

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 411

Short Title: Ethics Requirements for MPOs/RPOs. (Public)

Sponsors: Senators Rabon, Harrington (Primary Sponsors); Daniel and J. Davis.

Referred to: Transportation.

March 26, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT METROPOLITAN PLANNING ORGANIZATIONS AND
3 RURAL TRANSPORTATION PLANNING ORGANIZATIONS ARE SUBJECT TO
4 ETHICS PROVISIONS OF STATE GOVERNMENT, AS RECOMMENDED BY THE
5 JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

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7 **SECTION 1.(a)** G.S. 136-202(e) is repealed.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 new subsections to read:

9 "(g) Ethics Provisions. – All individuals with voting authority serving on a metropolitan
10 planning organization board shall do all of the following:

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

20 a. When action is ministerial only and does not require the exercise of
21 discretion.

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

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

32 (3) File a statement of economic interest with the State Ethics Commission in
33 accordance with Article 3 of Chapter 138A of the General Statutes, for
34 which the State Ethics Commission shall prepare a written evaluation
35 relative to conflicts of interest and potential conflicts of interest and provide
36 a copy of that evaluation to the member. All statements of economic interest



1 and all written evaluations by the Commission of those statements are public
2 records as provided in G.S. 138A-23. The penalties for failure to file shall be
3 as set forth in G.S. 138A-25(a) and (b).

4 (4) File with the State Ethics Commission an additional list of all real estate
5 owned wholly or in part by a member's extended family or a business with
6 which the member is associated within the jurisdiction of the MPO on which
7 the member is serving. All additional lists of real estate filed by members are
8 public records under Chapter 132 of the General Statutes.

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

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

17 (j) Violations. – A violation of subdivision (1) of subsection (g) shall be a Class 1
18 misdemeanor. A member who knowingly conceals or knowingly fails to disclose information
19 that is required to be disclosed on a required filing under subdivisions (3) or (4) of subsection
20 (g) of this section shall be guilty of a Class 1 misdemeanor. A member who provides false
21 information on a required filing under subdivisions (3) or (4) of subsection (g) of this section
22 knowing that the information is false is guilty of a Class H felony."

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

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

25 "(f) Ethics Provisions. – All individuals with voting authority serving on a rural
26 transportation planning organization shall do all of the following:

27 (1) Except as permitted under this subdivision, no rural transportation planning
28 organization member acting in that capacity shall participate in an action if
29 the member knows the member, the member's extended family, or any
30 business with which the member is associated may incur a reasonably
31 foreseeable financial benefit from the matter under consideration, which
32 financial benefit would impair the member's independence of judgment or
33 from which it could reasonably be inferred that the financial benefit would
34 influence the member's participation in the official action.

35 a. When action is ministerial only and does not require the exercise of
36 discretion.

37 b. When the committee records in its minutes that it cannot obtain a
38 quorum in order to take the action because the member is
39 disqualified from acting, the member may be counted for purposes of
40 a quorum but shall otherwise abstain from taking any further action.

41 (2) A member shall have an affirmative duty to promptly disclose in writing to
42 the rural transportation planning organization any conflict of interest or
43 potential conflict of interest under subdivision (1) of this subsection. All
44 written disclosures shall be a public record under Chapter 132 of the General
45 Statutes, and attached to the minutes of the meeting in which any discussion
46 or vote was taken by the rural transportation planning organization related to
47 that disclosure.

48 (3) File a statement of economic interest with the State Ethics Commission in
49 accordance with Article 3 of Chapter 138A of the General Statutes, for
50 which the State Ethics Commission shall prepare a written evaluation
51 relative to conflicts of interest and potential conflicts of interest and provide

1 a copy of that evaluation to the member. All statements of economic interest
2 and all written evaluations by the Commission of those statements are public
3 records as provided in G.S. 138A-23. The penalties for failure to file shall be
4 as set forth in G.S. 138A-25(a) and (b).

5 (4) File with the State Ethics Commission an additional list of all real estate
6 owned wholly or in part by a member's extended family or a business with
7 which the member is associated within the jurisdiction of the rural
8 transportation planning organization on which the member is serving. All
9 additional lists of real estate filed by members are public records under
10 Chapter 132 of the General Statutes.

11 (g) Confidential Information. – A member of any rural transportation planning
12 organization shall not use or disclose any nonpublic information gained in the course of or by
13 reason of serving as a member of the rural transportation planning organization in a way that
14 would affect a personal financial interest of the member, the member's extended family, or a
15 business with which the member is associated.

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

20 (j) Violations. – A violation of subdivisions (1) of subsection (e) shall be a Class 1
21 misdemeanor. A member who knowingly conceals or knowingly fails to disclose information
22 that is required to be disclosed on a required filing under subdivisions (3) or (4) of subsection
23 (e) of this section shall be guilty of a Class 1 misdemeanor. A member who provides false
24 information on a required filing under subdivisions (3) or (4) of subsection (e) of this section
25 knowing that the information is false is guilty of a Class H felony."

26 **SECTION 3.** This act is effective when it becomes law. All individuals with voting
27 authority serving on a metropolitan planning organization or a rural transportation planning
28 organization shall file statements of economic interest and additional real estate lists with the
29 State Ethics Commission no later than April 15, 2013. Any member of a metropolitan planning
30 organization or a rural transportation planning organization that filed a statement of economic
31 interest in compliance with G.S. 136-202(e) and G.S. 136-211(e) shall not be required to file
32 again, and the State Ethics Commission shall prepare the evaluation under G.S. 136-200.2(i) or
33 G.S. 136-211(h) of that filing.