

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

2

SENATE BILL 1631*
House Committee Substitute Favorable 7/14/08

Short Title: Electronic Voting/Open Meetings.

(Local)

Sponsors:

Referred to:

May 19, 2008

A BILL TO BE ENTITLED

AN ACT TO CLARIFY HOW PUBLIC BODIES IN HYDE COUNTY MAY
CONDUCT BUSINESS DURING MEETINGS INVOLVING SIMULTANEOUS
COMMUNICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-318.13 reads as rewritten:

"§ 143-318.13. **Electronic meetings; written ballots; acting by reference.**

(a) Electronic Meetings. – A public body may conduct official meetings, in whole or in part, with simultaneous communication. Prior to conducting an official meeting with simultaneous communication, the public body shall adopt rules of procedure governing the conduct of such meetings that address at least all of the following:

- (1) The verification of the identity of the member or members of the public body who are participating by simultaneous communication.
- (2) The process of orderly deliberation by the public body.
- (3) The process of voting by the public body.
- (4) The procedure for recording any votes taken in the minutes of the public body.
- (5) The means by which members of the public can listen or watch the official meeting.

(a1) Quorum and Voting by Members of the Public Body During Electronic Meetings. – A member or members of the public body participating from a remote location by simultaneous communication shall be counted as present for quorum purposes, and all votes of members of a public body made during an official meeting with simultaneous communication shall be counted as if the member were physically present in the place of the official meeting provided all of the following apply to the official meeting:

- (1) The official meeting was properly noticed under G.S. 143-318.12 and under any other requirement for notice applicable to the public body.

- 1 (2) The member or members of the public body participating from a
2 remote location by simultaneous communication are not physically
3 located outside the jurisdiction of the public body. This subdivision
4 shall not apply if the official meeting is an emergency meeting as
5 defined in G.S. 143-318.12(b)(3).
- 6 (3) The member or members of the public body participating from a
7 remote location by simultaneous communication can hear what is said
8 by the other members of the public body and by any individual
9 addressing the public body.
- 10 (4) The member or members of the public body participating from a
11 remote location by simultaneous communication can be heard by the
12 other members of the public body and any other individuals in
13 attendance at the official meeting.
- 14 (5) The vote of the member or members of the public body participating
15 from a remote location by simultaneous communication is not by
16 electronic mail.
- 17 (6) If the chair or presiding officer of the public body is participating from
18 a remote location by simultaneous communication, the vice chair or
19 mayor pro tempore or some other member of the public body who is
20 physically present shall preside at the official meeting. The chair or
21 presiding officer of the public body participating from a remote
22 location by simultaneous communication shall retain the same voting
23 rights he or she has when presiding.
- 24 (7) The official meeting, or part of an official meeting with a member or
25 members of the public body participating from a remote location by
26 simultaneous communication is not any of the following:
- 27 a. A closed session, unless the closed session is held during an
28 emergency meeting.
- 29 b. A quasi-judicial proceeding.
- 30 (8) No written ballots may be taken at the official meeting with a member
31 or members of the public body participating from a remote location by
32 simultaneous communication.
- 33 (9) If the official meeting involves a member of the public body
34 participating from a remote location by simultaneous communication
35 by which the member cannot be physically seen by the public body,
36 that member must comply with all of the following:
- 37 a. The member identifies himself or herself when the roll is taken
38 or the meeting is commenced.
- 39 b. The member identifies himself or herself prior to participating
40 in the deliberations during the official meeting.
- 41 c. The member identifies himself or herself prior to voting.
- 42 (10) The member or members participating from a remote location by
43 simultaneous communication shall have been provided with any
44 documents to be considered during the official meeting.

1 (a2) Participation of Public During Electronic Meetings. – If a public body holds
2 an official meeting by use of ~~conference telephone or other electronic means,~~
3 simultaneous communication, it shall provide a location and means whereby members
4 of the public may listen to the official meeting and the notice of the official meeting
5 required by this Article shall specify that location. ~~A fee of up to twenty-five dollars~~
6 ~~(\$25.00) may be charged each such listener to defray in part the cost of providing the~~
7 ~~necessary location and equipment.~~

8 (b) Written Ballots. – Except as provided in this subsection or by joint resolution
9 of the General Assembly, a public body may not vote by secret or written ballot. If a
10 public body decides to vote by written ballot, each member of the body so voting shall
11 sign his or her ballot; and the minutes of the public body shall show the vote of each
12 member voting. The ballots shall be available for public inspection in the office of the
13 clerk or secretary to the public body immediately following the meeting at which the
14 vote took place and until the minutes of that official meeting are approved, at which
15 time the ballots may be destroyed.

16 (c) Acting by Reference. – The members of a public body shall not deliberate,
17 vote, or otherwise take action upon any matter by reference to a letter, number or other
18 designation, or other secret device or method, with the intention of making it impossible
19 for persons attending a an official meeting of the public body to understand what is
20 being deliberated, voted, or acted upon. However, this subsection does not prohibit a
21 public body from deliberating, voting, or otherwise taking action by reference to an
22 agenda, if copies of the agenda, sufficiently worded to enable the public to understand
23 what is being deliberated, voted, or acted upon, are available for public inspection at the
24 official meeting."

25 **SECTION 2.** G.S. 143-318.10(d) reads as rewritten:

26 "(d) "Official meeting" means a meeting, assembly, or gathering together at any
27 time or place or the simultaneous communication ~~by conference telephone or other~~
28 ~~electronic means~~ of a majority of the members of a public body for the purpose of
29 conducting hearings, participating in deliberations, or voting upon or otherwise
30 transacting the public business within the jurisdiction, real or apparent, of the public
31 body. However, a social meeting or other informal assembly or gathering together of the
32 members of a public body does not constitute an official meeting unless called or held
33 to evade the spirit and purposes of this Article."

34 **SECTION 3.** G.S. 143-318.10 is amended by adding a new subsection to
35 read:

36 "(d1) "Simultaneous communication" means any communication by conference
37 telephone or other electronic means."

38 **SECTION 3.1.** This act applies only to Hyde County.

39 **SECTION 3.2.** Nothing in this act shall be construed to affect the validity of
40 actions related to electronic meetings of any other public body.

41 **SECTION 4.** This act is effective October 1, 2008, and any vote taken by a
42 public body that included a member voting by simultaneous communication by
43 conference telephone or other electronic means before that date is ratified.