

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 435

Short Title: Public Meeting/Simultaneous Communication/W-S. (Local)

Sponsors: Representative Montgomery.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government, if favorable, Rules, Calendar, and Operations of the House

March 25, 2019

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. 143-318.13 reads as rewritten:

7 "**§ 143-318.13. Electronic meetings; written ballots; acting by reference.**

8 (a) ~~Electronic Meetings. – If a public body holds an official meeting by use of conference~~
9 ~~telephone or other electronic means, it shall provide a location and means whereby members of~~
10 ~~the public may listen to the meeting and the notice of the meeting required by this Article shall~~
11 ~~specify that location. A fee of up to twenty five dollars (\$25.00) may be charged each such~~
12 ~~listener to defray in part the cost of providing the necessary location and equipment.~~ A public
13 body may conduct official meetings, in whole or in part, with simultaneous communication, but
14 only in circumstances where a member of the public body is unable to physically attend the
15 official meeting due to a medical condition of the member or a medical condition of an immediate
16 family member.

17 (a1) Procedure. – Prior to conducting an official meeting with simultaneous
18 communication under subsection (a) of this section, the public body shall adopt rules of
19 procedure governing the conduct of such meetings that address at least all of the following:

- 20 (1) The verification of the identity of the member or members of the public body
21 who are participating by simultaneous communication.
22 (2) The process of orderly deliberation by the public body.
23 (3) The process of voting by the public body.
24 (4) The procedure for recording any votes taken in the minutes of the public body.
25 (5) The means by which members of the public can listen or watch the official
26 meeting. This requirement shall not apply in emergency meetings.

27 (a2) Quorum and Voting. – A member or members of the public body participating from
28 a remote location by simultaneous communication shall be counted as present for quorum
29 purposes, and all votes of members of a public body made during an official meeting with
30 simultaneous communication shall be counted as if the member or members were physically
31 present in the place of the official meeting provided all of the following apply to the official
32 meeting:

- 33 (1) The official meeting was properly noticed under G.S. 143-318.12 and under
34 any other requirement for notice applicable to the public body.



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- 1 (2) This subdivision shall not apply if the official meeting is an emergency
2 meeting as defined in G.S. 143-318.12(b)(3).
- 3 (3) The member or members of the public body participating from a remote
4 location by simultaneous communication can hear what is said by the other
5 members of the public body and by any individual addressing the public body.
- 6 (4) The member or members of the public body participating from a remote
7 location by simultaneous communication can be heard by the other members
8 of the public body and any other individuals in attendance at the official
9 meeting, or watching the meeting.
- 10 (5) The vote of the member or members of the public body participating from a
11 remote location by simultaneous communication is not by electronic mail.
- 12 (6) If the chair or presiding officer of the public body is participating from a
13 remote location by simultaneous communication, the vice-chair or mayor pro
14 tempore or some other member of the public body who is physically present
15 shall preside at the official meeting. The chair, mayor pro tempore, or
16 presiding officer of the public body participating from a remote location by
17 simultaneous communication shall retain the same voting rights he or she has
18 when presiding.
- 19 (7) The official meeting, or part of an official meeting with a member or members
20 of the public body participating from a remote location by simultaneous
21 communication, shall not include any of the following:
- 22 a. A closed session, unless the closed session is held during an
23 emergency meeting.
- 24 b. A quasi-judicial proceeding.
- 25 (8) No written ballots may be taken at the official meeting with a member or
26 members of the public body participating from a remote location by
27 simultaneous communication.
- 28 (9) If the official meeting involves a member of the public body participating
29 from a remote location by simultaneous communication by which the member
30 cannot be physically seen by the public body, that member must comply with
31 all of the following:
- 32 a. The member identifies himself or herself when the roll is taken or the
33 meeting is commenced.
- 34 b. The member identifies himself or herself prior to participating in the
35 deliberations during the official meeting.
- 36 c. The member identifies himself or herself prior to voting.
- 37 (10) The member or members participating from a remote location by
38 simultaneous communication shall be provided copies or access to copies of
39 documents to be considered during the official meeting.
- 40 (a3) Participation by Public. – If a public body holds an official meeting by use of
41 simultaneous communication, it shall provide a location and means whereby members of the
42 public may listen to the official meeting and the notice of the official meeting required by this
43 Article shall specify that location.
- 44 (b) Written Ballots. – Except as provided in this subsection or by joint resolution of the
45 General Assembly, a public body may not vote by secret or written ballot. If a public body decides
46 to vote by written ballot, each member of the body so voting shall sign his or her ballot; and the
47 minutes of the public body shall show the vote of each member voting. The ballots shall be
48 available for public inspection in the office of the clerk or secretary to the public body
49 immediately following the meeting at which the vote took place and until the minutes of that
50 official meeting are approved, at which time the ballots may be destroyed.

1 (c) Acting by Reference. – The members of a public body shall not deliberate, vote, or
2 otherwise take action upon any matter by reference to a letter, number or other designation, or
3 other secret device or method, with the intention of making it impossible for persons attending a
4 an official meeting of the public body to understand what is being deliberated, voted, or acted
5 upon. However, this subsection does not prohibit a public body from deliberating, voting, or
6 otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to
7 enable the public to understand what is being deliberated, voted, or acted upon, are available for
8 public inspection at the official meeting."

9 **SECTION 2.** G.S. 143-318.10(d) reads as rewritten:

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

17 **SECTION 3.** G.S. 143-318.10 is amended by adding a new subsection to read:

18 "(d1) "Simultaneous communication" means any communication by conference telephone
19 or other electronic means."

20 **SECTION 3.1.** This act applies only to the City of Winston-Salem.

21 **SECTION 3.2.** Nothing in this act shall be construed to affect the validity of actions
22 related to electronic meetings of any other public body.

23 **SECTION 4.** This act is effective June 1, 2019, and any vote taken by a public body
24 that included a member voting by simultaneous communication by conference telephone or other
25 electronic means before that date is ratified.