

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1099

Short Title: City, County & School Bd. Voting Required.

(Public)

Sponsors: Representative LaRoque.

Referred to: Local Government I.

April 10, 2003

A BILL TO BE ENTITLED
AN ACT TO ENFORCE THE DUTY OF CITY COUNCIL MEMBERS AND
COUNTY COMMISSIONERS TO VOTE ON NONPROCEDURAL ISSUES AND
TO IMPOSE A SIMILAR ENFORCEABLE DUTY TO VOTE ON SCHOOL
BOARD MEMBERS.

Whereas, G.S. 160A-75 provides that no member of a city council is excused from voting except when a conflict of interest arises, and that provision is enforced by counting as a "yes" vote all abstentions by members who refuse to vote or have left the meeting without being excused by majority vote of the remaining members present; and

Whereas, G.S. 153A-44 has the same requirements for county commissioners being excused, but no provision enforcing it; and

Whereas, North Carolina law imposes no duty at all for school board members to vote; and

Whereas, none of these statutes provide meaningful enforcement; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-75 reads as rewritten:
"§ 160A-75. Voting.

No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234. In all other cases, if a failure to member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, fails to vote three or more times during any calendar year (other than votes on procedural motions), that member may be removed from office by the vote of two-thirds of the remaining members of the council. ~~shall be recorded as an affirmative vote.~~ The question of the compensation and allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

1 An affirmative vote equal to a majority of all the members of the council not
2 excused from voting on the question in issue, including the mayor's vote in case of an
3 equal division, shall be required to adopt an ordinance, take any action having the effect
4 of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or
5 authorize any contract on behalf of the city. In addition, no ordinance nor any action
6 having the effect of any ordinance may be finally adopted on the date on which it is
7 introduced except by an affirmative vote equal to or greater than two thirds of all the
8 actual membership of the council, excluding vacant seats and not including the mayor
9 unless the mayor has the right to vote on all questions before the council. For purposes
10 of this section, an ordinance shall be deemed to have been introduced on the date the
11 subject matter is first voted on by the council."

12 **SECTION 2.** G.S. 153A-44 reads as rewritten:

13 **"§ 153A-44. Members excused from voting.**

14 The board may excuse a member from voting, but only upon questions involving the
15 member's own financial interest or official conduct or on matters on which the member
16 is prohibited from voting under G.S. 14-234. In all other cases, if a member who is
17 physically present in the chamber, or who has withdrawn without being excused by a
18 majority vote of the remaining members present, fails to vote three or more times during
19 any calendar year (other than votes on procedural motions), that member may be
20 removed from office by the vote of two-thirds of the remaining members of the board.
21 For purposes of this section, the question of the compensation and allowances of
22 members of the board does not involve a member's own financial interest or official
23 conduct."

24 **SECTION 2.** G.S. 115C-48 reads as rewritten:

25 **"§ 115C-48. ~~Penalties~~ Excuses from voting; penalties for certain conduct.**

26 (a) The board may excuse a member from voting, but only upon questions
27 involving the member's own financial interest or official conduct or on matters on which
28 the member is prohibited from voting under G.S. 14-234. In all other cases, if a member
29 who is physically present in the chamber, or who has withdrawn without being excused
30 by a majority vote of the remaining members present, fails to vote three or more times
31 during any calendar year (other than votes on procedural motions), that member may be
32 removed from office by the vote of two-thirds of the remaining members of the board.
33 For purposes of this section, the question of the compensation and allowances of
34 members of the board does not involve a member's own financial interest or official
35 conduct. Members of local boards of education are criminally liable for certain conduct
36 as provided in G.S. 14-234.

37 (b) Members of local boards of education are civilly liable for certain conduct as
38 provided in G.S. 115C-441."

39 **SECTION 3.** This act becomes effective December 1, 2003.