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SENATE DRS35533-LR-137B* (04/09)

Short Title: W-S/Meetings By Simultaneous Communication. (Local)

Sponsors: Senators Parmon and Krawiec (Primary Sponsors).

Referred to:

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

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 143-318.10 reads as rewritten:

7 "§ 143-318.10. All official meetings of public bodies open to the public.

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

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

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

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

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

33 (e) Every public body shall keep full and accurate minutes of all official meetings,
34 including any closed sessions held pursuant to G.S. 143-318.11. Such minutes may be in
35 written form or, at the option of the public body, may be in the form of sound or video and
36 sound recordings. When a public body meets in closed session, it shall keep a general account



1 of the closed session so that a person not in attendance would have a reasonable understanding
2 of what transpired. Such accounts may be a written narrative, or video or audio recordings.
3 Such minutes and accounts shall be public records within the meaning of the Public Records
4 Law, G.S. 132-1 et seq.; provided, however, that minutes or an account of a closed session
5 conducted in compliance with G.S. 143-318.11 may be withheld from public inspection so long
6 as public inspection would frustrate the purpose of a closed session."

7 **SECTION 2.** G.S. 143-318.13 reads as rewritten:

8 "**§ 143-318.13. Electronic meetings; written ballots; acting by reference.**

9 (a) Electronic Meetings. – A public body may conduct official meetings, in whole or in
10 part, with simultaneous communication. Prior to conducting an official meeting with
11 simultaneous communication, the public body shall adopt rules of procedure governing the
12 conduct of the meetings that address at least all of the following:

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

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

- 27 (1) The official meeting was properly noticed under G.S. 143-318.12 and under
28 any other requirement for notice applicable to the public body.
- 29 (2) This subsection shall not apply if the official meeting is an emergency
30 meeting as defined in G.S. 143-318.12(b)(3).
- 31 (3) The member or members of the public body participating from a remote
32 location by simultaneous communication can hear what is said by the other
33 members of the public body and by any individual addressing the public
34 body.
- 35 (4) The member or members of the public body participating from a remote
36 location by simultaneous communication can be heard by the other members
37 of the public body and any other individuals in attendance at the official
38 meeting, or watching the meeting.
- 39 (5) The vote of the member or members of the public body participating from a
40 remote location by simultaneous communication is not by electronic mail.
- 41 (6) If the chair or presiding officer of the public body is participating from a
42 remote location by simultaneous communication, the vice-chair or mayor
43 pro tempore or some other member of the public body who is physically
44 present shall preside at the official meeting. The chair, mayor pro tempore,
45 or presiding officer of the public body participating from a remote location
46 by simultaneous communication shall retain the same voting rights he or she
47 has when presiding.
- 48 (7) The official meeting or part of an official meeting with a member or
49 members of the public body participating from a remote location by
50 simultaneous communication shall not include any of the following:

- 1 a. A closed session, unless the closed session is held during an
2 emergency meeting.
3 b. A quasi-judicial proceeding.
4 (8) No written ballots may be taken at the official meeting with a member or
5 members of the public body participating from a remote location by
6 simultaneous communication.
7 (9) If the official meeting involves a member of the public body participating
8 from a remote location by simultaneous communication by which the
9 member cannot be physically seen by the public body, that member must
10 comply with all of the following:
11 a. The member identifies himself or herself when the roll is taken or the
12 meeting is commenced.
13 b. The member identifies himself or herself prior to participating in the
14 deliberations during the official meeting.
15 c. The member identifies himself or herself prior to voting.
16 (10) The member or members participating from a remote location by
17 simultaneous communication shall be provided copies or access to copies of
18 documents to be considered during the official meeting.
19 (a2) Participation of Public During Electronic Meetings. – If a public body holds an
20 official meeting by use of ~~conference telephone or other electronic means,~~ simultaneous
21 communication, it shall provide a location and means whereby members of the public may
22 listen to the official meeting and the notice of the official meeting required by this Article shall
23 specify that location. ~~A fee of up to twenty five dollars (\$25.00) may be charged each such~~
24 listener to defray in part the cost of providing the necessary location and equipment.
25 (b) Written Ballots. – Except as provided in this subsection or by joint resolution of the
26 General Assembly, a public body may not vote by secret or written ballot. If a public body
27 decides to vote by written ballot, each member of the body so voting shall sign his or her ballot;
28 and the minutes of the public body shall show the vote of each member voting. The ballots
29 shall be available for public inspection in the office of the clerk or secretary to the public body
30 immediately following the meeting at which the vote took place and until the minutes of that
31 official meeting are approved, at which time the ballots may be destroyed.
32 (c) Acting by Reference. – The members of a public body shall not deliberate, vote, or
33 otherwise take action upon any matter by reference to a letter, number or other designation, or
34 other secret device or method, with the intention of making it impossible for persons attending
35 a-an official meeting of the public body to understand what is being deliberated, voted, or acted
36 upon. However, this subsection does not prohibit a public body from deliberating, voting, or
37 otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded
38 to enable the public to understand what is being deliberated, voted, or acted upon, are available
39 for public inspection at the meeting."
40 **SECTION 3.** Nothing in this act shall be construed to affect the validity of actions
41 related to electronic meetings of any other public body.
42 **SECTION 4.** This act applies only to the City of Winston-Salem.
43 **SECTION 5.** This act becomes effective October 1, 2014, and ratifies any vote
44 taken by a public body that included a member voting by simultaneous communication by
45 conference telephone or other electronic means before that date.