

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

S

2

**SENATE BILL 221
Judiciary Committee Substitute Adopted 5/10/21**

Short Title: Durham - Board of Adjustment Virtual Meetings.

(Local)

Sponsors:

Referred to:

March 11, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW FOR CONTINUANCES FOR CERTAIN DURHAM COUNTY BOARD
3 OF ADJUSTMENT PROCEEDINGS WHERE ONE OR MORE PARTIES TO THE
4 PROCEEDING DO NOT CONSENT TO A VIRTUAL MEETING.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 166A-19.24 reads as rewritten:

7 **"§ 166A-19.24. Remote meetings during certain declarations of emergency.**

8 (a) Remote Meetings. – Notwithstanding any other provision of law, upon issuance of a
9 declaration of emergency under G.S. 166A-19.20, any public body within the emergency area
10 may conduct remote meetings in accordance with this section and Article 33C of Chapter 143 of
11 the General Statutes throughout the duration of that declaration of emergency.

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

14 (1) The public body shall give proper notice under G.S. 143-318.12 and under
15 any other requirement for notice applicable to the public body. The notice
16 shall also specify the means by which the public can access the remote
17 meeting as that remote meeting occurs.

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

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

22 b. Prior to participating in the deliberations, including making motions,
23 proposing amendments, and raising points of order.

24 c. Prior to voting.

25 (3) All documents to be considered during the remote meeting shall be provided
26 to each member of the public body.

27 (4) The method of simultaneous communication shall allow for any member of
28 the public body to do all of the following:

29 a. Hear what is said by the other members of the public body.

30 b. Hear what is said by any individual addressing the public body.

31 c. To be heard by the other members of the public body when speaking
32 to the public body.

33 (5) All votes shall be roll call; no vote by secret or written ballots, whether by
34 paper or electronic means or in accordance with G.S. 143-318.13(b), may be
35 taken during the remote meeting.

36 (6) The public body shall comply with G.S. 143-318.13(c).



* S 2 2 1 - V - 2 *

1 (7) The minutes of the remote meeting shall reflect that the meeting was
2 conducted by use of simultaneous communication, which members were
3 participating by simultaneous communication, and when such members
4 joined or left the remote meeting.

5 (8) All chats, instant messages, texts, or other written communications between
6 members of the public body regarding the transaction of the public business
7 during the remote meeting are deemed a public record.

8 (9) The remote meeting shall be simultaneously streamed live online so that
9 simultaneous live audio, and video, if any, of such meeting is available to the
10 public. If the remote meeting is conducted by conference call, the public body
11 may comply with this subdivision by providing the public with an opportunity
12 to dial in or stream the audio live and listen to the remote meeting.

13 (c) Quorum. – A member of the public body participating by simultaneous
14 communication under this section shall be counted as present for quorum purposes only during
15 the period while simultaneous communication is maintained for that member. The provisions of
16 G.S. 153A-44 and G.S. 160A-75 shall apply to all votes of each member of a county or municipal
17 governing board taken during a remote meeting.

18 (d) Voting by Members of the Public Body. – Votes of each member of a public body
19 made during a remote meeting under this section shall be counted as if the member were
20 physically present only during the period while simultaneous communication is maintained for
21 that member.

22 (e) Public Hearings. – A public body may conduct any public hearing required or
23 authorized by law during a remote meeting, and take action thereon, provided the public body
24 allows for written comments on the subject of the public hearing to be submitted between
25 publication of any required notice and 24 hours after the public hearing.

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

28 (1) The right of an individual to a hearing and decision occur during the
29 emergency.

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

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

34 (f1) Board of Adjustment Continuance Procedures. – If one or more persons subject to a
35 quasi-judicial proceeding by the Durham Board of Adjustment who have standing to participate
36 in the quasi-judicial hearing do not consent to the remote meeting authorized under subsection
37 (f) of this section, then the hearing shall be continued until such time that the full Board of
38 Adjustment is able to meet in person or until the next regularly scheduled remote meeting or
39 remote emergency meeting of the Durham Board of Adjustment.

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

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

46 (i) For purposes of this section, the following definitions apply:

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

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

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

- 1 (4) Simultaneous communication. – Any communication by conference
2 telephone, conference video, or other electronic means."
3 **SECTION 2.(a)** This act applies to Durham County only.
4 **SECTION 2.(b)** This act is effective when it becomes law and applies to proceedings
5 initiated on or after that date.