

**COUNTY OF GRATIOT  
STATE OF MICHIGAN**

**RULES OF  
ORGANIZATION OF THE  
GRATIOT COUNTY BOARD OF  
COMMISSIONERS**



**Approved as amended January 2, 2019**

**AUTHORITY:** the Gratiot County Board of Commissioners establishes these rules and procedures in reference to the management of the interest and business concerns of Gratiot County. They are in reference to the mode of proceedings before such board, as they shall deem necessary and proper in all matters not specifically provided for in any act or law of the State of Michigan. These rules are adopted by the Board of Commissioners of Gratiot County pursuant to Section 46.11 of the Compiled Laws of Michigan, as amended and shall be re-adopted at the first Organizational meeting of each new Board.

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## **APPLICATION, SUSPENSION, AND AMENDMENT OF BOARD RULES**

These Rules shall guide and direct the Gratiot County Board of Commissioner's operations. Any situation, which may arise and is not covered by these rules, shall be determined on the basis of Robert's Rules of Order Newly Revised, 11<sup>th</sup> Edition or the Michigan Open Meetings Act at MCL 15.261 et. seq. When the rules contained herein conflict with State of Michigan Statutes, the statutes shall prevail.

No rule of the Board of Commissioners shall be suspended or amended without concurrence of a majority of all Board of Commissioner's elected and serving. Except during the organizational meeting, any proposed amendment(s) to these rules shall be first referred to a Commission meeting for discussion only, with subsequent consideration given for action no later than one month thereafter.

### **ARTICLE I: BOARD ORGANIZATION**

#### **1.1 AUTHORITY**

These rules are adopted by the Board of Commissioners of Gratiot County pursuant to Section 46.11 of the Compiled Laws of Michigan, as amended.

#### **1.2 BOARD MEMBERSHIP**

The Board of Commissioners shall consist of five (5) members elected from single member districts apportioned on the basis of population as provided by law.

#### **1.3 REAPPORTIONMENT**

The Board shall be reapportioned, in the manner provided by law, within sixty (60) days after the publication of the latest United States Official Decennial Census figures.

#### **1.4 VACANCIES IN OFFICE**

Vacancies caused by death, resignation, removal from the district or removal from office shall be filled by appointment within thirty (30) days by the Board. The person appointed shall be a resident and registered voter of that district in accordance with the Statute. The person appointed shall serve for the remainder of the unexpired term. (MCL 46.412)

#### **1.5 COMPENSATION**

Compensation for the Board of Commissioners shall be set by resolution in even numbered years prior to the candidate filing deadline. Changes in compensation shall become effective only at the beginning of a new term commencing on January 1 of the odd year.

Compensation shall be comprised of salary only. No separate per diem shall be provided, although mileage shall continue to be reimbursed.

## **1.6 POWER AND DUTIES**

The Board shall have such powers and duties as shall from time to time be provided by law.

## **1.7 INSURANCE**

The County Board members shall be covered by liability insurance carried by the County for itself and its officers and employees covering to the same extent as other elected County Officers and appointed County department heads. This coverage may be met through a self-insurance pool or fund, and is currently carried through the Michigan Municipal Risk Management Authority.

## **1.8 COMMITTEES:**

There shall be, in addition to the standing committees, such other special committees as the Chairperson, from time to time, may appoint and establish subject to approval by the Board. The membership of all such special committee shall automatically be vacated upon the succession of office of a new Chairperson to the Board.

- a) Each committee shall have a Chairperson and Vice-Chairperson.
- b) Each committee chairperson shall be responsible for keeping a written record of committee proceedings.
- c) If commissioners serve on committees under this rule, the number of members shall not exceed one (1) less than a majority number of those elected and serving on the full Board of Commissioners (N=2).

## **ARTICLE II OFFICERS AND EMPLOYEES**

### **2.1 CHAIRPERSON**

The Board Chairperson and Vice-Chairperson shall be elected as provided in MCL 46.3(4). The duties and powers of the Chairperson shall include but not be limited to the following:

#### **2.1.1 Statutory Powers and Duties (MCL 46.3)**

- (1) Presides at all Board of Commissioner meetings.
- (2) Administers oaths and issues subpoenas. (MCL 46.3).
- (3) Signs contracts [MCL 46.3(5)] and Board-approved minutes (MCL 46.29) and certifies the equalized tax rolls. [MCL 211.34(2)].
- (4) With the advice and consent of the Board of Commissioners, appoints Directors of an Economic Development Corporation [MCL 125.1604(3)].
- (5) Upon the disqualification of the County Drain Commissioner under the Michigan Drain Code (MCL 280.1 *et seq*), appoints Boards of Determination pursuant to MCL 280.72 and MCL 280.441.

- (6) Serves on Intra-County Drainage Boards (MCL 280.464) and Augmented Inter-County Drainage Boards (MCL 280.515) and appoints additional member(s) to either when circumstances so warrant, as defined in the Michigan Drain Code (MCL 280.1 *et seq*).
- (7) Reviews, with other officials, the Sheriff's determination of jail overcrowding. [MCL 801.52].
- (8) Carries out Emergency Management and Preparedness responsibilities in accordance with 1976 Public Act 390 (MCL 30.401) and appoints a member of the Board of Commissioners to act in place of the Chairperson in his/her absence.
- (9) Ethical Obligations Reference: Ethics Opinion R-15 July 24, 1992.
  - a) A lawyer, who serves as chairperson of the county board of commissioners which decides judicial salary supplements, fringe benefits, and the annual operating budget of the circuit, district and probate courts, is not per se prohibited from appearing as an advocate before those courts. A lawyer/commissioner:
    - 1) may not undertake representation in any matter adverse to the county or county commission;
    - 2) may not represent a client in a matter in which the lawyer participated personally and substantially as commissioner;
    - 3) may not participate as commissioner in any matter in which the lawyer participated personally and substantially while in private practice; and
    - 4) may not represent a client if the representation will be materially limited by duties as commissioner, unless a disinterested lawyer would reasonably believe the representation will not be adversely affected and the client consents.

### **2.1.2 Other Duties**

- (1) Serves ex-officio on all committees provided, however, the Chairperson will not participate in any Committee meeting in this ex-officio role if it would not be consistent with 1.8(c) of these Rules.
- (2) Appoints Board of Commissioner committees.
- (3) Makes other county appointments subject to Board of Commissioner

approval.

- (4) Preserves order and decides questions of order subject to approval of the Board of Commissioners.
- (5) Votes on all questions taken by roll call vote, except on Commissioners' appeals regarding a decision of the Chairperson.
- (6) Serves as spokesperson for Board of Commissioner action or designates a spokesperson in writing.
- (7) Attends regular meetings with the County Administrator for the purpose of providing assistance and planning in Board of Commissioner related matters.
- (8) Duties of the Chairperson may be expanded by the Board of Commissioners for purposes and durations deemed appropriate and necessary.

## **2.2 VICE CHAIRPERSON**

The duties and powers of the Vice-Chairperson shall include but not be limited to the following:

1. The Vice-Chairperson shall preside in the absence of the Chairperson.
2. The Vice-Chairperson shall sign all contracts, bonds, and other documents requiring the signature of the Chairperson when the Chairperson is unable to do so because of illness or any other emergency which, in the opinion of the Board, prevents the Chairperson from performing such functions of his or her office.
3. The Vice-Chairperson shall perform such other duties as may be from time to time assigned by the Chairperson or by the Board.
4. In the absence of the Chairperson, the Vice-Chairperson shall assume the duties and responsibilities of the Chairperson.

## **2.3 CLERK**

The County Clerk, or Deputy of the Clerk, shall be the Clerk of the Board and shall perform such duties as required by law. [MCL 46.4(4), 46.5(5)]

## **2.4 COUNTY ADMINISTRATOR (CAO)**

The Board of Commissioners employs a County Administrative Officer who is recognized as the Chief Administrative/Executive Officer of the County. The authorities and duties of the County Administrator are as provided by MCL 46.11 (o) and in county policy. A position description is available in the Human Resources office.

## **ARTICLE III APPOINTMENTS TO BOARDS AND COMMISSIONS**

### **3.1 OTHER BOARDS, COMMISSIONS, and COMMITTEES**

Due to statutory requirements, by invitation, or through the exercise of its discretion, the Board of Commissioners appoints or elects members, member-alternates, and other persons to boards, commissions, and committees which exist internally and externally to the Gratiot County government organization. Appointments as of January 2, 2019, appear in Attachment "A."

Any Board of Commissioner member so appointed or elected shall make available the minutes or other information of record of those same boards, commissions or committees to the Board upon its request in time sufficient for the Board's consideration and in the manner herein directed.

## **ARTICLE IV: MEETINGS**

### **4.1 ORGANIZATIONAL MEETINGS**

The Board of Commissioners shall convene for its first meeting in January on the date set at the prior December Board of Commissioners meeting. This meeting shall be known as the Organizational Meeting and the Board shall transact such business at said meeting, or at the adjourned date of such meeting, as shall be provided by these rules or by law, including the election of a Chairperson (if is an odd year or if a vacancy must otherwise be filled) and the Vice• Chairperson, as provided in MCL 46.3(4) and Article 2.1 of these Rules. The County Clerk shall preside over the organizational meeting until a Chairperson of the Board has been duly elected by a majority vote of the members elect.

- 1) As the first item of business, the County Clerk shall administer the oath of office to the Commissioners if the oath has not previously been administered within 20 days of receiving the certificate of election (MCL 45.318)
- 2) The second item of business shall be the election of Chairperson of the Board then the Vice- Chairperson. The Clerk shall call for nominations for the office of the Chairperson and when nominations are closed by majority vote or no other nominations are forthcoming, the Clerk shall order the roll of the commissioners to be called. Upon the adoption of a motion, the election of the Chairperson may be conducted by secret ballot. (MCL 46.3)
- 3) When one nominee receives a majority of the votes of the members elected and serving, the nominee shall be declared the Chairperson.
- 4) If the commissioners present shall not cast a majority for one nominee, the County Clerk shall continue to preside until a majority of commissioners elects one of its members to be Chairperson.



- 5) The newly elected Chairperson shall assume the chair and proceed with the election to the office of Vice-Chairperson.
- 6) The Board of Commissioners shall select by majority vote of all the members, one of its members to serve as Vice-Chairperson. The Vice-Chairperson shall take office and assume the duties immediately upon election. (MCL 46.3(4))
- 7) The Board of Commissioners may proceed onto other agenda matters, as they shall decide.

#### **4.2 REGULAR MEETINGS**

The schedule for regular meetings shall be set at the first meeting in January of each year (Organizational Meeting). The Board shall meet in regular session according to the adopted meeting schedule as advertised except when otherwise set by adjournment or by law. Any meeting which is not on the schedule established at the Organizational meeting shall be a special meeting or adjourned session of a regular meeting, depending on the means and methods used in calling said meeting.

- 1) Unless the Board otherwise provides, the motion to adjourn any meeting of the Board, whether special or regular, means to adjourn to the next succeeding meeting on the established schedule.
- 2) If any regularly scheduled meeting falls on one of the legal holidays, the Board shall meet on the next secular day that is not a meeting, unless the Board, in session, determines otherwise.
- 3) Adequate and proper notice of all public meetings is required by the Open Meetings Act.

#### **4.3 STATUTORY MEETING**

The statutory meetings of the Board of Commissioners are held on the second Tuesday after the first Monday in April to equalize the assessment roll (MCL 209.5 and MCL 211.34) and after September 14, but before October 16 of each year, commonly known as the annual meeting, to complete tasks required by law.

#### **4.4 SPECIAL MEETINGS**

The Board of Commissioners shall convene for the purpose of holding special meetings upon the written request of at least one-third (1/3) of the Commissioners, to the County Clerk, specifying the time, date, place and purpose of such meetings. In the alternative, a special meeting may be convened if approved at a regular meeting of the Commissioners and is set for a date and time at which a quorum will be present. When a special meeting is called as provided above, the County Clerk shall give notice to each of the Commissioners within forty-eight (48) hours by a method reasonably calculated by the County Clerk to accomplish actual notice. Such methods may include, but are not limited to:

- personal delivery of the notice of the special meeting to the commissioner;
- leaving the notice of the special meeting at the residence of the commissioner;
- an email to the address previously supplied for such purpose by the commissioner;
- an email to the commissioner's County e-mail address; or
- by scheduling at a regular meeting at which commissioners are in attendance, and with any Commissioner not in attendance being notified by another of the above-listed methods..

The Clerk shall post at least 18 hours before the meeting a Public Notice as required by the Open Meetings Act.

#### **4.5 CLOSED SESSION**

Upon a two-thirds (2/3) roll call vote of the Board of Commissioners elected or appointed and serving, the Board may meet in closed session for any of the reasons specified in MCL 15.268 (d), (e), (f), and (h); and upon a majority roll call vote of the Board of Commissioners elected or appointed and serving, for any of the reasons specified in MCL 15.268(a) and (c).

#### **4.6 EMERGENCY MEETINGS**

The Chairperson may at any time, or by approval of two-thirds of the members of the Board, call an emergency session of the Board of Commissioners for such reasons and upon such circumstances as provided in MCL 15.265(5). Public notice of the time, date, and place of an emergency meeting shall be given in the manner required by the Open Meetings Act, Act (MCL 15.265(5)).

#### **4.7 PLACE OF MEETINGS**

Meetings of the Board of Commissioners shall be held in the chambers of the Board of Commissioners in the county courthouse, at Ithaca, Michigan, unless lawful public notice of the meeting states a different location.

#### **4.8 TIME OF REGULAR MEETINGS**

The first and second regular meetings each month shall be held on a schedule adopted by resolution by the Board of Commissioners at the organizational meeting in January of each year. Meetings shall presumptively be held on the first and third Tuesdays of each month, beginning at 4:30 pm. Regular meetings for 2018 appear in Attachment "B."

#### **4.9 CHANGES IN SCHEDULE**

Changes in the meeting schedule, including time and place, additional meetings, and meetings adjourned or recessed to a specific time and place, may be made by majority vote of the members of the Board of Commissioners present. Such change is to be recorded in the minutes of the meeting in which the change is made. A public notice shall be given in accordance with the Michigan Open Meetings Act. If there is a change in schedule, the County Clerk shall post a notice within three (3) days after the meeting, stating the new day, time and place.

## **ARTICLE V MEETING PROCEDURES**

### **5.0 PUBLIC NOTICE OF MEETINGS**

The County Clerk shall provide the notice for all meetings of the Board of Commissioners, in compliance with the Open Meetings Act at MCL 15.265 et seq.

### **5.1 QUORUM, ATTENDANCE**

- 1) The majority of Commissioners of the Board, elected and serving shall constitute a quorum for the transaction of ordinary business of the Board. Upon the absence of a quorum, no business shall be considered; the members present may adjourn or recess. Public notice is not required if the time set for reconvening is less than 36 hours.
- 2) Commissioners shall attend all meetings unless excused by the Chairperson.
- 3) To facilitate meeting attendance and to accommodate Commissioners' travel schedules and other commitments, Commissioners may, from time to time and as approved by the Chairperson, participate in meetings by teleconferencing consistent with the Open Meetings Act. Board members may appear at a meeting via teleconferencing, provided that a quorum is present at the meeting site and all individuals attending the meeting can hear, and be heard by, the Board member(s) attending via teleconferencing. Notice of the intent to attend via teleconferencing must be provided to the County Administrator one (1) calendar week in advance of the subject meeting. Failure to establish a video-audio teleconference due to technical or other problems shall not preclude conducting the meeting, as long as a quorum is present. In the event that a Board member participate via teleconferencing, this will be indicated on the meeting minutes as "present via teleconferencing." Members present via teleconferencing shall be permitted to participate in Board deliberations and vote on matters before the Board, provided that there is a quorum physically present.

### **5.2 ORDER OF BUSINESS**

The business of all regular meetings of the Board of Commissioners shall be considered and transacted in substantially the following order based on the information provided unless altered by a majority vote of the Commissioners:

- a) Call To Order
- b) Roll Call of Commissioners
- c) Invocation
- d) Pledge Of Allegiance
- e) Additions/Deletions to Agenda
- f) Approval of the Agenda
- g) Brief Public Comments
- h) Presentation Of Minutes
- i) Action on Consent C a l e n d a r

- j) Consideration of New Business
- k) Consideration of Unfinished Business
- l) Discussion and Report of Finance and Budget Matters (second meeting of each month)
- m) Commissioners' Committee/Board/Agency Reports
- n) Administrator's Report
- o) Additional Public Comment and Board Comment
- p) Adjournment

### **5.3 AGENDA**

The agenda for regular Board meetings shall be prepared by the County Clerk or County Administrator, or his or her designee. The County Clerk shall make every effort to ensure that the agendas and related information be delivered to all Commissioners at least three (3) days prior to a scheduled Board meeting. The packet shall include at a minimum:

- a) the agenda;
- b) minutes of the previous meeting;
- c) correspondence to be received at the meeting;
- d) committee reports; and
- e) all other reports or documents to be presented, discussed, or acted upon at the meeting.

### **5.4 AGENDA FOR SPECIAL MEETINGS**

Whenever the Board is called into a Special Meeting, the agenda shall be included in the notice of the meeting and no other matter shall be considered except when all members are present and a majority concurs. Agendas for special meetings shall be provided along with the notice of the meetings to Commissioners, if time permits. At other times, the Chairperson shall declare the agenda upon the approval of a majority of the members present.

### **5.5 DISTRIBUTION OF AGENDA AND MATERIALS**

Meeting materials will be distributed in electronic format and posted on the Gratiot County website. Individuals requiring materials in hard copy format must make the request to the County Clerk and provide payment in advance for photocopying and postage.

### **5.6 CONSENT CALENDAR**

The consent calendar shall consist of those matters that the Board of Commissioners has determined to be "routine" and usually matters about which the Board commonly concurs. Among such matters are the approval of minutes and other matters that the Board of Commissioners is required by statute or board rule to approve.

The meeting agenda shall list those matters under the heading of "consent calendar" and include the associated materials with those distributed to the members in accordance with Articles 5.3 and 5.4 of these Rules. At a meeting of the Commissioners where a consent calendar has been prepared, the Board, upon the motion of a Commissioner, shall vote on the approval of the matters included under the consent calendar. Before putting the question to the Commissioners, the Chairperson shall permit the Commissioners to remove from the consent calendar those items on which they have questions or wish to debate. The Chairperson shall then direct the County Clerk to remove such matters and place them in their usual place on the meeting's agenda. A vote shall not be required to remove a matter from the consent calendar.

## **5.7 PUBLIC PARTICIPATION**

- 1) The Board of Commissioners shall not place any conditions on the attendance of members of the public at an open meeting and no person shall be excluded from a meeting except for a breach of peace committed at that meeting. However, members of the public which intend to attend the open meeting in groups of 15 persons or more shall notify the county clerk of their intention in order that the Board may make all efforts to secure adequate accommodations.
- 2) In accordance with Michigan Open Meetings Act (MCL 15.261 et seq), members of the public are encouraged to attend all open public meetings and to address the public body at that meeting, when appropriate.
- 3) To protect the rights of all people attending such meetings, and to maintain reasonable order, the following rules are established:
  - a) Speakers wishing to address the Board shall first seek to be recognized by the Chairperson and, upon recognition, declare name, address and the topic the speaker wishes to address.
  - b) A maximum of three (3) minutes shall be granted to each person desiring to make a public comment; however, that time may be modified at the discretion of the Chairperson.
- 4) In the event that a person desires to address the Board in an extensive manner, that person shall be placed on the agenda for a reasonable period of time by contacting the County Administrator or Chairperson no less than seven (7) days prior to the scheduled meeting.
- 5) The Chairperson shall call to order any person who is behaving in a disorderly manner by speaking or otherwise disrupting the proceedings by failing to be germane, by speaking longer than the allotted time of three minutes, or by

speaking vulgarities. No person shall be removed from a public meeting except for an actual breach of peace committed at the meeting. A recess may be called to quiet the matter by the Chair or by a Commissioner. In such situation, the Clerk shall carefully record the actions and who said what.


- 6) Any exception to the rules of public participation shall be at the discretion of the Chairperson.

## ATTACHMENT A

**COMMISSIONER AND STAFF ASSIGNMENTS TO COMMISSIONS,  
BOARDS, AUTHORITIES AND COMMITTEES**

<b>ORGANIZATION</b>	<b>APPOINTEE</b>	<b>TERM, EXPIRES</b>
Airport Authority	Lambrecht	4 year term: 2/1/ 21
Brownfield Redevelopment	Bailey, Smith	6 year term: 12/31/22
Great Lakes Bay Michigan Works	Bunting Alternate: Bailey	2 year term: 12/31/20
Commission on Aging	Bailey	3 year term: 12/31/20
Mental Health	Bailey	3 year term: 3/31/19
East Michigan Council of Governments	Bailey	3 year term: 12/31/19
Economic Development	Bailey, Smith	6 year term: 12/31/22
EightCAP	Smith, Bunting (through delegates)	2 year term: 12/31/20
Greater Gratiot	Murphy, Cordes	1 year term: 12/31/19
Northern Michigan Counties Association	Murphy	2 year term: 12/31/19
Health Department	Murphy, Bailey	2 year term: 12/31/20
MSUE	Bunting	1 year term: 12/31/19
Mobile Medical Response (MMR)	Bunting Alternate: Bailey	Unknown
Parks & Recreation	Lambrecht	3 year term: 12/31/21
Saginaw Bay	Bailey	Unknown

**ATTACHMENT B  
BOARD OF COMMISSIONERS MEETING SCHEDULE - 2018**

	<p><b>GRATIOT COUNTY BOARD OF COMMISSIONERS</b></p> <p>Regular Board Meetings at 4:30 p.m. On Tuesdays – Unless Noted Commissioners Room, Gratiot County Courthouse 214 E. Center Street, Ithaca, MI 48847 (989) 875-5215</p>
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**MEETING DATE**

January 2, 2019  
January 15, 2019

February 5, 2019  
February 19, 20189

March 5, 2019  
March 19, 2019

April 2, 2019  
April 16, 2019

May 7, 2019  
May 21, 2019

June 4, 2019  
June 18, 2019

**MEETING DATE**

July 2, 2019  
July 16, 2019

August 6, 2019  
August 20, 2019

September 3, 2019  
September 17, 2019 Annual Meeting

October 1, 2019  
October 15, 2019

November 5, 2019  
November 19, 2019

December 3, 2019  
December 17, 2019

Meeting materials available at [www.gratiotmi.com/Departments/Board of Commissioners/Agendas](http://www.gratiotmi.com/Departments/Board of Commissioners/Agendas),  
Proposed Minutes and Meeting Packets

Posted pursuant to the Open Meetings Act, MCL 15.261 et. seq.

All Meetings Are Open to the Public



**APPENDIX A**  
**MICHIGAN OPEN MEETINGS ACT**

**OPEN MEETINGS ACT**  
**Act 267 of 1976**

AN ACT to require certain meetings of certain public bodies to be open to the public; to require notice and the keeping of minutes of meetings; to provide for enforcement; to provide for invalidation of governmental decisions under certain circumstances; to provide penalties; and to repeal certain acts and parts of acts.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

*The People of the State of Michigan enact:*

**15.261 Short title; effect of act on certain charter provisions, ordinances, or resolutions.**

Sec. 1. (1) This act shall be known and may be cited as the “Open meetings act”.

(2) This act shall supersede all local charter provisions, ordinances, or resolutions which relate to requirements for meetings of local public bodies to be open to the public.

(3) After the effective date of this act, nothing in this act shall prohibit a public body from adopting an ordinance, resolution, rule, or charter provision which would require a greater degree of openness relative to meetings of public bodies than the standards provided for in this act.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

**15.262 Definitions.**

Sec. 2. As used in this act:

(a) “Public body” means any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function; a lessee of such a body performing an essential public purpose and function pursuant to the lease agreement; or the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.

(b) “Meeting” means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy, or any meeting of the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.

(c) “Closed session” means a meeting or part of a meeting of a public body that is closed to the public.

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

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 2001, Act 38, Imd. Eff. July 11, 2001.

**15.263 Meetings, decisions, and deliberations of public body; requirements; attending or addressing meeting of public body; tape-recording, videotaping, broadcasting, and telecasting proceedings; rules; exclusion from meeting; exemptions.**

Sec. 3. (1) All meetings of a public body shall be open to the public and shall be held in a place available to the general public. All persons shall be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right shall not be dependent upon the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.

(2) All decisions of a public body shall be made at a meeting open to the public.

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

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

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

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

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

- (a) The Michigan compensation appellate commission operating as described in either of the following:
- (i) Section 274 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.274.
  - (ii) Section 34 of the Michigan employment security act, 1936 (Ex Sess) PA 1, 421.34.
- (b) The state tenure commission created in section 1 of article VII of 1937 (Ex Sess) PA 4, MCL 38.131, when acting as a board of review from the decision of a controlling board.
- (c) The employment relations commission or an arbitrator or arbitration panel created or appointed under 1939 PA 176, MCL 423.1 to 423.30.
- (d) The Michigan public service commission created under 1939 PA 3, MCL 460.1 to 460.11.
- (8) This act does not apply to an association of insurers created under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, or other association or facility formed under that act as a nonprofit organization of insurer members.
- (9) This act does not apply to a committee of a public body that adopts a nonpolicymaking resolution of tribute or memorial, which resolution is not adopted at a meeting.
- (10) This act does not apply to a meeting that is a social or chance gathering or conference not designed to avoid this act.
- (11) This act does not apply to the Michigan veterans' trust fund board of trustees or a county or district committee created under 1946 (1st Ex Sess) PA 9, MCL 35.602 to 35.610, when the board of trustees or county or district committee is deliberating the merits of an emergent need. A decision of the board of trustees or county or district committee made under this subsection shall be reconsidered by the board or committee at its next regular or special meeting consistent with the requirements of this act. "Emergent need" means a situation that the board of trustees, by rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, determines requires immediate action.

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1981, Act 161, Imd. Eff. Nov. 30, 1981;—Am. 1986, Act 269, Imd. Eff. Dec. 19, 1986;—Am. 1988, Act 158, Imd. Eff. June 14, 1988;—Am. 1988, Act 278, Imd. Eff. July 27, 1988;—Am. 2016, Act 504, Eff. Apr. 9, 2017.

**Administrative rules:** R 35.621 of the Michigan Administrative Code.

#### **15.264 Public notice of meetings generally; contents; places of posting.**

Sec. 4. The following provisions shall apply with respect to public notice of meetings:

- (a) A public notice shall always contain the name of the public body to which the notice applies, its telephone number if one exists, and its address.
- (b) A public notice for a public body shall always be posted at its principal office and any other locations considered appropriate by the public body. Cable television may also be utilized for purposes of posting public notice.
- (c) If a public body is a part of a state department, part of the legislative or judicial branch of state government, part of an institution of higher education, or part of a political subdivision or school district, a public notice shall also be posted in the respective principal office of the state department, the institution of higher education, clerk of the house of representatives, secretary of the state senate, clerk of the supreme court, or political subdivision or school district.
- (d) If a public body does not have a principal office, the required public notice for a local public body shall be posted in the office of the county clerk in which the public body serves and the required public notice for a state public body shall be posted in the office of the secretary of state.

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1984, Act 87, Imd. Eff. Apr. 19, 1984.

#### **15.265 Public notice of regular meetings, change in schedule of regular meetings, rescheduled regular meetings, or special meetings; posting; statement of date, time, and place; website; recess or adjournment; emergency sessions; emergency public meeting; meeting in residential dwelling; limitation; notice; duration requirement.**

Sec. 5. (1) A meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body.

(2) For regular meetings of a public body, there shall be posted within 10 days after the first meeting of the public body in each calendar or fiscal year a public notice stating the dates, times, and places of its regular meetings.

(3) If there is a change in the schedule of regular meetings of a public body, there shall be posted within 3 days after the meeting at which the change is made, a public notice stating the new dates, times, and places of its regular meetings.

(4) Except as provided in this subsection or in subsection (6), for a rescheduled regular or a special meeting of a public body, a public notice stating the date, time, and place of the meeting shall be posted at

least 18 hours before the meeting in a prominent and conspicuous place at both the public body's principal office and, if the public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, on a portion of the website that is fully accessible to the public. The public notice on the website shall be included on either the homepage or on a separate webpage dedicated to public notices for nonregularly scheduled public meetings and accessible via a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those nonregularly scheduled public meetings. The requirement of 18-hour notice does not apply to special meetings of subcommittees of a public body or conference committees of the state legislature. A conference committee shall give a 6-hour notice. A second conference committee shall give a 1-hour notice. Notice of a conference committee meeting shall include written notice to each member of the conference committee and the majority and minority leader of each house indicating time and place of the meeting.

(5) A meeting of a public body that is recessed for more than 36 hours shall be reconvened only after public notice that is equivalent to that required under subsection (4) has been posted. If either house of the state legislature is adjourned or recessed for less than 18 hours, the notice provisions of subsection (4) are not applicable. Nothing in this section bars a public body from meeting in emergency session in the event of a severe and imminent threat to the health, safety, or welfare of the public when 2/3 of the members serving on the body decide that delay would be detrimental to efforts to lessen or respond to the threat. However, if a public body holds an emergency public meeting that does not comply with the 18-hour posted notice requirement, it shall make paper copies of the public notice for the emergency meeting available to the public at that meeting. The notice shall include an explanation of the reasons that the public body cannot comply with the 18-hour posted notice requirement. The explanation shall be specific to the circumstances that necessitated the emergency public meeting, and the use of generalized explanations such as "an imminent threat to the health of the public" or "a danger to public welfare and safety" does not meet the explanation requirements of this subsection. If the public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, it shall post the public notice of the emergency meeting and its explanation on its website in the manner described for an internet posting in subsection (4). Within 48 hours after the emergency public meeting, the public body shall send official correspondence to the board of county commissioners of the county in which the public body is principally located, informing the commission that an emergency public meeting with less than 18 hours' public notice has taken place. The correspondence shall also include the public notice of the meeting with explanation and shall be sent by either the United States postal service or electronic mail. Compliance with the notice requirements for emergency meetings in this subsection does not create, and shall not be construed to create, a legal basis or defense for failure to comply with other provisions of this act and does not relieve the public body from the duty to comply with any provision of this act.

(6) A meeting of a public body may only take place in a residential dwelling if a nonresidential building within the boundary of the local governmental unit or school system is not available without cost to the public body. For a meeting of a public body that is held in a residential dwelling, notice of the meeting shall be published as a display advertisement in a newspaper of general circulation in the city or township in which the meeting is to be held. The notice shall be published not less than 2 days before the day on which the meeting is held, and shall state the date, time, and place of the meeting. The notice shall be at the bottom of the display advertisement, set off in a conspicuous manner, and include the following language: "This meeting is open to all members of the public under Michigan's open meetings act".

(7) A durational requirement for posting a public notice of a meeting under this act is the time that the notice is required to be accessible to the public.

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1978, Act 256, Imd. Eff. June 21, 1978;—Am. 1982, Act 134, Imd. Eff. Apr. 22, 1982;—Am. 1984, Act 167, Imd. Eff. June 29, 1984;—Am. 2012, Act 528, Imd. Eff. Dec. 28, 2012.

### **15.266 Providing copies of public notice on written request; fee.**

Sec. 6. (1) Upon the written request of an individual, organization, firm, or corporation, and upon the requesting party's payment of a yearly fee of not more than the reasonable estimated cost for printing and postage of such notices, a public body shall send to the requesting party by first class mail a copy of any notice required to be posted pursuant to section 5(2) to (5).

(2) Upon written request, a public body, at the same time a public notice of a meeting is posted pursuant to section 5, shall provide a copy of the public notice of that meeting to any newspaper published in the state and to any radio and television station located in the state, free of charge.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

### **15.267 Closed sessions; roll call vote; separate set of minutes.**

Sec. 7. (1) A 2/3 roll call vote of members elected or appointed and serving is required to call a closed session, except for the closed sessions permitted under section 8(a), (b), (c), (g), (i), and (j). The roll call vote and the purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.

(2) A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13. These minutes may be destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved.

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1993, Act 81, Eff. Apr. 1, 1994;—Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

### **15.268 Closed sessions; permissible purposes.**

Sec. 8. A public body may meet in a closed session only for the following purposes:

(a) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing. A person requesting a closed hearing may rescind the request at any time, in which case the matter at issue shall be considered after the rescission only in open sessions.

(b) To consider the dismissal, suspension, or disciplining of a student if the public body is part of the school district, intermediate school district, or institution of higher education that the student is attending, and if the student or the student's parent or guardian requests a closed hearing.

(c) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.

(d) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.

(e) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.

(f) To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, except as otherwise provided in this subdivision, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting pursuant to this act. This subdivision does not apply to a public office described in subdivision (j).

(g) Partisan caucuses of members of the state legislature.

(h) To consider material exempt from discussion or disclosure by state or federal statute.

(i) For a compliance conference conducted by the department of commerce under section 16231 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.16231 of the Michigan Compiled Laws, before a complaint is issued.

(j) In the process of searching for and selecting a president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, to review the specific contents of an application, to conduct an interview with a candidate, or to discuss the specific qualifications of a candidate if the particular process of searching for and selecting a president of an institution of higher education meets all of the following requirements:

(i) The search committee in the process, appointed by the governing board, consists of at least 1 student of the institution, 1 faculty member of the institution, 1 administrator of the institution, 1 alumnus of the institution, and 1 representative of the general public. The search committee also may include 1 or more members of the governing board of the institution, but the number shall not constitute a quorum of the governing board. However, the search committee shall not be constituted in such a way that any 1 of the groups described in this subparagraph constitutes a majority of the search committee.

(ii) After the search committee recommends the 5 final candidates, the governing board does not take a vote on a final selection for the president until at least 30 days after the 5 final candidates have been publicly identified by the search committee.

(iii) The deliberations and vote of the governing board of the institution on selecting the president take place in an open session of the governing board.

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1984, Act 202, Imd. Eff. July 3, 1984;—Am. 1993, Act 81, Eff. Apr. 1, 1994;—Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

### **15.269 Minutes.**

Sec. 9. (1) Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. The public body shall make any corrections in the minutes at the next meeting after the meeting to which the minutes refer. The public body shall make corrected minutes available at or before the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.

(2) Minutes are public records open to public inspection, and a public body shall make the minutes available at the address designated on posted public notices pursuant to section 4. The public body shall make copies of the minutes available to the public at the reasonable estimated cost for printing and copying.

(3) A public body shall make proposed minutes available for public inspection within 8 business days after the meeting to which the minutes refer. The public body shall make approved minutes available for public inspection within 5 business days after the meeting at which the minutes are approved by the public body.

(4) A public body shall not include in or with its minutes any personally identifiable information that, if released, would prevent the public body from complying with section 444 of subpart 4 of part C of the general education provisions act, 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974.

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1982, Act 130, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 305, Imd. Eff. Aug. 11, 2004.

### **15.270 Decisions of public body; presumption; civil action to invalidate; jurisdiction; venue; reenactment of disputed decision.**

Sec. 10. (1) Decisions of a public body shall be presumed to have been adopted in compliance with the requirements of this act. The attorney general, the prosecuting attorney of the county in which the public body serves, or any person may commence a civil action in the circuit court to challenge the validity of a decision of a public body made in violation of this act.

(2) A decision made by a public body may be invalidated if the public body has not complied with the requirements of section 3(1), (2), and (3) in making the decision or if failure to give notice in accordance with section 5 has interfered with substantial compliance with section 3(1), (2), and (3) and the court finds that the noncompliance or failure has impaired the rights of the public under this act.

(3) The circuit court shall not have jurisdiction to invalidate a decision of a public body for a violation of this act unless an action is commenced pursuant to this section within the following specified period of time:

(a) Within 60 days after the approved minutes are made available to the public by the public body except as otherwise provided in subdivision (b).

(b) If the decision involves the approval of contracts, the receipt or acceptance of bids, the making of assessments, the procedures pertaining to the issuance of bonds or other evidences of indebtedness, or the submission of a borrowing proposal to the electors, within 30 days after the approved minutes are made available to the public pursuant to that decision.

(4) Venue for an action under this section shall be any county in which a local public body serves or, if the decision of a state public body is at issue, in Ingham county.

(5) In any case where an action has been initiated to invalidate a decision of a public body on the ground that it was not taken in conformity with the requirements of this act, the public body may, without being deemed to make any admission contrary to its interest, reenact the disputed decision in conformity with this act. A decision reenacted in this manner shall be effective from the date of reenactment and shall not be declared invalid by reason of a deficiency in the procedure used for its initial enactment.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

### **15.271 Civil action to compel compliance or enjoin noncompliance; commencement; venue; security not required; commencement of action for mandamus; court costs and attorney fees.**

Sec. 11. (1) If a public body is not complying with this act, the attorney general, prosecuting attorney of the county in which the public body serves, or a person may commence a civil action to compel compliance or to enjoin further noncompliance with this act.

(2) An action for injunctive relief against a local public body shall be commenced in the circuit court, and venue is proper in any county in which the public body serves. An action for an injunction against a state public body shall be commenced in the circuit court and venue is proper in any county in which the public body has its principal office, or in Ingham county. If a person commences an action for injunctive relief, that



person shall not be required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

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

(4) If a public body is not complying with this act, and a person commences a civil action against the public body for injunctive relief to compel compliance or to enjoin further noncompliance with the act and succeeds in obtaining relief in the action, the person shall recover court costs and actual attorney fees for the action.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

#### **15.272 Violation as misdemeanor; penalty.**

Sec. 12. (1) A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00.

(2) A public official who is convicted of intentionally violating a provision of this act for a second time within the same term shall be guilty of a misdemeanor and shall be fined not more than \$2,000.00, or imprisoned for not more than 1 year, or both.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

#### **15.273 Violation; liability.**

Sec. 13. (1) A public official who intentionally violates this act shall be personally liable in a civil action for actual and exemplary damages of not more than \$500.00 total, plus court costs and actual attorney fees to a person or group of persons bringing the action.

(2) Not more than 1 action under this section shall be brought against a public official for a single meeting. An action under this section shall be commenced within 180 days after the date of the violation which gives rise to the cause of action.

(3) An action for damages under this section may be joined with an action for injunctive or exemplary relief under section 11.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

#### **15.273a Selection of president by governing board of higher education institution; violation; civil fine.**

Sec. 13a. If the governing board of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963 violates this act with respect to the process of selecting a president of the institution at any time after the recommendation of final candidates to the governing board, as described in section 8(j), the institution is responsible for the payment of a civil fine of not more than \$500,000.00. This civil fine is in addition to any other remedy or penalty under this act. To the extent possible, any payment of fines imposed under this section shall be paid from funds allocated by the institution of higher education to pay for the travel and expenses of the members of the governing board.

**History:** Add. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

#### **15.274 Repeal of MCL 15.251 to 15.253.**

Sec. 14. Act No. 261 of the Public Acts of 1968, being sections 15.251 to 15.253 of the Compiled Laws of 1970, is repealed.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

#### **15.275 Effective date.**

Sec. 15. This act shall take effect January 1, 1977.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.