

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

SESSION LAW 2008-111
SENATE BILL 1631

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 and the means by which the public is offered the opportunity to participate from the remote location to the same extent as the public at the main location. This requirement shall not apply in emergency meetings.

(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.
- (2) The member or members of the public body participating from a remote location by simultaneous communication are not physically located outside the jurisdiction of the public body. This subdivision shall not apply if the official meeting is an emergency meeting as defined in G.S. 143-318.12(b)(3).
- (3) The member or members of the public body participating from a remote location by simultaneous communication can hear what is said by the other members of the public body and by any individual addressing the public body.
- (4) The member or members of the public body participating from a remote location by simultaneous communication can be heard by the other members of the public body and any other individuals in attendance at the official meeting.

- (5) The vote of the member or members of the public body participating from a remote location by simultaneous communication is not by electronic mail.
- (6) If the chair or presiding officer of the public body is participating from a remote location by simultaneous communication, the vice chair or mayor pro tempore or some other member of the public body who is physically present shall preside at the official meeting. The chair or presiding officer of the public body participating from a remote location by simultaneous communication shall retain the same voting rights he or she has when presiding.
- (7) The official meeting, or part of an official meeting with a member or members of the public body participating from a remote location by simultaneous communication is not any of the following:
 - a. A closed session, unless the closed session is held during an emergency meeting.
 - b. A quasi-judicial proceeding.
- (8) No written ballots may be taken at the official meeting with a member or members of the public body participating from a remote location by simultaneous communication.
- (9) If the official meeting involves a member of the public body participating from a remote location by simultaneous communication by which the member cannot be physically seen by the public body, that member must comply with all of the following:
 - a. The member identifies himself or herself when the roll is taken or the meeting is commenced.
 - b. The member identifies himself or herself prior to participating in the deliberations during the official meeting.
 - c. The member identifies himself or herself prior to voting.
- (10) The member or members participating from a remote location by simultaneous communication shall have been provided with any documents to be considered during the official meeting.

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

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

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

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

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

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

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

SECTION 3.1. This act applies only to Hyde County.

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

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

In the General Assembly read three times and ratified this the 17th day of July, 2008.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives