SUBSTITUTE FOR

HOUSE BILL NO. 5459

A bill to amend 1976 PA 267, entitled

"Open meetings act,"

by amending section 5 (MCL 15.265), as amended by 1984 PA 167.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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 ~~shall~~ **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. ~~This subsection does not apply to a public meeting held pursuant to section 4(2) to (5) of Act No. 239 of the Public Acts of 1955, as amended, being section 200.304 of the Michigan Compiled Laws.~~

(5) A meeting of a public body ~~which~~ **THAT** is recessed for more than 36 hours shall be reconvened only after public notice ~~, which~~ **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 ~~shall bar~~ **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 ~~which~~ **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 ~~, which~~ shall be at the bottom of the display advertisement, ~~and which shall be~~ set off in a conspicuous manner, ~~shall~~ **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.