

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

4

HOUSE BILL 445
Committee Substitute Favorable 4/4/23
Committee Substitute #2 Favorable 4/26/23
Committee Substitute #3 Favorable 5/3/23

Short Title: Open Meetings Changes.

(Public)

Sponsors:

Referred to:

March 23, 2023

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE REMOTE MEETINGS UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 166A-19.24 is recodified as G.S. 143-318.13A.

SECTION 1.(b) G.S. 143-318.13A, as enacted by this act, reads as rewritten:

"§ 143-318.13A. Remote meetings during certain ~~declarations of emergency circumstances.~~

(a) Remote Meetings. – ~~Notwithstanding any other provision of law, upon issuance of a declaration of emergency under G.S. 166A-19.20, any~~ Any public body within the emergency area may conduct remote meetings in accordance with this section and Article 33C of Chapter 143 of the General Statutes throughout the duration of that declaration of emergency. ~~Article, only under one or more of the following circumstances:~~

(1) Throughout the duration of any declaration of emergency issued under G.S. 166A-19.20.

(2) During the time period one or more of the members of the public body cannot attend in person due to health issues that prevent attendance in person. Such member or members shall not be required to reveal details of the health condition.

(3) During the time period one or more of the members of the public body cannot attend in person due to generally unexpected circumstances that prevent attendance in person. Such member or members shall not be required to reveal details of the generally unexpected circumstances.

(a1) Presumption. – Compliance with this statute establishes a presumption that a remote meeting is open to the public.

(b) Requirements. – The public body shall comply with all of the following with respect to remote meetings conducted under this section:

(1) The public body shall give proper notice under G.S. 143-318.12 and under any other requirement for notice applicable to the public body. The notice shall also cite the reason for the remote meeting under subsection (a) of this section and specify the means by which the public can access the remote meeting as that remote meeting occurs.

(2) Any member of the public body participating by a method of simultaneous communication in which that member cannot be physically seen by the public body must identify himself or herself in each of the following situations:

a. When the roll is taken or the remote meeting is commenced.



* H 4 4 5 - V - 4 *

- 1 b. Prior to participating in the deliberations, including making motions,
2 proposing amendments, and raising points of order.
- 3 c. Prior to voting.
- 4 (3) All documents to be considered during the remote meeting shall be provided
5 to each member of the public body.
- 6 (4) The method of simultaneous communication shall allow for any member of
7 the public body to do all of the following:
- 8 a. Hear what is said by the other members of the public body.
- 9 b. Hear what is said by any individual addressing the public body.
- 10 c. To be heard by the other members of the public body when speaking
11 to the public body.
- 12 (5) All votes shall be roll call; no vote by secret or written ballots, whether by
13 paper or electronic means or in accordance with G.S. 143-318.13(b), may be
14 taken during the remote meeting.
- 15 (6) The public body shall comply with G.S. 143-318.13(c).
- 16 (7) The minutes of the remote meeting shall reflect that the meeting was
17 conducted by use of simultaneous communication, which members were
18 participating by simultaneous communication, and when such members
19 joined or left the remote meeting.
- 20 (8) All chats, instant messages, texts, or other written communications between
21 members of the public body regarding the transaction of the public business
22 during the remote meeting are deemed a public record.
- 23 (9) The remote meeting shall be simultaneously streamed live online so that
24 simultaneous live audio, and video, if any, of such meeting is available to the
25 public. If the remote meeting is conducted by conference call, the public body
26 may comply with this subdivision by providing the public with an opportunity
27 to dial in or stream the audio live and listen to the remote meeting.
- 28 (10) For any remote meeting held in accordance with subdivision (a)(2) or (a)(3)
29 of this section, at least a quorum of the public body shall attend the open
30 meeting in person.
- 31 (b1) If a public body has provided notice of an official meeting and one or more of the
32 members of the public body desire to participate remotely after the issuance of the notice, the
33 public body may amend the notice of the meeting to include the means whereby the public can
34 access the remote meeting as that remote meeting occurs. Such amended notice of remote
35 meeting shall comply with all of the following:
- 36 (1) Be issued no less than six hours prior to the official meeting.
- 37 (2) Be distributed in accordance with G.S. 143-318.12(b)(2) and (b)(3), as
38 applicable.
- 39 (3) Be posted in accordance with G.S. 143-318.12(e).
- 40 (c) Quorum. – A member of the public body participating by simultaneous
41 communication under this section shall be counted as present for quorum purposes only during
42 the period while simultaneous communication is maintained for that member. The provisions of
43 G.S. 153A-44 and G.S. 160A-75 shall apply to all votes of each member of a county or municipal
44 governing board taken during a remote meeting.
- 45 (d) Voting by Members of the Public Body. – Votes of each member of a public body
46 made during a remote meeting under this section shall be counted as if the member were
47 physically present only during the period while simultaneous communication is maintained for
48 that member.
- 49 (e) Public Hearings. – A public body may conduct any public hearing required or
50 authorized by law during a remote meeting, and take action thereon, provided the public body
51 allows for written comments on the subject of the public hearing to be submitted between

1 publication of any required notice and 24 hours prior to the scheduled time for the beginning of
2 the public hearing.

3 (f) Quasi-Judicial Hearings. – A public body may conduct a quasi-judicial proceeding as
4 a remote meeting only when all of the following apply:

5 (1) The right of an individual to a hearing and decision ~~occur during the~~
6 ~~emergency-occurs during the event for which the remote meeting is noticed.~~

7 (2) All persons subject to the quasi-judicial proceeding who have standing to
8 participate in the quasi-judicial hearing have been given notice of the
9 quasi-judicial hearing and consent to the remote meeting.

10 (3) All due process rights of the parties affected are protected.

11 (g) Closed Sessions. – The public body may conduct a closed session in a remote meeting
12 as authorized in G.S. 143-318.11. While in closed session, the public body is not required to
13 provide access to the remote meeting to the public.

14 (h) Not Exclusive. – This section ~~applies only during emergency declarations and does~~
15 ~~not supersede any authority for electronic meetings under Article 33C of Chapter 143 of the~~
16 ~~General Statutes.~~ this Article.

17 (i) Definitions. – For purposes of this section, the following definitions apply:

18 (1) ~~Official meeting. – As defined in G.S. 143-318.10(d).~~

19 (2) ~~Public body. – As defined in G.S. 143-318.10(b) and (c).~~

20 (3) Remote meeting. – An official meeting, or any part thereof, with between one
21 and all of the members of the public body participating by simultaneous
22 communication.

23 (4) Simultaneous communication. – Any communication by conference
24 telephone, conference video, or other electronic means."

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

26 **"§ 143-318.10. All official meetings of public bodies open to the public.**

27 (a) Except as provided in G.S. 143-318.11, 143-318.14A, and 143-318.18, each official
28 meeting of a public body shall be open to the public, and any person is entitled to attend such a
29 meeting. Remote meetings conducted in accordance with ~~G.S. 166A-19.24~~ G.S. 143-318.13A
30 shall comply with this subsection even if all members of the public body are participating
31 remotely.

32 (b) As used in this Article, "public body" means any elected or appointed authority,
33 board, commission, committee, council, or other body of the State, or of one or more counties,
34 cities, school administrative units, constituent institutions of The University of North Carolina,
35 or other political subdivisions or public corporations in the State that (i) is composed of two or
36 more members and (ii) exercises or is authorized to exercise a legislative, policy-making,
37 quasi-judicial, administrative, or advisory function. In addition, "public body" means the
38 governing board of a "public hospital" as defined in G.S. 159-39 and the governing board of any
39 nonprofit corporation to which a hospital facility has been sold or conveyed pursuant to
40 G.S. 131E-8, any subsidiary of such nonprofit corporation, and any nonprofit corporation owning
41 the corporation to which the hospital facility has been sold or conveyed.

42 (c) "Public body" does not include (i) a meeting solely among the professional staff of a
43 public body, or (ii) the medical staff of a public hospital or the medical staff of a hospital that has
44 been sold or conveyed pursuant to G.S. 131E-8.

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

1 (e) Every public body shall keep full and accurate minutes of all official meetings,
2 including any closed sessions held pursuant to G.S. 143-318.11. Such minutes may be in written
3 form or, at the option of the public body, may be in the form of sound or video and sound
4 recordings. When a public body meets in closed session, it shall keep a general account of the
5 closed session so that a person not in attendance would have a reasonable understanding of what
6 transpired. Such accounts may be a written narrative, or video or audio recordings. Such minutes
7 and accounts shall be public records within the meaning of Chapter 132 of the General Statutes,
8 the Public Records Law, G.S. 132-1 et seq.; ~~provided, however, Law, except~~ that minutes or an
9 account of a closed session conducted in compliance with G.S. 143-318.11 may be withheld from
10 public inspection so long as public inspection would frustrate the purpose of a closed session."

11 **SECTION 3.** G.S. 143-318.13(d) reads as rewritten:

12 "(d) Except as provided in ~~G.S. 166A-19.24(b)(6),~~ G.S. 143-318.13A(b)(6), this section
13 shall not apply to remote meetings conducted in accordance with this section even if all members
14 of the public body are participating remotely."

15 **SECTION 4.** G.S. 143-318.14A(e) reads as rewritten:

16 "(e) The following sections shall apply to meetings of commissions, committees, and
17 standing subcommittees of the General Assembly: G.S. 143-318.10(e) and G.S. 143-318.11,
18 G.S. 143-318.13 and G.S. 143-318.14, G.S. 143-318.16 through G.S. 143-318.17, and
19 ~~G.S. 166A-19.24.~~ G.S. 143-318.13A."

20 **SECTION 5.** G.S. 153A-43(b) reads as rewritten:

21 "(b) Any member present by means of simultaneous communication in accordance with
22 ~~G.S. 166A-19.24~~ G.S. 143-318.13A shall be counted as present for the purposes of whether a
23 quorum is present only during the period while simultaneous communication is maintained for
24 that member."

25 **SECTION 6.** G.S. 160A-74(b) reads as rewritten:

26 "(b) Any member present by means of simultaneous communication in accordance with
27 ~~G.S. 166A-19.24~~ G.S. 143-318.13A shall be counted as present for the purposes of whether a
28 quorum is present only during the period while simultaneous communication is maintained for
29 that member."

30 **SECTION 7.** G.S. 160A-75(b) reads as rewritten:

31 "(b) Notwithstanding subsection (a) of this section, a vote or failure to vote by any member
32 present by means of simultaneous communication in accordance with ~~G.S. 166A-19.24~~
33 G.S. 143-318.13A shall be treated as if the member were physically present only during the
34 period while simultaneous communication is maintained for that member."

35 **SECTION 8.** This act becomes effective October 1, 2023, and applies to open
36 meetings held on or after that date.