

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 844
Judiciary Committee Substitute Adopted 4/28/97

Short Title: Strengthen Open Government.

(Public)

Sponsors:

Referred to:

April 15, 1997

A BILL TO BE ENTITLED

1 AN ACT TO STRENGTHEN THE OPEN MEETINGS LAW TO REQUIRE
2 ACCOUNTS OF CLOSED MEETINGS AND TO PROHIBIT VOTING ON
3 ECONOMIC DEVELOPMENT INCENTIVES IN CLOSED SESSIONS.
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5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 143-318.10(e) reads as rewritten:

7 "(e) Every public body shall keep full and accurate minutes of all official meetings,
8 including any closed sessions held pursuant to G.S. 143-318.11. Such minutes may be in
9 written form or, at the option of the public body, may be in the form of sound or video
10 and sound recordings. When a public body meets in closed session, it shall keep an
11 account of the closed session in a form such that a person not in attendance would have a
12 reasonable understanding of what transpired, including a record of positions taken by
13 public officials during discussion by the public body. Such accounts, at the option of the
14 public body, may be in the form of written narratives, or sound or video recordings. Such
15 minutes and accounts shall be public records within the meaning of the Public Records
16 Law, G.S. 132-1 et seq.; provided, however, that minutes or an account of a closed
17 session conducted in compliance with G.S. 143-318.11 may be withheld from public
18 inspection so long as public inspection would frustrate the purpose of a closed session."

19 Section 2. G.S. 143-318.11(a) reads as rewritten:

1 "(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be
2 held only when required to permit a public body to act in the public interest as permitted
3 in this section. A public body may hold a closed session and exclude the public only
4 when a closed session is required:

5 (1) To prevent the disclosure of information that is privileged or
6 confidential pursuant to the law of this State or of the United States, or
7 not considered a public record within the meaning of Chapter 132 of the
8 General Statutes.

9 (2) To prevent the premature disclosure of an honorary degree, scholarship,
10 prize, or similar award.

11 (3) To consult with an attorney employed or retained by the public body in
12 order to preserve the attorney-client privilege between the attorney and
13 the public body, which privilege is hereby acknowledged. General
14 policy matters may not be discussed in a closed session and nothing
15 herein shall be construed to permit a public body to close a meeting that
16 otherwise would be open merely because an attorney employed or
17 retained by the public body is a participant. The public body may
18 consider and give instructions to an attorney concerning the handling or
19 settlement of a claim, judicial action, or administrative procedure. If the
20 public body has approved or considered a settlement, other than a
21 malpractice settlement by or on behalf of a hospital, in closed session,
22 the terms of that settlement shall be reported to the public body and
23 entered into its minutes as soon as possible within a reasonable time
24 after the settlement is concluded.

25 (4) To discuss matters relating to the location or expansion of industries or
26 other businesses in the area served by the public body. No public body
27 shall formally or informally extend or offer, or permit anyone to extend
28 or offer on behalf of the public body, an inducement, incentive,
29 commitment or consideration that has economic value, and that is
30 financed in whole or in part by public funds, except pursuant to a vote
31 duly taken and recorded in an open session.

32 (5) To establish, or to instruct the public body's staff or negotiating agents
33 concerning the position to be taken by or on behalf of the public body in
34 negotiating (i) the price and other material terms of a contract or
35 proposed contract for the acquisition of real property by purchase,
36 option, exchange, or lease; or (ii) the amount of compensation and other
37 material terms of an employment contract or proposed employment
38 contract.

39 (6) To consider the qualifications, competence, performance, character,
40 fitness, conditions of appointment, or conditions of initial employment
41 of an individual public officer or employee or prospective public officer
42 or employee; or to hear or investigate a complaint, charge, or grievance
43 by or against an individual public officer or employee. General

1 personnel policy issues may not be considered in a closed session. A
2 public body may not consider the qualifications, competence,
3 performance, character, fitness, appointment, or removal of a member of
4 the public body or another body and may not consider or fill a vacancy
5 among its own membership except in an open meeting. Final action
6 making an appointment or discharge or removal by a public body
7 having final authority for the appointment or discharge or removal shall
8 be taken in an open meeting.

9 (7) To plan, conduct, or hear reports concerning investigations of alleged
10 criminal misconduct."

11 Section 3. This act is effective when it becomes law.