



HOUSE BILL 445: Closed Session Reminder.

2023-2024 General Assembly

Committee:	House Local Government. If favorable, re- refer to Judiciary 1. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 4, 2023
Introduced by:	Reps. Winslow, Watford, Moss, Cairns	Prepared by:	Billy Godwin
Analysis of:	PCS to First Edition H445-CSST-9		Alex Ramirez Staff Attorneys

OVERVIEW: *The Proposed Committee Substitute (PCS) to House Bill 445 would modify the open meetings law to require both of the following:*

- *The presiding chair to inform the public body that discussion in the closed session is limited to the permissible purpose the public body is entering closed session.*
- *The presiding chair, in open session, state whether the discussion was limited to the permissible purpose for which the public body entered closed session.*

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, unless expressly exempted, 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:

- (i) Is composed of two or more members.
- (ii) 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.

A public body may meet in closed session for a limited set of purposes, including:

- To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record.
- To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
- To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body.
- To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.
- To establish or to instruct staff or negotiating agents on the position of the public body in negotiating contracts or employee compensation.

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House 445 PCS

Page 2

- To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.
- To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
- To formulate plans by a local board of education relating to emergency response to incidents of school violence or related to school improvement plans.
- To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken to respond to such activity.
- To view a law enforcement agency recording.

A public body may enter closed session only upon a motion duly made and adopted in open session, citing one or more of the permissible purposes listed above. When a public body meets in closed session, a general account of the closed session that would give a person not in attendance a reasonable understanding of the what transpired must be kept. Such accounts may be written narratives or video or audio recordings. The minutes and accounts are public records but may be withheld so long as public inspection would frustrate the purpose of a closed session.

BILL ANALYSIS: The PCS would require the presiding chair of a public body to remind the public body, while in open session prior to entering into closed session, that discussion during the closed session is limited to the permissible purpose for which the public body is entering closed session. It would also require the presiding chair to state, upon re-entering open session after the closed session, whether the discussion during the closed session was limited to the permissible purpose. The presiding chair would be required to reduce the statement to writing, and the statement would be included in the minutes of the open session.

EFFECTIVE DATE: This act would be effective October 1, 2023, and apply to open meetings held on or after that date.