

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 411
Judiciary I Committee Substitute Adopted 4/9/13
PROPOSED HOUSE COMMITTEE SUBSTITUTE S411-PCS15284-ST-67

Short Title: Ethics Requirements for MPOs/RPOs.

(Public)

Sponsors:

Referred to:

March 26, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT THE TRANSPORTATION ADVISORY COMMITTEES OF
3 METROPOLITAN PLANNING ORGANIZATIONS AND RURAL TRANSPORTATION
4 PLANNING ORGANIZATIONS ARE SUBJECT TO STANDARD ETHICS
5 PROVISIONS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.(a)** G.S. 136-202(e) is repealed.

8 **SECTION 1.(b)** G.S. 136-200.2 is amended by adding the following new
9 subsections to read:

10 "(g) Ethics Provisions. – All individuals with voting authority serving on a metropolitan
11 planning organization who are not members of the Board of Transportation shall do all of the
12 following:

13 (1) Except as permitted under this subdivision, no MPO member acting in that
14 capacity shall participate in an action if the member knows the member, the
15 member's extended family, or any business with which the member is
16 associated may incur a reasonably foreseeable financial benefit from the
17 matter under consideration, which financial benefit would impair the MPO
18 member's independence of judgment or from which it could reasonably be
19 inferred that the financial benefit would influence the member's participation
20 in the action. An MPO member may participate in an action of the MPO
21 under any of the following circumstances:

22 a. When action is ministerial only and does not require the exercise of
23 discretion.

24 b. When the committee records in its minutes that it cannot obtain a
25 quorum in order to take the action because the MPO member is
26 disqualified from acting, the MPO member may be counted for
27 purposes of a quorum but shall otherwise abstain from taking any
28 further action.

29 (2) An MPO member shall have an affirmative duty to promptly disclose in
30 writing to the MPO any conflict of interest or potential conflict of interest
31 under subdivision (1) of this subsection. All written disclosures shall be a
32 public record under Chapter 132 of the General Statutes and attached to the
33 minutes of the meeting in which any discussion or vote was taken by the
34 MPO related to that disclosure.



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1 (3) File a statement of economic interest with the State Ethics Commission in
2 accordance with Article 3 of Chapter 138A of the General Statutes, for
3 which the State Ethics Commission shall prepare a written evaluation
4 relative to conflicts of interest and potential conflicts of interest and provide
5 a copy of that evaluation to the MPO member. All statements of economic
6 interest and all written evaluations by the Commission of those statements
7 are public records as provided in G.S. 138A-23. The penalties for failure to
8 file shall be as set forth in G.S. 138A-25(a) and (b).

9 (4) File, with and in the same manner as the statement of economic interest filed
10 under subdivision (3) of this subsection, an additional disclosure of a list of
11 all real estate owned wholly or in part by the MPO member, the MPO
12 member's extended family, or a business with which the MPO member is
13 associated within the jurisdiction of the MPO on which the MPO member is
14 serving. All additional disclosures of real estate filed by MPO members are
15 public records under Chapter 132 of the General Statutes.

16 (h) Confidential Information. – An MPO member shall not use or disclose any
17 nonpublic information gained in the course of or by reason of serving as a member of the MPO
18 in a way that would affect a personal financial interest of the MPO member, the MPO
19 member's extended family, or a business with which the MPO member is associated.

20 (i) Definitions. – For purposes of this section, "extended family" shall have the same
21 meaning as in G.S. 138A-3(13), "business with which associated" shall have the same meaning
22 as in G.S. 138A-3(3), and "financial benefit" shall mean a direct pecuniary gain or loss or a
23 direct pecuniary loss to a business competitor.

24 (j) Violations. – A violation of subdivision (1) of subsection (g) of this section shall be
25 a Class 1 misdemeanor. An MPO member who knowingly conceals or knowingly fails to
26 disclose information that is required to be disclosed on a required filing under subdivisions (3)
27 or (4) of subsection (g) of this section shall be guilty of a Class 1 misdemeanor. An MPO
28 member who provides false information on a required filing under subdivisions (3) or (4) of
29 subsection (g) of this section knowing that the information is false is guilty of a Class H felony.

30 (k) All individuals with voting authority serving on an MPO who are members of the
31 Board of Transportation shall comply with Chapter 138A of the General Statutes and
32 G.S. 143A-350 while serving on the MPO."

33 **SECTION 2.(a)** G.S. 136-211(e) is repealed.

34 **SECTION 2.(b)** G.S. 136-211 is amended by adding the following new
35 subsections to read:

36 "(f) Ethics Provisions. – All individuals with voting authority serving on a rural
37 transportation planning organization who are not members of the Board of Transportation shall
38 do all of the following:

39 (1) Except as permitted under this subdivision, no rural transportation planning
40 organization member acting in that capacity shall participate in an action of
41 the rural transportation planning organization if the rural transportation
42 planning organization member knows the rural transportation planning
43 organization member, the rural transportation planning organization
44 member's extended family, or any business with which the rural
45 transportation planning organization member is associated may incur a
46 reasonably foreseeable financial benefit from the matter under consideration,
47 which financial benefit would impair the rural transportation planning
48 organization member's independence of judgment or from which it could
49 reasonably be inferred that the financial benefit would influence the rural
50 transportation planning organization member's participation in the action of
51 the rural transportation planning organization.

- 1 a. When action is ministerial only and does not require the exercise of
2 discretion.
- 3 b. When the committee records in its minutes that it cannot obtain a
4 quorum in order to take the action because the rural transportation
5 planning organization member is disqualified from acting, the rural
6 transportation planning organization member may be counted for
7 purposes of a quorum but shall otherwise abstain from taking any
8 further action.
- 9 (2) A rural transportation planning organization member shall have an
10 affirmative duty to promptly disclose in writing to the rural transportation
11 planning organization any conflict of interest or potential conflict of interest
12 under subdivision (1) of this subsection. All written disclosures shall be a
13 public record under Chapter 132 of the General Statutes and attached to the
14 minutes of the meeting in which any discussion or vote was taken by the
15 rural transportation planning organization related to that disclosure.
- 16 (3) File a statement of economic interest with the State Ethics Commission in
17 accordance with Article 3 of Chapter 138A of the General Statutes for which
18 the State Ethics Commission shall prepare a written evaluation relative to
19 conflicts of interest and potential conflicts of interest and provide a copy of
20 that evaluation to the rural transportation planning organization member. All
21 statements of economic interest and all written evaluations by the
22 Commission of those statements are public records as provided in
23 G.S. 138A-23. The penalties for failure to file shall be as set forth in
24 G.S. 138A-25(a) and (b).
- 25 (4) File, with and in the same manner as the statement of economic interest filed
26 under subdivision (3) of this subsection, an additional disclosure of a list of
27 all real estate owned wholly or in part by the rural transportation planning
28 organization member, the rural transportation planning organization
29 member's extended family, or a business with which the rural transportation
30 planning organization member is associated within the jurisdiction of the
31 rural transportation planning organization on which the rural transportation
32 planning organization member is serving. All additional disclosures of real
33 estate filed by members are public records under Chapter 132 of the General
34 Statutes.
- 35 (g) Confidential Information. – A rural transportation planning organization member
36 shall not use or disclose any nonpublic information gained in the course of or by reason of
37 serving as a member of the rural transportation planning organization in a way that would
38 affect a personal financial interest of the rural transportation planning organization member, the
39 rural transportation planning organization member's extended family, or a business with which
40 the rural transportation planning organization member is associated.
- 41 (i) Definitions. – For purposes of this section, "extended family" shall have the same
42 meaning as in G.S. 138A-3(13), "business with which associated" shall have the same meaning
43 as in G.S. 138A-3(3), and "financial benefit" shall mean a direct pecuniary gain or loss or a
44 direct pecuniary loss to a business competitor.
- 45 (j) Violations. – A violation of subdivision (1) of subsection (f) of this section shall be
46 a Class 1 misdemeanor. A rural transportation planning organization member who knowingly
47 conceals or knowingly fails to disclose information that is required to be disclosed on a
48 required filing under subdivisions (3) or (4) of subsection (f) of this section shall be guilty of a
49 Class 1 misdemeanor. A rural transportation planning organization member who provides false
50 information on a required filing under subdivisions (3) or (4) of subsection (f) of this section
51 knowing that the information is false is guilty of a Class H felony.

1 (k) All individuals with voting authority serving on a rural transportation planning
2 organization who are members of the Board of Transportation shall comply with Chapter 138A
3 of the General Statutes and G.S. 143A-350 while serving on the rural transportation planning
4 organization."

5 **SECTION 3.** This act is effective when it becomes law. The State Ethics
6 Commission may not require any individual serving on a metropolitan planning organization or
7 rural transportation planning organization, who are not also members of the Board of
8 Transportation, who has not yet complied with G.S. 138A-13 to complete ethics education as
9 required by that statute, and may not apply Article 5 of Chapter 138A of the General Statutes to
10 any of those individuals. The State Ethics Commission is authorized to destroy the statement of
11 economic interest forms that were filed by individuals pursuant to G.S. 136-202(e) and
12 G.S. 136-211(e) and any associated written evaluation of those forms if the filer does not have
13 authority to give final approval for actions of the metropolitan planning organization or rural
14 transportation planning organization on which the filer serves and is not otherwise a covered
15 person required to file a statement of economic interest.