

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 1191
HOUSE BILL 1539

AN ACT TO AMEND G.S. CHAPTER 143, ARTICLE 33B, THE NORTH CAROLINA OPEN MEETINGS LAW, BY CLARIFYING THE LAW AND BY INCLUDING A REQUIREMENT OF PUBLIC NOTICE OF OFFICIAL MEETINGS; AND TO AMEND CHAPTER 959, 1977 SESSION LAWS, TO PROVIDE THAT THE OPEN MEETINGS STUDY COMMISSION SHALL REPORT TO THE 1979 GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-318.1 is rewritten to read as follows:

"§ 143-318.1. Public policy. — Whereas the public bodies that administer the legislative, policy-making, quasi-judicial, administrative, and advisory functions of this State and its political subdivisions exist solely to conduct the people's business, it is the public policy of this State that the hearings, deliberations, and actions of these bodies be conducted openly."

Sec. 2. G.S. 143-318.2 is rewritten to read as follows:

"§ 143-318.2. All official meetings open to the public. — (a) Except as provided in G.S. 143-318.3, G.S. 143-318.4, and G.S. 143-318.5, each official meeting of a public body shall be open to the public, and any person is entitled to attend such a meeting.

(b) As used in this Article, 'public body' means any authority, board, commission, committee, council, or other body of the State, or of one or more counties, cities, school administrative units, or other political subdivisions or public corporations in the State that is composed of two or more members and

- (1) exercises or is authorized to exercise any legislative, policy-making, quasi-judicial, administrative, or advisory function; and
- (2) is established by (i) the State Constitution, (ii) an act or resolution of the General Assembly, (iii) a resolution or order of a State agency, pursuant to a statutory procedure under which the agency establishes a political subdivision or public corporation, (iv) an ordinance, resolution, or other action of the governing board of one or more counties, cities, school administrative units, or other political subdivisions or public corporations, or (v) an Executive Order of the Governor or formal action of the head of a principal State office or department, as defined in G.S. 143A-11 and G.S. 143B-6, or of a division thereof.

In addition, 'public body' means a committee of a public body and the governing board of a 'public hospital', as defined in G.S. 159-39. This provision shall not apply to committees which are not policy making bodies of public hospitals.

(c) 'Public body' does not include and shall not be construed to include meetings among the professional staff of a public body, unless the staff members have been appointed to and are meeting as an authority, board, commission, committee, council, or other body established by one of the methods listed in subdivision (b)(2) of this section.

(d) 'Official meeting' means any meeting, assembly, or gathering together at any time or place of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the public body; provided, however, a social

meeting or other informal assembly or gathering together of the members of a public body does not constitute an official meeting unless called or held to evade the spirit and purposes of this Article."

Sec. 3. G.S. 143-318.3, as it appears in the 1978 Replacement of Volume 3C, is amended as follows:

(a) Subsection (a) is amended in lines 1 and 2 by deleting the words "Any of the bodies specified in G.S. 143-318.1" and inserting in lieu thereof the words "A public body".

(b) Subdivision (a)(5) is amended by deleting the words "governing or governmental" and inserting in lieu thereof the word "public".

(c) Subsection (b) is amended in lines 1 and 2 by deleting the words "governing or governmental body specified in G.S. 143-318.1" and inserting in lieu thereof the words "public body".

(d) Subsection (b) is further amended in line 8 by deleting the words "said governing" and inserting in lieu thereof the words "the public".

(e) Subsection (b) is further amended by rewriting line 11 to read: "considering and deciding in closed session (1) disciplinary cases involving students and (2) questions of reassignments of pupils under G.S. 115-178."

Sec. 4. G.S. 143-318.4, as it appears in the 1978 Replacement of Volume 3C, is amended as follows:

(a) Paragraph (3) is rewritten as follows: "(3) The Department of Correction."

(b) Paragraph (4) is rewritten as follows: "(4) The Judicial Standards Commission."

(c) Paragraph (9) is amended by striking the words "board enumerated in G.S. 150-9 and every" in the first line thereof; and by inserting between the word "any" and the word "profession" in line 4 and in line 7 the words "occupation or".

(d) A new paragraph (11) is added, to read as follows: "(11) Any public body that is specifically authorized or directed by law to meet in executive or confidential session, to the extent of the authorization or direction."

Sec. 5. Article 33B of General Statutes Chapter 143 is amended by adding a new section at the end thereof to read as follows:

"§ 143-318.8. Public notice of official meetings. — (a) If a public body has established, by ordinance, resolution, or otherwise, a schedule of regular meetings, it shall cause a current copy of that schedule, showing the time and place of regular meetings, to be kept on file as follows:

- (1) for public bodies that are part of State government, with the Secretary of State;
- (2) for the governing board and each other public body that is part of a county government, with the clerk to the board of county commissioners;
- (3) for the governing board and each other public body that is part of a city government, with the city clerk;
- (4) for each other public body, with its clerk or secretary, or, if the public body does not have a clerk or secretary, with the clerk to the board of county commissioners in the county in which the public body normally holds its meetings.

If a public body changes its schedule of regular meetings, it shall cause the revised schedule to be filed as provided in subdivisions (1) through (4) of this subsection at least seven calendar days before the day of the first meeting held pursuant to the revised schedule.

(b) If a public body holds an official meeting at any time or place other than a time or place shown on the schedule filed pursuant to subsection (a) of this section, it shall give public notice of the time and place of that meeting as provided in this subsection.

- (1) If a meeting is an adjourned or recessed session of a regular meeting or of some other meeting, notice of which has been given pursuant to this

subsection, and the time and place of the adjourned or recessed session has been set during the regular or other meeting, no further notice is necessary.

- (2) For any other meeting, except an emergency meeting, the public body shall cause written notice of the meeting (i) to be posted on the principal bulletin board of the public body or, if the public body has no such bulletin board, at the door of its usual meeting room, and (ii) to be mailed or delivered to each newspaper, wire service, radio station, and television station that has filed a written request for notice with the clerk or secretary of the public body or with some other person designated by the public body. This notice shall be posted and mailed or delivered at least 48 hours before the time of the meeting. The public body may require each newspaper, wire service, radio station, and television station submitting a written request for notice to renew the request annually and may charge a reasonable fee, not to exceed ten dollars (\$10.00) annually, to cover the cost of mailed or delivered notice.
- (3) For an emergency meeting, the public body shall cause notice of the meeting to be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written request, which includes the newspaper's, wire service's, or station's telephone number, for emergency notice with the clerk or secretary of the public body or with some other person designated by the public body. This notice shall be given either by telephone or by the same method used to notify the members of the public body and shall be given immediately after the notice has been given to those members. This notice shall be given at the expense of the party notified. An 'emergency meeting' is one called because of generally unexpected circumstances that require immediate consideration by the public body. Only business connected with the emergency may be considered at a meeting to which notice is given pursuant to this subdivision.

(c) This section does not apply to the General Assembly. Each house of the General Assembly shall provide by rule for notice of meetings of legislative committees and subcommittees."

Sec. 6. G.S. 153A-40 is amended by adding a new paragraph at the end of subsection (b) of that section to read as follows:

"In addition to the procedures set out in this subsection, a person or persons calling a special or emergency meeting of the board of commissioners shall comply with the notice requirements of Article 33B of General Statutes Chapter 143."

Sec. 7. G.S. 160A-71 is amended by adding a new sentence at the end of subsection (b) of that section to read as follows:

"In addition to the procedures set out in this subsection or any city charter, a person or persons calling a special meeting of a city council shall comply with the notice requirements of Article 33B of General Statutes Chapter 143."

Sec. 8. Chapter 959 of the 1977 Session Laws is amended in Section 2(2) by inserting after the comma following "1978" and before the word "its" the words "and to the 1979 General Assembly,".

Sec. 9. Sections 1, 2, 3, 4, 5, 6, and 7 of this act shall become effective on October 1, 1978. Sections 8 and 9 are effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.