

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL 410  
Judiciary Committee Substitute Adopted 4/20/21  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S410-PCS15457-ST-55

Short Title: Open Meetings/Various Board Adj.

(Public)

Sponsors:

Referred to:

March 31, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THAT THE OPEN MEETINGS LAW AND THE PUBLIC RECORDS  
3 LAW APPLY TO THE OPERATIONS OF THE COUNCIL OF STATE AND TO AMEND  
4 THE COMPOSITION OF VARIOUS BOARDS TO REFLECT THE INCREASE IN  
5 APPORTIONMENT OF THE STATE'S CONGRESSIONAL DELEGATION.

6 The General Assembly of North Carolina enacts:

7  
8 **PART I. COUNCIL OF STATE**

9 **SECTION 1.** G.S. 143-318.10(b) reads as rewritten:

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~~ State, ~~whether established by~~  
14 the State Constitution or otherwise, that (i) is composed of two or more members and (ii)  
15 exercises or is authorized to exercise a legislative, policy-making, quasi-judicial, administrative,  
16 or advisory function. In addition, "public body" means the governing board of a "public hospital"  
17 as defined in G.S. 159-39 and the governing board of any nonprofit corporation to which a  
18 hospital facility has been sold or conveyed pursuant to G.S. 131E-8, any subsidiary of such  
19 nonprofit corporation, and any nonprofit corporation owning the corporation to which the  
20 hospital facility has been sold or conveyed."

21 **SECTION 2.** G.S. 132-1(a) reads as rewritten:

22 "(a) "Public record" or "public records" shall mean all documents, papers, letters, maps,  
23 books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing  
24 records, artifacts, or other documentary material, regardless of physical form or characteristics,  
25 made or received pursuant to law or ordinance in connection with the transaction of public  
26 business by any agency of North Carolina government or its subdivisions. Agency of North  
27 Carolina government or its subdivisions shall mean and include every public body subject to  
28 Article 33C of Chapter 143 of the General Statutes and every public office, public officer or  
29 official (State or local, elected or appointed), institution, board, commission, bureau, council,  
30 department, authority or other unit of government of the State or of any county, unit, special  
31 district or other political subdivision of government."

32 **SECTION 3.(a)** G.S. 147-13 reads as rewritten:

33 **"§ 147-13. May convene Council of State; quorum; journal.**

34 (a) The Governor may convene the Council of State for consultation whenever ~~he~~ the  
35 Governor may deem it proper. The Governor shall convene the Council of State whenever the



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1 statutes call for the concurrence, advice, discretion, opinion, or consent of the Council of State.  
2 In all meetings of the Council of State, five members exclusive of the Governor shall constitute  
3 a quorum.

4 (b) ~~The advice and~~ proceedings of the Council of State shall be entered in a journal, to be  
5 kept for this purpose exclusively and signed by all members present. Any member of the Council  
6 of State may have entered in the journal ~~his~~ the member's dissent to any part of the journal. The  
7 journal shall be maintained by the Governor and shall be placed before the General Assembly  
8 when called for by either house.

9 (c) The convening of the Council of State shall be subject to Article 33C of Chapter 143  
10 of the General Statutes, and the minutes required under that Article shall include the journal kept  
11 in accordance with this section."

12 **SECTION 3.(b)** This section becomes effective January 1, 2023.

13 **SECTION 4.(a)** On or before October 1, 2022, the Council of State shall adopt rules  
14 establishing a comprehensive system of parliamentary procedure, including the method of  
15 introducing and considering resolutions presented by members of the Council of State and the  
16 posting of the journal and minutes online. If the Council of State fails to adopt rules as required  
17 by this section, Mason's Manual of Legislative Procedure shall apply to all meetings of the  
18 Council of State held after October 1, 2022, and the Governor shall provide for the posting of all  
19 minutes and the journal online within 10 business days of each meeting of the Council of State.

20 **SECTION 4.(b)** On or before October 1, 2022, the Council of State shall review its  
21 department rules, as recorded in Chapter 1 of Title 06 of the North Carolina Administrative Code  
22 for compliance and conformity with the General Statutes and this act, and initiate any  
23 amendments to those rules by that date.

24 **SECTION 5.** Except as otherwise provided, this Part is effective when it becomes  
25 law and clarifies and restates the intent of existing law that meetings, deliberations, and actions  
26 of the Council of State, like all public bodies, be conducted openly.  
27

## 28 **PART II. CONGRESSIONAL APPORTIONMENT CONFORMING CHANGES**

29 **SECTION 6.** G.S. 7A-761(b) reads as rewritten:

30 "(b) The Human Relations Commission of the Civil Rights Division of the Office of  
31 Administrative Hearings shall consist of 22 members. The Governor shall appoint one member  
32 from each of the ~~13~~ 14 congressional districts, plus ~~five~~ four members at large, including the  
33 chairperson. The Speaker of the North Carolina House of Representatives shall appoint two  
34 members to the Commission. The President Pro Tempore of the Senate shall appoint two  
35 members to the Commission. The terms of four of the members appointed by the Governor shall  
36 expire June 30, 1988. The initial terms of four of the members appointed by the Governor shall  
37 expire June 30, 1987. The initial terms of four of the members appointed by the Governor shall  
38 expire June 30, 1986. The initial terms of four of the members appointed by the Governor shall  
39 expire June 30, 1985. The initial terms of the members appointed by the Speaker of the North  
40 Carolina House of Representatives shall expire June 30, 1986. The initial terms of the members  
41 appointed by the Lieutenant Governor shall expire June 30, 1986. The initial term of office of  
42 the person appointed to represent the 12th Congressional District shall commence on January 3,  
43 1993, and expire on June 30, 1996. At the end of the respective terms of office of the initial  
44 members of the Commission, the appointment of their successors shall be for terms of four years.  
45 No member of the ~~commission~~ Commission shall serve more than two consecutive terms. A  
46 member having served two consecutive terms shall be eligible for reappointment one year after  
47 the expiration of his second term. Any appointment to fill a vacancy on the Commission created  
48 by the resignation, dismissal, death, or disability of a member shall be filled in the manner of the  
49 original appointment for the unexpired term."

50 **SECTION 7.** G.S. 116-233(a) reads as rewritten:

1       "(a) Notwithstanding the provisions of G.S. 116-31(d), there shall be a Board of Trustees  
2 of the School, which shall consist of up to ~~30~~31 members as follows:

- 3           (1) ~~Thirteen~~Fourteen members who shall be appointed by the Board of Governors  
4 of The University of North Carolina, one from each congressional district.
- 5           (2) Four members without regard to residency who shall be appointed by the  
6 Board of Governors of The University of North Carolina.
- 7           (3) Three members, ex officio, who shall be the chief academic officers,  
8 respectively, of constituent institutions or the members' designees. The Board  
9 of Governors shall in 1985 and quadrennially thereafter designate the three  
10 constituent institutions whose chief academic officers or officers' designees  
11 shall so serve, such designations to expire on June 30, 1989, and quadrennially  
12 thereafter.
- 13           (4) The chief academic officer of a college or university in North Carolina other  
14 than a constituent institution, ex officio, or the chief academic officer's  
15 designee. The Board of Governors shall designate in 1985 and quadrennially  
16 thereafter which college or university whose chief academic officer or  
17 officer's designee shall so serve, such designation to expire on June 30, 1989,  
18 and quadrennially thereafter.
- 19           (5) Three members appointed by the General Assembly upon the  
20 recommendation of the President Pro Tempore of the Senate in accordance  
21 with G.S. 120-121.
- 22           (6) Three members appointed by the General Assembly upon the  
23 recommendation of the Speaker of the House of Representatives in  
24 accordance with G.S. 120-121.
- 25           (7) Repealed by Session Laws 2016-126, 4th Ex. Sess., s. 36, effective December  
26 19, 2016. See editor's note for applicability.
- 27           (8) The president of the student government, ex officio, who shall be a nonvoting  
28 member.
- 29           (9) Up to two additional nonvoting members selected at the discretion of the  
30 chancellor and the Board of Trustees, with terms expiring June 30 of each  
31 year."

32       **SECTION 8.** G.S. 140-5.13(b) reads as rewritten:

33       "(b) The Board of Trustees of the North Carolina Museum of Art shall consist of ~~25~~26  
34 members, chosen as follows:

- 35           (1) The Governor shall appoint ~~13~~14 members, one from each congressional  
36 district in the State in accordance with ~~G.S. 147-12(3b);~~G.S. 147-12(3b).
- 37           (2) Repealed by Session Laws 2012-120, s. 1(e), effective October 1, 2012.
- 38           (3) The North Carolina Museum of Art Foundation, Incorporated, shall elect four  
39 ~~members;~~members.
- 40           (4) The Board of Trustees of the North Carolina Museum of Art shall elect four  
41 ~~members;~~members.
- 42           (5) The General Assembly shall appoint four members, two upon the  
43 recommendation of the Speaker of the House of Representatives, and two  
44 upon the recommendation of the President Pro Tempore of the Senate in  
45 accordance with ~~G.S. 120-121;~~G.S. 120-121.
- 46           (6) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1191, s. 49.

47       All regular appointments or elections except those by the General Assembly shall be for terms  
48 of six years, except that each member shall serve until the member's successor is chosen and  
49 qualifies. No person may be appointed or elected to more than two consecutive terms of six years.  
50 All appointments by the General Assembly shall be for terms of four years, with no person being  
51 appointed to more than three consecutive terms."

1           **SECTION 9.** G.S. 143B-148(a)(2) reads as rewritten:  
2           "(2) Twenty-four shall be appointed by the Governor, one from each congressional  
3           district in the State in accordance with ~~G.S. 147-12(3)b~~, G.S. 147-12(3b), and  
4           the remainder at-large members.  
5           ...."  
6           **SECTION 10.** Except as otherwise provided, this act is effective when it becomes  
7 law.