

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 844

Short Title: Strengthen Open Government.

(Public)

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Sponsors: Senators Hoyle, Cooper; Forrester and Perdue.

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Referred to: Judiciary.

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April 15, 1997

A BILL TO BE ENTITLED

1 AN ACT TO STRENGTHEN THE OPEN MEETINGS LAW TO REQUIRE  
2 ACCOUNTS OF CLOSED MEETINGS, TO PROHIBIT VOTING ON ECONOMIC  
3 DEVELOPMENT INCENTIVES IN CLOSED SESSIONS AND TO CLARIFY  
4 INFORMATION THAT MUST BE DISCLOSED PUBLICLY ABOUT  
5 PROSPECTIVE REAL ESTATE PURCHASES BY PUBLIC BODIES.  
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7 The General Assembly of North Carolina enacts:

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

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

1 public inspection so long as public inspection would frustrate the purpose of a closed  
2 session."

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

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

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

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

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

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

35 (5) To establish, or to instruct the public body's staff or negotiating agents  
36 concerning the position to be taken by or on behalf of the public body in  
37 negotiating (i) the price and other material terms of a contract or  
38 proposed contract for the acquisition of real property by purchase,  
39 option, exchange, or lease; or (ii) the amount of compensation and other  
40 material terms of an employment contract or proposed employment  
41 contract. Provided, however, that if a public body considers the  
42 acquisition of an interest in real property, the following information  
43 shall be disclosed in the next open session following the closed session:

1                    the location of the property; the name(s) of the current property  
2                    owner(s); the proposed or potential uses of the property; and any  
3                    proposal or offer from the potential seller.

4                    (6) To consider the qualifications, competence, performance, character,  
5                    fitness, conditions of appointment, or conditions of initial employment  
6                    of an individual public officer or employee or prospective public officer  
7                    or employee; or to hear or investigate a complaint, charge, or grievance  
8                    by or against an individual public officer or employee. General  
9                    personnel policy issues may not be considered in a closed session. A  
10                    public body may not consider the qualifications, competence,  
11                    performance, character, fitness, appointment, or removal of a member of  
12                    the public body or another body and may not consider or fill a vacancy  
13                    among its own membership except in an open meeting. Final action  
14                    making an appointment or discharge or removal by a public body  
15                    having final authority for the appointment or discharge or removal shall  
16                    be taken in an open meeting.

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

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