

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE BILL 411  
Judiciary I Committee Substitute Adopted 4/9/13  
House Committee Substitute Favorable 6/4/13

Short Title: Ethics Requirements for MPOs/RPOs.

(Public)

Sponsors:

Referred to:

March 26, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT THE TRANSPORTATION ADVISORY COMMITTEES OF  
3 METROPOLITAN PLANNING ORGANIZATIONS AND RURAL TRANSPORTATION  
4 PLANNING ORGANIZATIONS ARE SUBJECT TO STANDARD ETHICS  
5 PROVISIONS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.(a)** G.S. 136-202(e) is repealed.

8 **SECTION 1.(b)** G.S. 136-200.2 is amended by adding the following new  
9 subsections to read:

10 "(g) Ethics Provisions. – All individuals with voting authority serving on a metropolitan  
11 planning organization who are not members of the Board of Transportation shall do all of the  
12 following:

13 (1) Except as permitted under this subdivision, no MPO member acting in that  
14 capacity shall participate in an action if the member knows the member, the  
15 member's extended family, or any business with which the member is  
16 associated may incur a reasonably foreseeable financial benefit from the  
17 matter under consideration, which financial benefit would impair the MPO  
18 member's independence of judgment or from which it could reasonably be  
19 inferred that the financial benefit would influence the member's participation  
20 in the action. An MPO member may participate in an action of the MPO  
21 under any of the following circumstances:

22 a. When action is ministerial only and does not require the exercise of  
23 discretion.

24 b. When the committee records in its minutes that it cannot obtain a  
25 quorum in order to take the action because the MPO member is  
26 disqualified from acting, the MPO member may be counted for  
27 purposes of a quorum but shall otherwise abstain from taking any  
28 further action.

29 (2) An MPO member shall have an affirmative duty to promptly disclose in  
30 writing to the MPO any conflict of interest or potential conflict of interest  
31 under subdivision (1) of this subsection. All written disclosures shall be a  
32 public record under Chapter 132 of the General Statutes and attached to the  
33 minutes of the meeting in which any discussion or vote was taken by the  
34 MPO related to that disclosure.



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1           (3) File a statement of economic interest with the State Ethics Commission in  
2 accordance with Article 3 of Chapter 138A of the General Statutes, for  
3 which the State Ethics Commission shall prepare a written evaluation  
4 relative to conflicts of interest and potential conflicts of interest and provide  
5 a copy of that evaluation to the MPO member. All statements of economic  
6 interest and all written evaluations by the Commission of those statements  
7 are public records as provided in G.S. 138A-23. The penalties for failure to  
8 file shall be as set forth in G.S. 138A-25(a) and (b).

9           (4) File, with and in the same manner as the statement of economic interest filed  
10 under subdivision (3) of this subsection, an additional disclosure of a list of  
11 all real estate owned wholly or in part by the MPO member, the MPO  
12 member's extended family, or a business with which the MPO member is  
13 associated within the jurisdiction of the MPO on which the MPO member is  
14 serving. All additional disclosures of real estate filed by MPO members are  
15 public records under Chapter 132 of the General Statutes.

16       (h) Confidential Information. – An MPO member shall not use or disclose any  
17 nonpublic information gained in the course of or by reason of serving as a member of the MPO  
18 in a way that would affect a personal financial interest of the MPO member, the MPO  
19 member's extended family, or a business with which the MPO member is associated.

20       (i) Definitions. – For purposes of this section, "extended family" shall have the same  
21 meaning as in G.S. 138A-3(13), "business with which associated" shall have the same meaning  
22 as in G.S. 138A-3(3), and "financial benefit" shall mean a direct pecuniary gain or loss or a  
23 direct pecuniary loss to a business competitor.

24       (j) Violations. – A violation of subdivision (1) of subsection (g) of this section shall be  
25 a Class 1 misdemeanor. An MPO member who knowingly conceals or knowingly fails to  
26 disclose information that is required to be disclosed on a required filing under subdivisions (3)  
27 or (4) of subsection (g) of this section shall be guilty of a Class 1 misdemeanor. An MPO  
28 member who provides false information on a required filing under subdivisions (3) or (4) of  
29 subsection (g) of this section knowing that the information is false is guilty of a Class H felony.

30       (k) All individuals with voting authority serving on an MPO who are members of the  
31 Board of Transportation shall comply with Chapter 138A of the General Statutes and  
32 G.S. 143A-350 while serving on the MPO."

33       **SECTION 2.(a)** G.S. 136-211(e) is repealed.

34       **SECTION 2.(b)** G.S. 136-211 is amended by adding the following new  
35 subsections to read:

36       "(f) Ethics Provisions. – All individuals with voting authority serving on a rural  
37 transportation planning organization who are not members of the Board of Transportation shall  
38 do all of the following:

39           (1) Except as permitted under this subdivision, no rural transportation planning  
40 organization member acting in that capacity shall participate in an action of  
41 the rural transportation planning organization if the rural transportation  
42 planning organization member knows the rural transportation planning  
43 organization member, the rural transportation planning organization  
44 member's extended family, or any business with which the rural  
45 transportation planning organization member is associated may incur a  
46 reasonably foreseeable financial benefit from the matter under consideration,  
47 which financial benefit would impair the rural transportation planning  
48 organization member's independence of judgment or from which it could  
49 reasonably be inferred that the financial benefit would influence the rural  
50 transportation planning organization member's participation in the action of  
51 the rural transportation planning organization.

- 1           a.     When action is ministerial only and does not require the exercise of  
2                 discretion.
- 3           b.     When the committee records in its minutes that it cannot obtain a  
4                 quorum in order to take the action because the rural transportation  
5                 planning organization member is disqualified from acting, the rural  
6                 transportation planning organization member may be counted for  
7                 purposes of a quorum but shall otherwise abstain from taking any  
8                 further action.
- 9           (2)    A rural transportation planning organization member shall have an  
10                affirmative duty to promptly disclose in writing to the rural transportation  
11                planning organization any conflict of interest or potential conflict of interest  
12                under subdivision (1) of this subsection. All written disclosures shall be a  
13                public record under Chapter 132 of the General Statutes and attached to the  
14                minutes of the meeting in which any discussion or vote was taken by the  
15                rural transportation planning organization related to that disclosure.
- 16           (3)    File a statement of economic interest with the State Ethics Commission in  
17                accordance with Article 3 of Chapter 138A of the General Statutes for which  
18                the State Ethics Commission shall prepare a written evaluation relative to  
19                conflicts of interest and potential conflicts of interest and provide a copy of  
20                that evaluation to the rural transportation planning organization member. All  
21                statements of economic interest and all written evaluations by the  
22                Commission of those statements are public records as provided in  
23                G.S. 138A-23. The penalties for failure to file shall be as set forth in  
24                G.S. 138A-25(a) and (b).
- 25           (4)    File, with and in the same manner as the statement of economic interest filed  
26                under subdivision (3) of this subsection, an additional disclosure of a list of  
27                all real estate owned wholly or in part by the rural transportation planning  
28                organization member, the rural transportation planning organization  
29                member's extended family, or a business with which the rural transportation  
30                planning organization member is associated within the jurisdiction of the  
31                rural transportation planning organization on which the rural transportation  
32                planning organization member is serving. All additional disclosures of real  
33                estate filed by members are public records under Chapter 132 of the General  
34                Statutes.
- 35           (g)    Confidential Information. – A rural transportation planning organization member  
36                shall not use or disclose any nonpublic information gained in the course of or by reason of  
37                serving as a member of the rural transportation planning organization in a way that would  
38                affect a personal financial interest of the rural transportation planning organization member, the  
39                rural transportation planning organization member's extended family, or a business with which  
40                the rural transportation planning organization member is associated.
- 41           (i)    Definitions. – For purposes of this section, "extended family" shall have the same  
42                meaning as in G.S. 138A-3(13), "business with which associated" shall have the same meaning  
43                as in G.S. 138A-3(3), and "financial benefit" shall mean a direct pecuniary gain or loss or a  
44                direct pecuniary loss to a business competitor.
- 45           (j)    Violations. – A violation of subdivision (1) of subsection (f) of this section shall be  
46                a Class 1 misdemeanor. A rural transportation planning organization member who knowingly  
47                conceals or knowingly fails to disclose information that is required to be disclosed on a  
48                required filing under subdivisions (3) or (4) of subsection (f) of this section shall be guilty of a  
49                Class 1 misdemeanor. A rural transportation planning organization member who provides false  
50                information on a required filing under subdivisions (3) or (4) of subsection (f) of this section  
51                knowing that the information is false is guilty of a Class H felony.

1       (k) All individuals with voting authority serving on a rural transportation planning  
2 organization who are members of the Board of Transportation shall comply with Chapter 138A  
3 of the General Statutes and G.S. 143A-350 while serving on the rural transportation planning  
4 organization."

5       **SECTION 3.** This act is effective when it becomes law. The State Ethics  
6 Commission may not require any individual serving on a metropolitan planning organization or  
7 rural transportation planning organization, who are not also members of the Board of  
8 Transportation, who has not yet complied with G.S. 138A-13 to complete ethics education as  
9 required by that statute, and may not apply Article 5 of Chapter 138A of the General Statutes to  
10 any of those individuals. The State Ethics Commission is authorized to destroy the statement of  
11 economic interest forms that were filed by individuals pursuant to G.S. 136-202(e) and  
12 G.S. 136-211(e) and any associated written evaluation of those forms if the filer does not have  
13 authority to give final approval for actions of the metropolitan planning organization or rural  
14 transportation planning organization on which the filer serves and is not otherwise a covered  
15 person required to file a statement of economic interest.