

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SENATE BILL 411
RATIFIED BILL**

AN ACT TO PROVIDE THAT THE TRANSPORTATION ADVISORY COMMITTEES OF METROPOLITAN PLANNING ORGANIZATIONS AND RURAL TRANSPORTATION PLANNING ORGANIZATIONS ARE SUBJECT TO STANDARD ETHICS PROVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 136-202(e) is repealed.

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

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

- (1) Except as permitted under this subdivision, no MPO member acting in that capacity shall participate in an action if the member knows the member, the member's extended family, or any business with which the member is associated may incur a reasonably foreseeable financial benefit from the matter under consideration, which financial benefit would impair the MPO member's independence of judgment or from which it could reasonably be inferred that the financial benefit would influence the member's participation in the action. An MPO member may participate in an action of the MPO under any of the following circumstances:
 - a. When action is ministerial only and does not require the exercise of discretion.
 - b. When the committee records in its minutes that it cannot obtain a quorum in order to take the action because the MPO member is disqualified from acting, the MPO member may be counted for purposes of a quorum but shall otherwise abstain from taking any further action.
- (2) An MPO member shall have an affirmative duty to promptly disclose in writing to the MPO any conflict of interest or potential conflict of interest under subdivision (1) of this subsection. All written disclosures shall be a public record under Chapter 132 of the General Statutes and attached to the minutes of the meeting in which any discussion or vote was taken by the MPO related to that disclosure.
- (3) File a statement of economic interest with the State Ethics Commission in accordance with Article 3 of Chapter 138A of the General Statutes, for which the State Ethics Commission shall prepare a written evaluation relative to conflicts of interest and potential conflicts of interest and provide a copy of that evaluation to the MPO member. All statements of economic interest and all written evaluations by the Commission of those statements are public records as provided in G.S. 138A-23. The penalties for failure to file shall be as set forth in G.S. 138A-25(a) and (b).
- (4) File, with and in the same manner as the statement of economic interest filed under subdivision (3) of this subsection, an additional disclosure of a list of all real estate owned wholly or in part by the MPO member, the MPO member's extended family, or a business with which the MPO member is associated within the jurisdiction of the MPO on which the MPO member is



servicing. All additional disclosures of real estate filed by MPO members are public records under Chapter 132 of the General Statutes.

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

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

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

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

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

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

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

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

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

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

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

(3) File a statement of economic interest with the State Ethics Commission in accordance with Article 3 of Chapter 138A of the General Statutes for which the State Ethics Commission shall prepare a written evaluation relative to conflicts of interest and potential conflicts of interest and provide a copy of that evaluation to the rural transportation planning organization member. All statements of economic interest and all written evaluations by the

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

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

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

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

(j) Violations. – A violation of subdivision (1) of subsection (f) of this section shall be a Class 1 misdemeanor. A rural transportation planning organization member who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a required filing under subdivisions (3) or (4) of subsection (f) of this section shall be guilty of a Class 1 misdemeanor. A rural transportation planning organization member who provides false information on a required filing under subdivisions (3) or (4) of subsection (f) of this section knowing that the information is false is guilty of a Class H felony.

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

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

In the General Assembly read three times and ratified this the 11th day of June, 2013.

s/ Daniel J. Forest
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

Pat McCrory
Governor

Approved _____ .m. this _____ day of _____, 2013