

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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

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7 **SECTION 1.(a)** G.S. 136-202(e) is repealed.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

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

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

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

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

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

34 (3) File a statement of economic interest with the State Ethics Commission in
35 accordance with Article 3 of Chapter 138A of the General Statutes, for
36 which the State Ethics Commission shall prepare a written evaluation



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

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

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

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

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

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

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

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

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

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

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

50 b. When the committee records in its minutes that it cannot obtain a
51 quorum in order to take the action because the rural transportation

1 planning organization member is disqualified from acting, the rural
2 transportation planning organization member may be counted for
3 purposes of a quorum but shall otherwise abstain from taking any
4 further action.

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

12 (3) File a statement of economic interest with the State Ethics Commission in
13 accordance with Article 3 of Chapter 138A of the General Statutes for which
14 the State Ethics Commission shall prepare a written evaluation relative to
15 conflicts of interest and potential conflicts of interest and provide a copy of
16 that evaluation to the rural transportation planning organization member. All
17 statements of economic interest and all written evaluations by the
18 Commission of those statements are public records as provided in
19 G.S. 138A-23. The penalties for failure to file shall be as set forth in
20 G.S. 138A-25(a) and (b).

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

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

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

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

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

1 **SECTION 3.** This act is effective when it becomes law. All individuals with voting
2 authority serving on a metropolitan planning organization or a rural transportation planning
3 organization shall file statements of economic interest and additional real estate lists with the
4 State Ethics Commission no later than April 15, 2013. Any member of a metropolitan planning
5 organization or a rural transportation planning organization that filed a statement of economic
6 interest in compliance with G.S. 136-202(e) or G.S. 136-211(e) shall not be required to file
7 again, and the State Ethics Commission shall prepare the evaluation under G.S. 136-200.2(g) or
8 G.S. 136-211(f) of that filing.