

# SENATE BILL NO. 860

February 08, 2022, Introduced by Senators MCMORROW, HOLLIER, WOJNO, SANTANA, CHANG, POLEHANKI, GEISS, ALEXANDER, BAYER, MCCANN and BULLOCK and referred to the Committee on Government Operations.

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

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 3. (1) All meetings of a public body must be open to the  
2 public and must be held in a place available to the general public.  
3 All persons must be permitted to attend any meeting except as  
4 otherwise provided in this act. The right of a person to attend a  
5 meeting of a public body includes the right to tape-record, to  
6 videotape, to broadcast live on radio, and to telecast live on

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

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

14 (b) Adopt heightened standards of facility cleaning and  
15 disinfection to limit participant exposure to COVID-19, as well as  
16 protocols to clean and disinfect in the event of a positive COVID-  
17 19 case in the public body's meeting place.

18 (2) All decisions of a public body must be made at a meeting  
19 open to the public. For purposes of any meeting subject to this  
20 section, except a meeting **subject to subsection (12)** of any state  
21 legislative body at which a formal vote is taken, the public body  
22 shall, subject to section 3a, establish the following procedures to  
23 accommodate the absence of any member of the public body due to  
24 military duty, a medical condition, or a statewide or local state  
25 of emergency or state of disaster declared pursuant to law or  
26 charter or local ordinance by the governor or a local official,  
27 governing body, or chief administrative officer that would risk the  
28 personal health or safety of members of the public or the public  
29 body if the meeting were held in person:

1 (a) Procedures by which the absent member may participate in,  
2 and vote on, business before the public body, including, but not  
3 limited to, procedures that provide for both of the following:

4 (i) Two-way communication.

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

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

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

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

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

1 at hearings and committee meetings only.

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

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

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

9 (i) Section 274 of the worker's disability compensation act of  
10 1969, 1969 PA 317, MCL 418.274.

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

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

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

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

21 (8) This act does not apply to an association of insurers  
22 created under the insurance code of 1956, 1956 PA 218, MCL 500.100  
23 to 500.8302, or other association or facility formed under that act  
24 as a nonprofit organization of insurer members.

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

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

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

13           **(12) For a meeting of a state legislative body at which a**  
14 **formal vote is taken, the state legislative body shall establish**  
15 **the following procedures to accommodate the absence of any member**  
16 **of the state legislative body due to military duty, a medical**  
17 **condition of the member, a medical condition of an immediate family**  
18 **member requiring the member to provide care, or maternity or**  
19 **paternity leave:**

20           **(a) Procedures by which the absent member may remotely**  
21 **participate in, and vote on, business before the state legislative**  
22 **body, including, but not limited to, procedures that provide for**  
23 **both of the following:**

24           **(i) Two-way communication.**

25           **(ii) For each member of the state legislative body attending**  
26 **the meeting remotely, a public announcement at the outset of the**  
27 **meeting by that member, to be included in the meeting minutes, that**  
28 **the member is in fact attending the meeting remotely. If the member**  
29 **is attending the meeting remotely for a purpose other than for**

1 military duty, the member's announcement must further identify  
2 specifically the member's physical location by stating the county,  
3 city, township, or village and state from which he or she is  
4 attending the meeting remotely.

5 (b) Procedures by which the absent member may vote by proxy on  
6 business before the state legislative body.

7 (c) Procedures by which the public is provided, to the extent  
8 feasible under the circumstances, notice of the absence of the  
9 member and information about how to contact that member  
10 sufficiently in advance of a meeting of the state legislative body  
11 to provide input on any business that will come before the state  
12 legislative body.

13 (13) ~~(12)~~ As used in ~~subsection (2)~~: **this section:**

14 (a) "Formal vote" means a vote on a bill, amendment,  
15 resolution, motion, proposal, recommendation, or any other measure  
16 on which a vote by members of a state legislative body is required  
17 and by which the state legislative body effectuates or formulates  
18 public policy.

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