



# HOUSE BILL 445: Open Meetings Changes.

2023-2024 General Assembly

<b>Committee:</b>	House Judiciary 1. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	April 25, 2023
<b>Introduced by:</b>	Reps. Winslow, Watford, Moss, Cairns	<b>Prepared by:</b>	Erika Churchill
<b>Analysis of:</b>	PCS to Second Edition H445-CSST-18		Staff Attorney

**OVERVIEW:** *The proposed committee substitute (PCS) for House Bill 445 would make the following changes to the open meetings law:*

- *Require the presiding chair to remind, prior to entering closed session, the members of the public body to limit discussions in that closed session to the reason stated for the closed session.*
- *Require the presiding chair, upon returning to open session, to state whether the discussions in the closed session were limited to the reason stated for the closed session, which statement shall be included in the minutes of the open meeting.*
- *Authorize remote meetings to be held when a member or members of the public body cannot attend in person due to a health condition or generally unexpected circumstances.*

**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:

- (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.

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,

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conference video, or other electronic means. 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.

With respect to remote meetings during 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 the 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.

Public bodies may hold closed sessions under specified circumstances as authorized in law, whether the meeting is in-person or remote. While in closed session, the public body is not required to provide access to the public, but is limited to discussion of the topic allowing for a closed session. A public body may go into closed session for only the following reasons, generally described:

- The prevention of the disclosure of information that is privileged or confidential under State federal law, or not considered a public record under State law.
- The prevention of the premature disclosure of an honorary degree, scholarship, prize, or similar award.
- Consultation 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.

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- Matters relating to the location or expansion of industries or other businesses in the area served by the public body.
- The terms and conditions for the acquisition of real property by purchase, option, exchange, or lease.
- The compensation and other material terms of an employment contract or proposed employment contract.
- Personnel matters of an individual public officer or employee or prospective public officer or employee, including grievances and complaints.
- Investigations of alleged criminal misconduct.
- Plans by a local board of education relating to emergency response to incidents of school violence or school improvement plans.
- Plans to protect public safety as it relates to existing or potential terrorist activity.
- The viewing of a recording of a body-worn camera of law enforcement officers.

Certain bodies are exempt from the open meetings law. These include petite and grand juries, the Judicial Standards Commission, the Legislative Ethics Committee, a conference committee of the General Assembly, law enforcement agencies, and the General Court of Justice. G.S. 143-318.18.

**BILL ANALYSIS:** The PCS would do the following:

- Require the presiding chair to remind the members of the public body, prior to entering closed session, that the public body is to limit discussions in that closed session to the reason stated for the closed session.
- Require the presiding chair, upon returning to open session, to state whether the discussions in the closed session were limited to the reason stated for the closed session, which statement shall be included in the minutes of the open meeting.
- In addition to during declarations of emergency by the legislature or governor, authorize remote meetings to be held when a member or members of the public body cannot attend in person due to a health condition or generally unexpected circumstances.

**EFFECTIVE DATE:** October 1, 2023.