ **As used in this subsection, "emergent** need" means a
15 situation that the board of trustees, by rules promulgated under
16 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
17 to 24.328, determines requires immediate action.

18 (12) As used in subsection (2):

19 (a) "Formal vote" means a vote on a bill, amendment,
20 resolution, motion, proposal, recommendation, or any other measure
21 on which a vote by members of a state legislative body is required
22 and by which the state legislative body effectuates or formulates
23 public policy.

24 (b) "Medical condition" means an illness, injury, disability,
25 or other health-related condition.

26 Enacting section 1. This amendatory act does not take effect
27 unless Senate Bill No. 793 of the 102nd Legislature is enacted into
28 law.