



HOUSE BILL 812: Clarify Remote Meetings During Emergencies.

2021-2022 General Assembly

Committee:	Date:	January 31, 2022
Introduced by:	Prepared by:	Bill Patterson Staff Attorney
Analysis of:	S.L. 2021-35	

OVERVIEW: *S.L. 2021-35 clarifies the authority of public bodies to hold remote open meetings during declarations of emergencies, including:*

- *Allowing a public body to update a meeting notice to provide for a remote meeting.*
- *Specifying compliance with the procedure for remote meetings establishes a presumption the meeting is open to the public.*
- *Requiring a public body to allow written comments on the subject of a remotely held public hearing to be submitted between publication of any required notice and 24 hours prior to the scheduled beginning of the hearing.*

The act became effective July 1, 2021, and applies to remote meetings held on or after that date.

CURRENT LAW: Article 33C of Chapter 143 of the General Statutes governs meetings of public bodies in North Carolina. The Article states that each official meeting of a public body shall be open to the public, and any person is entitled to attend that meeting. A "public body" is defined to be any elected or appointed authority, board, commission, committee, council, or other body of the State, or of one or more counties, cities, school administrative units, constituent institutions of The University of North Carolina, or other political subdivisions or public corporations in the State that meets both of the following criteria:

1. Is composed of two or more members.
2. Exercises or is authorized to exercise a legislative, policy-making, quasi-judicial, administrative, or advisory function.

Official meetings are meetings, assemblies, or gatherings 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 of the public body.

If a public body holds an official meeting by use of conference telephone or other electronic means, that public body must provide a location and means whereby members of the public may listen to the meeting. The notice of the official meeting is to specify that location. A fee of up to \$25.00 may be charged to each such listener to defray the costs of providing the necessary location and equipment.

Additionally, under G.S. 166A-19.24, a public body may conduct an official meeting with one or more members participating by simultaneous communication during a legislatively or gubernatorially declared emergency. Simultaneous communication means any communication by conference telephone, conference video, or other electronic means.

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For a remote meeting held during the pendency of a declared emergency, the public body must comply with all of the following:

- The public body must give proper notice of the open meeting, specifying the means by which the public can access the remote meeting as it occurs.
- Any member of the public body participating in a way that member cannot be physically seen by the public body has to identify himself or herself in each of the following situations:
 - When the roll is taken or the remote meeting is commenced.
 - Prior to participating in the deliberations, including making motions, proposing amendments, and raising points of order.
 - Prior to voting.
- All documents to be considered during the remote meeting are provided to each member of the public body.
- The method of simultaneous communication allows for any member of the public body to:
 - Hear what is said by the other members of the public body.
 - Hear what is said by any individual addressing the public body.
 - Be heard by the other members of the public body when speaking to the public body.
- All votes are roll call, and no vote may be by secret or written ballots.
- The public body may not deliberate, vote or take action by reference, unless the deliberation, voting, or action is by reference to an agenda of which copies are available for public inspection at the meeting.
- The minutes of the remote meeting reflect that the meeting was conducted by use of simultaneous communication, which members were participating by simultaneous communication, and when such members joined or left the remote meeting.
- All chats, instant messages, texts, or other written communications between members of the public body regarding the transaction of the public business during the remote meeting are public record.
- The remote meeting is simultaneously streamed live online so that simultaneous live audio, and video, if any, of such meeting is available to the public.
- Any public hearing required or authorized by law may be conducted during a remote meeting, provided written comments on the subject of the public hearing may be submitted between publication of any required notice and 24 hours after the public hearing.

Closed sessions may be conducted as authorized by law, and while in closed session, the public body is not required to provide access to the remote meeting to the public. A member of the public body participating by simultaneous communication is counted as present for quorum purposes only during the period while simultaneous communication is maintained for that member. Additionally, votes of each member of a public body made during a remote meeting are to be counted as if the member were physically present only during the period while simultaneous communication is maintained for that member.

BILL ANALYSIS: The act provides that, during a legislatively or gubernatorially declared state of emergency, if a public body has provided notice of an official meeting, and one or more of the members of the public body desire to participate remotely after the issuance of the notice, the public body may amend the notice to include the means whereby the public can access the remote meeting, if the amended notice complies with all of the following:

- Issued no less than six hours prior to the official meeting.
- Distributed in accordance with the requirements of public notices of official meetings, including the following:

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- Posted on the principal bulletin board of the public body or, if the public body has no such bulletin board, at the door of its usual meeting room in an area accessible to the public.
- Mailed, e-mailed, or delivered to each newspaper, wire service, radio station, and television station that has filed a written request for notice with the clerk or secretary of the public body and to any other person who has filed such a request.
- Posted on the website of the public body, if the public body has a website that one or more of its employees maintains.

The act also permits a public body to allow submission of written comments on the subject of a remotely held public hearing up to 24 hours prior to the public hearing. Additionally, a public body's compliance with the remote meeting requirements in G.S. 166A-19.24 would establish a presumption that a remote meeting is open to the public.

EFFECTIVE DATE: The act became effective July 1, 2021, and applies to remote meetings held on or after that date.

Erika Churchill, Staff Attorney with the Legislative Analysis Division, substantially contributed to this summary.