

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE DRS45101-LR-68 (03/03)

Short Title: Winston-Salem/Simultaneous Communications. (Local)

Sponsors: Senator Lowe (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY HOW PUBLIC BODIES IN THE CITY OF WINSTON-SALEM
3 MAY CONDUCT BUSINESS DURING MEETINGS INVOLVING SIMULTANEOUS
4 COMMUNICATION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 143-318.13 reads as rewritten:

7 "§ 143-318.13. **Electronic meetings; written ballots; acting by reference.**

8 (a) ~~Electronic Meetings. – If a public body holds an official meeting by use of~~
9 ~~conference telephone or other electronic means, it shall provide a location and means whereby~~
10 ~~members of the public may listen to the meeting and the notice of the meeting required by this~~
11 ~~Article shall specify that location. A fee of up to twenty five dollars (\$25.00) may be charged~~
12 ~~each such listener to defray in part the cost of providing the necessary location and~~
13 ~~equipment.~~A public body may conduct official meetings, in whole or in part, with simultaneous
14 communication. Prior to conducting an official meeting with simultaneous communication, the
15 public body shall adopt rules of procedure governing the conduct of the meetings that address
16 at least all of the following:

- 17 (1) The verification of the identity of the member or members of the public
18 body who are participating by simultaneous communication.
19 (2) The process of orderly deliberation by the public body.
20 (3) The process of voting by the public body.
21 (4) The procedure for recording any votes taken in the minutes of the public
22 body.
23 (5) The means by which members of the public can listen or watch the official
24 meeting. This requirement shall not apply in emergency meetings.

25 (a1) Quorum and Voting by Members of the Public Body During Electronic Meetings. –
26 A member or members of the public body participating from a remote location by simultaneous
27 communication shall be counted as present for quorum purposes, and all votes of members of a
28 public body made during an official meeting with simultaneous communication shall be
29 counted as if the member or members were physically present in the place of the official
30 meeting provided all of the following apply to the official meeting:

- 31 (1) The official meeting is properly noticed under G.S. 143-318.12 and under
32 any other requirement for notice applicable to the public-body.
33 (2) The member or members of the public body participating from a remote
34 location by simultaneous communication can hear what is said by the other
35 members of the public body and by any individual addressing the public
36 body.



- 1 (3) The member or members of the public body participating from a remote
2 location by simultaneous communication can be heard by the other members
3 of the public body and any other individuals in attendance at the official
4 meeting or watching the meeting.
- 5 (4) The vote of the member or members of the public body participating in the
6 public meeting from a remote location by simultaneous communication is
7 not participating by electronic mail.
- 8 (5) If the chair or presiding officer of the public body is participating from a
9 remote location by simultaneous communication, the vice chair or mayor pro
10 tempore or some other member of the public body who is physically present
11 presides at the official meeting.
- 12 (6) The official meeting, or part of the official meeting, with a member or
13 members of the public body participating from a remote location by
14 simultaneous communication does not include any of the following:
- 15 a. A closed session, unless the closed session is held during an
16 emergency meeting.
- 17 b. A quasi-judicial proceeding.
- 18 (7) No written ballots are taken at the official meeting with a member or
19 members of the public body participating from a remote location by
20 simultaneous communication.
- 21 (8) If the official meeting involves a member of the public body participating
22 from a remote location by simultaneous communication by which the
23 member cannot be physically seen by the public body, that member complies
24 with all of the following:
- 25 a. The member identifies himself or herself when the roll is taken or the
26 meeting is commenced.
- 27 b. The member identifies himself or herself prior to participating in the
28 deliberations during the official meeting.
- 29 c. The member identifies himself or herself prior to voting.
- 30 (9) The member or members participating from a remote location by
31 simultaneous communication are provided with copies or access to copies of
32 documents to be considered during the official meeting.

33 The chair, mayor pro tempore, or presiding officer of the public body participating from a
34 remote location by simultaneous communication retains the same voting rights he or she has
35 when presiding. This subsection does not apply if the official meeting is an emergency meeting
36 as defined in G.S. 143-318.12(b)(3).

37 (a2) Participation of Public During Electronic Meetings. – If a public body holds an
38 official meeting by use of simultaneous communication, it shall provide a location and means
39 whereby members of the public may listen to the official meeting and the notice of the official
40 meeting required by this Article shall specify that location.

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

48 (c) Acting by Reference. – The members of a public body shall not deliberate, vote, or
49 otherwise take action upon any matter by reference to a letter, number or other designation, or
50 other secret device or method, with the intention of making it impossible for persons attending
51 a-an official meeting of the public body to understand what is being deliberated, voted, or acted

1 upon. However, this subsection does not prohibit a public body from deliberating, voting, or
2 otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded
3 to enable the public to understand what is being deliberated, voted, or acted upon, are available
4 for public inspection at the meeting."

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

6 "**§ 143-318.10. All official meetings of public bodies open to the public.**

7 (a) Except as provided in G.S. 143-318.11, 143-318.14A, and 143-318.18, each official
8 meeting of a public body shall be open to the public, and any person is entitled to attend such a
9 meeting.

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

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

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

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

32 (e) Every public body shall keep full and accurate minutes of all official meetings,
33 including any closed sessions held pursuant to G.S. 143-318.11. Such minutes may be in
34 written form or, at the option of the public body, may be in the form of sound or video and
35 sound recordings. When a public body meets in closed session, it shall keep a general account
36 of the closed session so that a person not in attendance would have a reasonable understanding
37 of what transpired. Such accounts may be a written narrative, or video or audio recordings.
38 Such minutes and accounts shall be public records within the meaning of the Public Records
39 Law, G.S. 132-1 et seq.; provided, however, that minutes or an account of a closed session
40 conducted in compliance with G.S. 143-318.11 may be withheld from public inspection so long
41 as public inspection would frustrate the purpose of a closed session."

42 **SECTION 3.** This act applies to the City of Winston-Salem only.

43 **SECTION 4.** This act becomes effective October 1, 2015, and ratifies any vote
44 taken by a public body in the City of Winston-Salem that included a member voting by
45 simultaneous communication by conference telephone or other electronic means before that
46 date.