

HOUSE BILL NO. 5699

January 27, 2022, Introduced by Rep. Eisen and referred to the Committee on Judiciary.

A bill to amend 1976 PA 267, entitled
"Open meetings act,"
by amending section 11 (MCL 15.271).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) If a public body **did not comply or** is not
2 complying with this act, the attorney general, prosecuting attorney
3 of the county in which the public body serves, or ~~a~~**another** person
4 may commence a civil action **for any of the following:**

5 **(a) A declaratory judgment that the public body violated or is**
6 **violating this act. This subdivision does not apply to a violation**

1 of this act that occurred before the effective date of the
2 amendatory act that added this subdivision.

3 (b) **Mandamus or injunctive relief** to compel compliance or to
4 enjoin further noncompliance with this act.

5 (2) ~~An-Except as provided in subsection (3), an action for~~
6 ~~injunctive relief under subsection (1)~~ against a local public body
7 ~~shall must~~ be commenced in the circuit court, and venue is proper
8 in any county in which the public body serves. ~~An-Except as~~
9 ~~provided in subsection (3), an action for an injunction under~~
10 ~~subsection (1)~~ against a state public body ~~shall must~~ be commenced
11 in the circuit court and venue is proper in any county in which the
12 public body has its principal office, or in Ingham county. ~~If a~~
13 ~~person commences an action for injunctive relief, that court of~~
14 ~~claims. A person shall is~~ not be required to post security as a
15 condition for obtaining a preliminary injunction or a temporary
16 restraining order.

17 (3) An action for mandamus against a public body under this
18 act ~~shall must~~ be commenced in the court of appeals.

19 (4) ~~If-Before the effective date of the amendatory act that~~
20 ~~added this phrase, if~~ a public body is not complying with this act,
21 and a person commences a civil action against the public body for
22 injunctive relief to compel compliance or to enjoin further
23 noncompliance with ~~the-this~~ act and succeeds in obtaining relief in
24 the action, **the court shall award** the person ~~shall recover~~ court
25 costs and actual attorney fees for the action.

26 (5) **On and after the effective date of the amendatory act that**
27 **added this subsection, if a public body did not comply or is not**
28 **complying with this act, and a person that commences a civil action**
29 **against the public body under subsection (1) obtains any judicial**

1 finding that the public body did not comply or is not complying
2 with this act, the court shall award the person court costs and
3 actual attorney fees for the action, if the court finds 1 or more
4 of the following:

5 (a) The public body has similarly not complied with this act
6 on 1 or more prior occasions.

7 (b) The public body's noncompliance was intended to limit a
8 public right of access to, or participation in, a meeting of the
9 public body.

10 (c) The public body's noncompliance has irreparably harmed the
11 person that commenced the civil action or the public.

12 (d) The public body's noncompliance was a matter of
13 significant public interest or important legal principles were at
14 stake.

15 (6) An action under this section must be commenced within 180
16 days after the date of the violation that gave rise to the cause of
17 action.

18 Enacting section 1. This amendatory act takes effect 90 days
19 after the date it is enacted into law.