

OPEN MEETINGS ACT (EXCERPT)
Act 267 of 1976

15.263a Electronic public meetings; telephonic or video conferencing; "agricultural commodity group" defined; permissibility under certain circumstances; 2-way communication required; advance notice of electronic meetings; availability of agenda; registration requirement prohibited; remote participation limited to military duty or medical condition.

Sec. 3a.

(1) A meeting of a public body held, in whole or in part, electronically by telephonic or video conferencing in compliance with this section and, except as otherwise required in this section, all of the provisions of this act applicable to a nonelectronic meeting, is permitted by this act in the following circumstances:

(a) Before March 31, 2021 and retroactive to March 18, 2020, any circumstances, including, but not limited to, any of the circumstances requiring accommodation of absent members described in section 3(2).

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) If a public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body shall, in addition to any other notices that may be required under this act, post advance notice of a meeting held electronically under this section on a portion of the public body's website that is fully accessible to the public. The public notice on the website must be included

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

- (a) Why the public body is meeting electronically.
- (b) How members of the public may participate in the meeting electronically. If a telephone number, internet address, or both are needed to participate, that information must be provided specifically.
- (c) How members of the public may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting.
- (d) How persons with disabilities may participate in the meeting.
- (5) Beginning on October 16, 2020, if an agenda exists for an electronic meeting held under this section by a public body that directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body shall, on a portion of the website that is fully accessible to the public, make the agenda available to the public at least 2 hours before the electronic meeting begins. This publication of the agenda does not prohibit subsequent amendment of the agenda at the meeting.
- (6) A public body shall not, as a condition of participating in an electronic meeting of the public body held under this section, require a person to register or otherwise provide the person's name or other information or otherwise to fulfill a condition precedent to attendance, other than mechanisms established and required by the public body necessary to permit the person to participate in a public comment period of the meeting.
- (7) Members of the general public otherwise participating in a meeting of a public body held electronically under this section are to be excluded from participation in a closed session of the public body held electronically during that meeting if the closed session is convened and held in compliance with the requirements of this act applicable to a closed session.
- (8) At a meeting held under this section that accommodates members absent due to military duty or a medical condition, only those members absent due to military duty or a medical condition may participate remotely. Any member who is not on military duty or does not have a medical condition must be physically present at the meeting to participate. This subsection does not apply to a meeting of a public body held electronically under subsection (1) (d), (e), or (f).

History: Add. 2020, Act 228, Imd. Eff. Oct. 16, 2020 ;-- Am. 2020, Act 254, Imd. Eff. Dec. 22, 2020 ;-- Am. 2021, Act 54, Imd. Eff. July 13, 2021 ;-- Am. 2023, Act 214, Eff. Feb. 13, 2024