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Access to Government Meetings

2012

North Carolina’s Open Meetings Law, Article 33B of Chapter 143 of the General Statutes, guarantees the public and media access to most meetings of most agencies of state and local government in North Carolina. The strong public policy of the N.C. Open Meetings Law is that “each official meeting of a public body shall be open to the public, and any person is entitled to attend such a meeting.”¹ The statute contains broad definitions for “public body” and “official meeting,” delineates nine limited circumstances in which a public body may close a meeting and provides for enforcement. The goal for those faced with complying with or enforcing the law should be to interpret the law in favor of openness as required under the law and with a wary eye toward evasive maneuvers.

What is a “public body?”

The state Open Meetings Law applies to the meetings of “public bodies.” A body is public if it meets the statutory definition of a public body, if it is a committee of a public body or if it is a certain type of hospital agency. Important language extends the reach of the law to individual board or agency members or their surrogates who have been explicitly or implicitly delegated government-like functions or “advisory” responsibilities.²

A body is public if it is (i) an elected or appointed body (ii) with two or more members that (iii) exercises or is authorized to exercise a legislative, policy-making, quasi-judicial, administrative or advisory function.³ [This is a change from the

¹ N.C. GEN. STAT. §143-318.10(a).

² N.C. GEN. STAT. §143-318.10(b) (public body means any elected or appointed authority, board, commission, committee, council or other body of the state composed of two or more members that exercises or *is authorized* to exercise a legislative, policy-making, quasi-judicial, administrative or advisory function) (emphasis added).

³ *Id.*

pre-1994 law, which defined public bodies by their “source of power” and did not address “appointed” officials.] The law’s requirements — advance notice of meetings, access to meetings and minute-keeping — are triggered under usual circumstances by the presence of a majority of the members of a board, commission or agency.

An issue that has come to the forefront of open meetings and open records debate is whether a private organization performing work for a public body is subject to the requirements of the open government laws. By eliminating the awkward “source of power” test of the old open meetings law, the General Assembly has made easier the argument that any group that carries out activities on behalf of a public body or advises a public body is treated as a public body for the purposes of the Open Meetings Law.⁴ Likewise, a public body may not delegate responsibility to private entities and thereby avoid performing public functions in a public manner.

An attorney general’s opinion has noted that a private, non-profit entity carrying out delegated governmental functions might be held subject to the Open Meetings Law.⁵

⁴ The states that have addressed the issue of “privatization” of public responsibility have ruled that a private entity performing a public function is subject to the openness requirements of a public body. *Red and Black Publishing Co., Inc. v. Bd. of Regents*, 262 Ga. 848, 427 S.E.2d 257, 263, 21 Media L. Rep. (BNA) 1309 (1993) (“having delegated official responsibility and authority” to a nongovernmental body, the Board of Regents “cannot hide behind” the delegate and thereby deny access); *News and Sun-Sentinel v. Schwab, Twitty & Hanser Architectural Group, Inc.*, 596 So.2d 1029, 1031, 20 Media L. Rep. (BNA) 1055 (Fla. 1992) (“a public agency cannot avoid disclosure under the Act by contractually delegating to a private entity that which otherwise would be an agency responsibility”); *Fritz v. Nodlor Constr. Co.*, 386 So.2d 899, 901 (Fla. Dist. Ct. App. 5th DCA 1980) (independent contractor “is an ‘agency’ under [public records law] insofar as it performed services for the City as the City Engineer, relating to the treatment plant”).

⁵ 1994 WL 1026167.

However, in the parallel context of private entities conducting public work, courts have held that records in the possession of the private entity are not public.⁶

Committees of public bodies also are public bodies. If a board qualifies as a public body under the basic definition and if that board has committees composed of its own members, those committees are fully public. In *News & Observer Publishing Company v. Board of Education*, the N.C. Court of Appeals remarked that “we do not think a board can evade the provisions of statutes requiring its meetings to be open to the public merely by resolving itself into a committee of the whole.”⁷

The law makes clear that “constituent institutions of the University of North Carolina” are subject to the Open Meetings Law.⁸

The governing boards of public hospitals are covered by the law. Remember, these hospitals frequently are operated by non-profit corporations. If the local government has outstanding debt for the hospital or if the local government appropriates funds to support the hospital, then the governing board of that hospital (and any subdivision thereof) is a public body. Even if these conditions are not met, if the hospital has been sold by a local government to a non-profit corporation through an agreement under

⁶ *Durham Herald Co. v. Low-Level Radioactive Waste Auth.*, 110 N.C. App. 607, 430 S.E.2d 441 (1993).

⁷ 29 N.C. App. 37, 223 S.E.2d 580 (1976).

⁸ N.C. GEN. STAT. §143-318.10(b). Interpreting the old law, the N.C. Supreme Court found the faculty of the University of North Carolina School of Law not to be a public body because it was not a “body politic.” *Student Bar Ass'n v. Byrd*, 293 N.C. 594, 239 S.E.2d 415 (1977). Arguably, the streamlined analysis now in place would render a different result.

which the corporation agrees to operate the hospital as a community general hospital, the hospital's governing board is a public body.⁹

A number of entities in state government are exempted, in whole or in part, from the law. Notably, in recent years the General Assembly has removed the exemption for several public bodies:¹⁰ the Advisory Budget Commission (2007);¹¹ the Joint Legislative Utility Review Committee (2011); The Joint Select Committee on Low-Level Radioactive Waste (2011); the Legislative Committee on New Licensing Boards (2011); and the North Carolina Study Commission on Aging (2011). Meetings of these public bodies are now open.

Other exemptions from the Open Meetings Law include the court system, quasi-judicial agencies of state (but not local) government while considering or making decisions, state licensing boards while dealing with examinations or with individual licensees or applicants for licensing, and the Judicial Standards Commission.

⁹ *News & Observer Publishing Co. v. Wake County Hosp. Sys.*, 55 N.C. App. 1, 284 S.E.2d 542 (1981), *cert. denied*, 305 N.C. 302, 291 S.E.2d 151, *appeal dismissed and cert. denied*, 459 U.S. 803, 103 S. Ct. 26, 74 L. Ed. 2d 47 (1982).

¹⁰ N.C. GEN. STAT. §143-318.14(A)

¹¹ N.C. GEN. STAT. §143-318.15; section was removed in its entirety in 2007.

What constitutes an “official meeting” of a public body?

An official meeting is any simultaneous communication in person or via technology by a majority of the members of a public body for the purpose of (i) conducting hearings, (ii) participating in deliberations, (iii) voting upon or (iv) otherwise transacting the public business within the jurisdiction of the body.¹²

The inclusion of deliberations in the statute means that a public body need not be taking action or holding a hearing in order for its gathering to be an official meeting. The statute applies even if the sole purpose or business of the meeting is to discuss board business. To give any meaningful vitality to the Open Meetings Law, “deliberate” must encompass the discussion of any matter upon which foreseeable action will be taken. Other states have taken this approach to stem the use of evasive tactics.

Furthermore, the inclusion of “otherwise transacting the public business” makes clear that official meetings that might not reach the threshold of deliberations nonetheless are open. For example, if board members attend a briefing by a staff person or a consultant at which the members ask questions but do not discuss the matter among themselves, it might be considered a stretch of language to characterize that gathering as deliberations. But it is no stretch to characterize it as a transaction of the public business of the board. Thus it would be an official meeting governed by the Open Meetings Law.

Official meetings as defined above may well include gatherings that the members of the public body do not normally consider meetings of that body. For example, a number of board members might stop by board offices at the same time and start

¹² N.C. GEN. STAT. §143-318.10(d).

discussing a matter of current interest to their board. Such a discussion would probably constitute “deliberation,” and if a majority of the board is present, it is an official meeting (and likely a violation of the law).

A N.C. Court of Appeals decision makes clear that a public body may not avoid the open meeting requirement by conducting its business with members one-on-one. In *Jacksonville Daily News v. Board of Education*,¹³ the chairman of a board of education canvassed the board members, one at a time, via the telephone to discuss a salary increase for the board. The court noted that “the record reflects that the adoption of retroactive pay raises was never considered at a public meeting.”¹⁴ The court held that a pay raise for the board required public deliberation and thus the board’s action in approving the pay raise in part through telephone polling of its members violated the Open Meetings Law.

This is not to say that every gathering of two or more members of a public body constitutes a “meeting.” The statute expressly states that “a social meeting or other informal assembly or gathering together of the members of a public body does not constitute an official meeting unless called or held to evade the spirit and purposes of this Article.”¹⁵ However, if public body members or their delegates meet for the purpose of discussing public matters, they have violated the Open Meetings Law, even though it occurs in a social context.

¹³ 113 N.C. App. 127, 439 S.E.2d 607, 22 Media L. Rep. (BNA) 1508 (1993).

¹⁴ *Id.* at 130.

¹⁵ N.C. GEN. STAT. §143-318.10(d).

In *News & Observer Publishing Co., Inc. v. Coble*,¹⁶ a coalition of newspapers and television stations filed suit against four members of the Raleigh City Council and the mayor alleging that they violated the Open Meetings Law when, gathered together to watch a basketball game, they discussed the city's position with regard to a proposed new sports arena. Though the trial court dismissed the case on procedural grounds, the N.C. Court of Appeals and Supreme Court affirmed that the lawsuit sought a determination that the gathering was illegal, a recitation of what took place at the meeting, an injunction prohibiting such meetings in the future and attorneys' fees. The Court of Appeals found the lawsuit stated a case and remanded it for further proceedings. By the time the case was returned to the trial court, two years had elapsed and the membership of the City Council had changed, and therefore the media plaintiffs dismissed their case.

What public notice of a meeting is required?

The Open Meetings Law requires public notice of all official meetings.¹⁷ This holds true even if the entire purpose of the meeting is to hold a closed session because the public is entitled to know that the meeting is occurring. The type of notice required depends on the character of the meeting regular, special, emergency or recessed (or adjourned). If a public body maintains a website, notice of its meetings must be posted on the website.¹⁸

Regular meetings. If a public body has an established schedule of regular meetings, that schedule must be posted to the body's Web site if there is one, and filed in a

¹⁶ 128 N.C. App. 307, 310, 494 S.E.2d 784, 786 (1998).

¹⁷ N.C. GEN. STAT. §143-318.12(a).

¹⁸ N.C. GEN. STAT. §143-318.12(d) and (e).

central location.¹⁹ Once filed, the schedule is the only public notice required of meetings held pursuant to the schedule. The central locations are as follows:

State boards - the office of the Secretary of State.²⁰

County boards - the office of the clerk to the board of county commissioners.²¹

City boards - the office of the city clerk.²²

Other boards - the office of the board's clerk or secretary.²³ If the body does not have a clerk or secretary, with the clerk to the board of county commissioners in the county in which the public body normally holds its meetings.

Special meetings. A special meeting is any meeting (other than an emergency meeting or a recessed/adjourned meeting) that is held at a time or place other than that shown on the filed schedule of regular meetings.²⁴ (Some boards have no regular meeting schedule at all, and for those boards all meetings would be special.) The law requires that a public body give 48 hours' notice of special meetings by each of two methods. First, a notice stating the time, place and purpose of the meeting must be posted on the "principal bulletin board" of the public body. If the body has no such board, the notice

¹⁹ N.C. GEN. STAT. §143-318.12(d).

²⁰ N.C. GEN. STAT. §143-318.12(a)(1).

²¹ N.C. GEN. STAT. §143-318.12(a)(2).

²² N.C. GEN. STAT. §143-318.12(a)(3).

²³ N.C. GEN. STAT. §143-318.12(a)(4).

²⁴ N.C. GEN. STAT. §143-318.12(b)(2).

must be posted on the door of the body's usual meeting room. If the building containing the principal bulletin board or usual meeting room is continuously closed to the public for 48 hours before the time of the meeting, the notice must be posted on the door of the building or on the building in an area accessible to the public. Second, the same notice must be mailed, emailed or delivered to each media representative (newspaper, wire service, radio station, or television station) or person who has requested it, in writing, from the clerk or secretary to the board. To make certain you get notice of special meetings, you must file a written request with the board. The law permits a public body to require the media to renew such requests annually, but most boards have not imposed that requirement. Still, representatives of the media should take steps to comply with individual board requirements.

Emergency meetings. An emergency meeting is one “called because of generally unexpected circumstances that require immediate consideration by the public body.”²⁵ Such meetings should be rare, but if one is necessary, the only notice required is notice to any members of the local news media who have requested it. The notice may be given by telephone or in any other manner by which the board members themselves are notified. At such a meeting, only the emergency itself may be discussed or acted upon.

Recessed meetings. If a public body is convened in a meeting for which proper notice was given, it may recess that meeting to a certain time and need give no further public notice of the adjourned or recessed session.²⁶ The theory of this provision of the law is that anyone interested in the business of the public body will be present when the time

²⁵ N.C. GEN. STAT. §143-318.12(f).

²⁶ N.C. GEN. STAT. §143-318.12(b)(1).

of the later session is agreed upon. Any such action must come in open session, even if the later, recessed session will be a closed session.

The notice requirement was one of the central issues in the 2011 *Garlock v. Wake County Bd. of Educ.* court of appeals decision.²⁷ In that case, the Wake County Board of Education adopted a ticketing requirement to gain entry to a scheduled board meeting on the morning of the meeting. The court held that the “last-minute” ticketing procedure failed to comply with the 48 hour notice requirement because the public was not informed that a ticket was required to gain entry to the scheduled meeting.

What rules govern closed sessions, and what sessions may be closed?

Appropriately, meetings that may be closed to the public (formerly called “executive sessions”) now are called “closed sessions.”²⁸

The General Assembly made a significant improvement in the Open Meetings Law in 1994 by requiring that even if a session is closed, the body still must maintain “full and accurate minutes” of the meeting, and the minutes shall be public when the reason for closure no longer exists.²⁹ This provision was further strengthened by a 1997

²⁷ 712 S.E.2d 158, 175-76 (2011).

²⁸ N.C. GEN. STAT. §143-318.11(a).

²⁹ N.C. GEN. STAT. §143-318.10(e). In an action against the Hyde County Board of Commissioners, The Pamlico News sought and received records discussed in an illegally closed session of the board. The court held the board is obligated to keep full and accurate minutes of all official meetings, including any closed sessions, and keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired during the closed session. In addition, the court ordered the board to make, keep and preserve a record of the entirety of all its closed session and to pay attorneys' fees and expenses to The Pamlico News. *The Pamlico News v. The Hyde County Board of Commissioners et al.*, Hyde County Superior Court No. 99-CVS-76 (Jan. 13, 2000).

amendment requiring closed session minutes to be sufficiently complete that a person not in attendance at the closed session would have a reasonable understanding of what took place.³⁰ The public will, at a minimum, have the ability to scrutinize closed meetings retroactively to determine whether they should have been closed. Knowing that their actions later will be examined may deter public officials from illegally closing meetings. The only qualification of this requirement is that the minutes may be withheld so long as disclosure of the record would “frustrate the purpose of a closed session.”³¹ This means that some minutes will become public fairly quickly (such as those related to a land purchase) while others will never become public (such as deliberations about personnel).

Every motion to hold a closed meeting must reference the “name or citation” of the law that provides the basis for closing the meeting.³² A public body may only go into a closed session after a motion and a vote in an open meeting. In *Knight v. Higgs*, the Court of Appeals held that the Edgecombe County Board of Elections violated the Open Meetings Law by going into closed session on two occasions without complying with these procedural requirements.³³ If it is the general exemption to prevent disclosure of confidential or privileged information pursuant to the laws of North Carolina or information not considered a public record within the meaning of Chapter 132, the person seeking closure must state the name or citation to the law that renders the information privileged or confidential.³⁴ If the motion is based on pending litigation,

³⁰ N.C. GEN. STAT. §143-318.10(e).

³¹ *Id.*

³² N.C. GEN. STAT. §143-318.11(c).

³³ 189 N.C.App. 696, 702, 659 S.E.2d 742, 747 (2008).

³⁴ *Id.*

the person seeking closure must identify the parties to the lawsuit. Our courts have made clear, however, that there need not be pending litigation to go into closed session under that provision.³⁵

The law includes a statement of public policy to limit closed sessions to those necessary to achieve the goals specifically enumerated in the “closed session” section.

³⁶ This language reinforces the rule that “exceptions to our open meetings law should be strictly construed and that those seeking to come within the exceptions should have the burden of justifying their action.”³⁷ In other words, when a public body is in doubt as to the requirements of the Open Meetings Law, it must proceed on the side of openness.

There are nine bases for convening a closed session:³⁸

- **1) Confidential and privileged information.** A public body may close a meeting to prevent disclosure of information that is privileged or confidential under state or federal laws or information that is not considered a public record under the N.C. Public Records Law.³⁹

³⁵ Multimedia Publ'ng of North Carolina, Inc. v. Henderson County, 136 App. 567, 573, 525 S.E.2d 786, 790 (2000).

³⁶ N.C. GEN. STAT. §143-318.11 (a).

³⁷ News & Observer Publishing Co. v. Bd. of Ed., 29 N.C. App. 37, 47, 223 S.E.2d 580 (1976).

³⁸ N.C. GEN. STAT. §143-318.11(a).

³⁹ N.C. GEN. STAT. §143-318.11(a)(1). A student honor court, a public body under the Open Meetings Law, does not violate the law by meeting in closed session. According to the N.C. Court of Appeals, the Family Education and Privacy Rights Act (FERPA), a federal law that denies federal funds to educational agencies with policies of releasing educational records, makes student education records privileged or confidential under the Open Meetings Law. The decision is at odds with cases in other jurisdictions. DTH Publishing Corp. v. UNC, 128 N.C. App. 534, 496 S.E.2d 8 (1998).

- 2) **Honoraria.** A public body may close a meeting to prevent the premature disclosure of an honorary degree, scholarship, prize or similar award.⁴⁰
- 3) **Attorney-client privilege.** As a result of changes to the Open Meetings Law and recent court decisions, a public body may close a session to consult with an attorney concerning the handling or settlement of a claim, judicial action or administrative procedure,⁴¹ or for any general attorney-client privileged matters.⁴² The terms of a settlement (other than of a medical malpractice case) approved or considered in a closed session must be reported and entered into the minutes as soon as possible within a reasonable time after the settlement is concluded. If the discussions in the closed meeting concern potential claims or legal challenges, the trial court has the discretion following an *in camera* (in the judge’s chambers) review to keep them closed if doing so goes no further than to protect the ongoing efforts of a public body.⁴³ The statute explicitly states that nothing in this section shall be construed to permit a public body to close a session simply because its attorney is present.⁴⁴ The law also requires that every motion to close a meeting under this

⁴⁰ N.C. GEN. STAT. §143-318.11(a)(2).

⁴¹ N.C. GEN. STAT. § 43-318.11(a)(3). The attorney general's office issued an opinion that “the communications that are the subject of the closed session must concern legal advice in the course of professional employment If [this element is] not present, the privilege does not exist and exception (a)(3) may not be used by a public body to go into closed session.” October 28, 1994, Opinion of the Attorney General.

⁴² Multimedia Publ’g of North Carolina, Inc. v. Henderson County, 136 App. 567, 573, 525 S.E.2d 786, 790 (2000).

⁴³ *Id.*

⁴⁴ N.C. GEN. STAT. §143-318.11(a)(3). The Court of Appeals in Multimedia Publishing held that despite statutory language mandating identification of the parties involved in the litigation, the statutory history of the bill makes it clear that in instances where general attorney-client privilege applies, identification of the parties is not necessary.

provision must reference the lawsuit and the parties about which or whom the public body expects to receive advice.⁴⁵

- **4) *Industry/business expansion.*** A public body may discuss matters relating to the location or expansion of industries or business in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.⁴⁶

- **5) *Real estate acquisitions and employment contracts.*** A public body may meet in a closed session only to establish (or instruct its agents concerning) its position with regard to negotiating (i) the price or other material terms of a real property acquisition or (ii) the compensation or other material terms of an employment contract.⁴⁷ In 2002, the Court of Appeals held that in ordinary circumstances, a public body must disclose the location and intended use of a property under discussion for purchase.⁴⁸

- **6) *Specific personnel and employee issues.*** A public body may consider the qualifications or conditions of initial employment of or investigate complaints or

⁴⁵ N.C. GEN. STAT. §143-318.11(a)(3). The Court of Appeals in *Multimedia Publishing* held that despite statutory language mandating identification of the parties involved in the litigation, the statutory history of the bill makes it clear that in instances where general attorney-client privilege apply, identification of the parties is not necessary

⁴⁶ “[Public bodies may meet in closed session to] discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.” N.C. Gen. Stat. §143-318.11(a)(4).

⁴⁷ N.C. GEN. STAT. §143-318.11(a)(5).

⁴⁸ *Boney Publishers, Inc. v. Burlington City Council*, 151 N.C. App. 651, 657, 566 S.E.2d 701, 705 (2002).

charges against an individual public officer or employee at a closed session. Final action on these issues must be taken at an open meeting.⁴⁹ General personnel issues may not be considered in a closed session, and a public body must address filling a vacancy in the public body during an open meeting.⁵⁰

- 7) ***Criminal misconduct.*** A public body may plan, conduct or receive reports regarding investigations of alleged criminal conduct in closed session.⁵¹
- 8) ***Emergency response plans.*** A local school board may meet in closed session to formulate an emergency response plan to incidents of school violence.⁵²
- 9) ***Public safety.*** A public body may discuss and take action related to existing or potential activity.⁵³
- Public bodies may not consider the employment, performance or discharge of an independent contractor in a closed session.

How does the law apply to the N.C. General Assembly?

The Open Meetings Law makes special provision for the “commissions, committees, and standing subcommittees” of the General Assembly. (In this section, these groups will be labeled “legislative public bodies.”) In some respects, the special rules for legislative public bodies parallel the rules that apply to other public bodies, but some of the General Assembly provisions differ in important ways from those otherwise applicable.

⁴⁹ N.C. GEN. STAT. § 143-318.11(a)(6).

⁵⁰ *Id.*

⁵¹ N.C. GEN. STAT. § 143-318.11(a)(7).

⁵² N.C. GEN. STAT. § 143-318.11(a)(8).

⁵³ N.C. Gen. Stat. § 143-318.11(a)(9).

Legislative “commissions, committees, and standing subcommittees.” Each house of the General Assembly is obviously a public body because each is an elected body with two or more members that exercises a legislative function. Therefore, each committee and subcommittee of each house is also a public body. The General Assembly routinely establishes study commissions to work in the interim between legislative sessions, and they too qualify as public bodies under the Open Meetings Law because they are delegated authority by the legislature. The phrase “commissions, committees, and standing subcommittees” also includes 10 bodies specifically named in the law. They range from the Legislative Services and Legislative Research commissions to a variety of standing oversight and study groups.

Official meetings. The general statutory definition of official meetings specifically does not apply to legislative public bodies, and no replacement definition is set out. Presumably this means that “official meetings” of such entities are those meetings that most naturally fit the quoted language: meetings that are called and held pursuant to established rules and procedures. Informal gatherings of a majority of a legislative public body’s members, then, would not be official meetings of that entity. If the sole subject of discussion were the business of the public body and the purpose of the informal meeting were to evade the Open Meetings Law, the meeting would violate the Open Meetings Law.

Public notice. The general rules for public notice also do not apply to legislative public bodies. Rather, such bodies are required to provide “reasonable public notice,” which is defined to include notice given openly on the floor of the Senate or House or, alternatively, notice posted on the press room door at the State Legislative Building and also delivered to the Legislative Services Office.

Closed sessions. All the closed session authorizations apply to legislative public bodies (although it is hard to see much occasion for their use by such public bodies), but legislative public bodies may take final action only in open session.

What are other important features of the Open Meetings Law?

The Open Meetings Law contains a number of other provisions intended to reinforce the basic policies of the law. This section details those provisions.

Taping and broadcasting meetings. The statute entitles any person who attends an open meeting to photograph, film, tape-record or otherwise reproduce any part of the meeting.⁵⁴ Furthermore, any radio or television station is entitled to broadcast any open meeting.⁵⁵ The public body may regulate the placement and use of equipment for these purposes, but it may not do so in a manner that thwarts or unduly interferes with these permitted activities.⁵⁶

Written ballots. The statute prohibits a public body from voting on any matter by secret ballot.⁵⁷ A board may use written ballots, but the ballots must be signed and made available for public inspection, and the minutes must show how each member voted.⁵⁸ The statute also prohibits voting by reference, which means that a public

⁵⁴ N.C. GEN. STAT. § 143-318.14(a).

⁵⁵ *Id.*

⁵⁶ N.C. GEN. STAT. §143-318.14(b).

⁵⁷ N.C. GEN. STAT. §143-318.13(b).

⁵⁸ *Id.*

body may not convene a closed session, reconvene in open session and vote on the topic under closed session discussion without identifying that for the public.⁵⁹

Minutes. Each public body must keep “full and accurate” minutes of all official meetings, including closed sessions.⁶⁰ These minutes may be in traditional written form or, if the public body wishes, they may take the form of sound or video recordings. Whatever the form, minutes of open sessions are public records, and the minutes kept of closed sessions may be kept confidential only so long as required to preserve the confidential purposes of the closed session.⁶¹ As discussed above, minutes of closed sessions must be meaningful rather than perfunctory.⁶²

How is the Open Meetings Law enforced?

It is up to the public and the media to enforce the law by filing lawsuits in Superior Court. Although one attorney general’s opinion alludes to the possibility that there might be criminal penalties for a public officer who willfully persists in violating the Open Meetings Law, the statute itself does not provide any criminal sanction.⁶³ The statute sets out two methods for its enforcement: an injunction prohibiting future violations⁶⁴ and an order invalidating any action taken or considered in violation of

⁵⁹ *Id.*

⁶⁰ N.C. GEN. STAT. §143-318.10(e).

⁶¹ *Id.*

⁶² *Id.*

⁶³ 51 N.C. Opp. Atty. Gen. 79 (1982).

⁶⁴ N.C. GEN. STAT. § 143.318.16.

the law.⁶⁵ Under the law, actions to enforce the Open Meetings Law are given priority on the court’s calendar.⁶⁶

Injunction. Any person may sue to enjoin a threatened violation or the recurrence of a past violation.⁶⁷ If a violation is proven, the injunction must describe the violation and prohibit its recurrence.⁶⁸ If the conduct does recur, that would be contempt of court and expose the public officials involved to substantial fines.

Invalidation. Any person may sue a public body seeking the invalidation of any action “taken, considered, discussed, or deliberated” in violation of the act.⁶⁹ (Acts or resolutions of the General Assembly, however, may not be invalidated because of an open-meetings violation.) If a violation is found, it is within the judge’s discretion to invalidate the tainted action. In making that decision, the judge is to consider the effect of the violation on the substance of the action, the effect of the violation on preventing public access to or understanding of the public body’s proceedings, the effect of invalidation on third parties who might have relied on the action and whether the violation was isolated or part of a pattern or was made in bad faith.⁷⁰ Any lawsuit seeking to invalidate a public body’s action must be brought within a fairly short time after the action is taken — within 45 days after “initial disclosure” of the action.⁷¹

⁶⁵ N.C. GEN. STAT. § 143.318.16A.

⁶⁶ N.C. GEN. STAT. § 143.318.16C.

⁶⁷ N.C. GEN. STAT. § 143.318.16(a).

⁶⁸ N.C. GEN. STAT. § 143.318.16(b).

⁶⁹ N.C. GEN. STAT. § 143.318.16(a).

⁷⁰ N.C. GEN. STAT. § 143.318.16A(c).

⁷¹ N.C. GEN. STAT. § 143.318.16A(b).

Initial disclosure is defined as the date of public availability of any minutes that record the action or, if there are no such minutes, the date the plaintiff knew or should have known of the action.

Attorney's fees. Under either type of enforcement action, the trial court is permitted to determine who — the plaintiff or the defendant public body — is the prevailing party and then to order the losing party to pay the reasonable attorney's fees of the prevailing party.⁷² The court may assess the fees against the non-compliant public official personally unless the public official solicited and followed the advice of counsel.

What is the Federal Government in the Sunshine Act?

The federal government also has an open meetings law, found at 5 U.S.C. § 552b. In structure it is similar to the N.C. law, but its coverage is more narrow.

The federal statute applies only to federal agencies that are headed by “collegial bodies”; a majority of the members of such bodies must have been appointed by the president with the advice and consent of the Senate. Thus the law does not apply to Cabinet departments or other federal agencies headed by single officials. Nor does it apply to state or local government agencies that receive federal funds or that contract with the federal government. It applies primarily to federal regulatory agencies such as the Federal Communications Commission, the Securities and Exchange Commission and the Nuclear Regulatory Commission.

The federal statute applies only to relatively formal meetings of the covered agencies, meetings involving deliberations by that number of agency officials required to take

⁷² N.C. GEN. STAT. § 143-318.16B; *Free Spirit Aviation, Inc. v. Rutherford Airport Auth.*, 206 N.C.App. 192, 696 S.E.2d 559 (2010) (discussing award of attorneys fees to prevailing party under open meetings laws).

agency action when those deliberations “determine or result in the joint conduct or disposition of official agency business.” Many of the informal gatherings that constitute official meetings under the N.C. law would not be agency meetings under the federal law.

The federal statute permits closed sessions on a variety of subjects. The list is quite different from the N.C. list, reflecting the differences in the kinds of business coming before federal, as opposed to state and local, boards. Among the subjects that may be considered and acted upon in closed session are internal personnel rules and practices, personal information the disclosure of which would constitute an invasion of privacy and law enforcement investigations.

The federal statute requires a covered agency to give one week’s public notice of any meeting subject to the statute, setting out the time, place, subject matter and whether it will be open or closed. Meetings can be called on shorter notice if necessary. These notices are published in the Federal Register.

The federal courts are authorized to enforce the federal statute by injunction, but they are not authorized to invalidate actions simply because the statute was violated.

Conclusion

While the federal Sunshine Law continues to have limited reach, the N.C. Open Meetings Law brings a great deal of public access to all levels of state and local government. It remains largely the responsibility of the media, as the public’s surrogate, to ensure that proper access to government is maintained. An imaginative journalist, armed with the Open Meetings Law, can go far toward the goal of obtaining access to government information.

Open Meetings Law

§ 143-318.9. Public policy.

Whereas the public bodies that administer the legislative, policy-making, quasi-judicial, administrative, and advisory functions of North Carolina and its political subdivisions exist solely to conduct the people's business, it is the public policy of North Carolina that the hearings, deliberations, and actions of these bodies be conducted openly.

§ 143-318.10. All official meetings of public bodies open to the public.

- (a) Except as provided in G.S. 143-318.11, 143-318.14A, and 143-318.18, each official meeting of a public body shall be open to the public, and any person is entitled to attend such a meeting.”
- (b) As used in this Article, “public body” means any elected or appointed authority, board, commission, committee, council, or other body of the State, or of one or more counties, cities, school administrative units, constituent institutions of The University of North Carolina, or other political subdivisions or public corporations in the State that (i) is composed of two or more members and (ii) exercises or is authorized to exercise a legislative, policy-making, quasi-judicial, administrative, or advisory function. In addition, “public body” means the governing board of a “public hospital” as defined in G.S. 159-39 and the governing board of any nonprofit corporation to which a hospital facility has been sold or conveyed pursuant to G.S. 131E-8, any subsidiary of such nonprofit corporation, and any nonprofit corporation owning the corporation to which the hospital facility has been sold or conveyed.
- (c) “Public body” does not include (i) a meeting solely among the professional staff of a public body, or (ii) the medical staff of a public hospital or the medical staff of a hospital that has been sold or conveyed pursuant to G.S. 131E-8.
- (d) “Official meeting” means a meeting, assembly, or gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the public body. However, a social meeting or other informal assembly or gathering together of the members of a public body does not constitute an official meeting unless called or held to evade the spirit and purposes of this Article.
- (e) Every public body shall keep full and accurate minutes of all official meetings, including any closed sessions held pursuant to G.S. 143-318.11. Such minutes may be in written form or, at the option of the public body, may be in the form of sound or video and sound recordings. When a public body meets in closed session, it shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired. Such accounts may be a written narrative, or video or audio recordings. Such minutes and accounts shall be public records within the meaning of the Public Records Law, G.S. 132-1

et seq.; provided, however, that minutes or an account of a closed session conducted in compliance with G.S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session.

§ 143-318.11. Closed sessions.

- (a) Permitted Purposes. -- It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:
 - (1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.
 - (2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
 - (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.
 - (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.
 - (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.
 - (6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its

own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.

- (7) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
- (8) To formulate plans by a local board of education relating to emergency response to incidents of school violence.
- (9) To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken to respond to such activity.
- (b) Repealed by Laws 1991, c. 694, § 4.
- (c) Calling a Closed Session. -- A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in subsection (a) of this section. A motion based on subdivision (a)(1) of this section shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on subdivision (a)(3) of this section shall identify the parties in each existing lawsuit concerning which the public body expects to receive advice during the closed session.
- (d) Repealed by Laws 1993, c. 570, § 2, eff. Oct. 1, 1994.

§ 143-318.12. Public notice of official meetings.

- (a) If a public body has established, by ordinance, resolution, or otherwise, a schedule of regular meetings, it shall cause a current copy of that schedule, showing the time and place of regular meetings, to be kept on file as follows:
 - (1) For public bodies that are part of State government, with the Secretary of State;
 - (2) For the governing board and each other public body that is part of a county government, with the clerk to the board of county commissioners;
 - (3) For the governing board and each other public body that is part of a city government, with the city clerk;
 - (4) For each other public body, with its clerk or secretary, or, if the public body does not have a clerk or secretary, with the clerk to the board of county commissioners in the county in which the public body normally holds its meetings.
- If a public body changes its schedule of regular meetings, it shall cause the revised schedule to be filed as provided in subdivisions (1) through (4) of this subsection at least seven calendar days before the day of the first meeting held pursuant to the revised schedule.
- (b) If a public body holds an official meeting at any time or place other than a time or place shown on the schedule filed pursuant to subsection (a) of this section, it shall give public notice of the time and place of that meeting as provided in this subsection.
 - (1) If a public body recesses a regular, special, or emergency meeting held pursuant to public notice given in compliance with this subsection, and the time and place at which the meeting is to be continued is announced in open session, no further notice shall be required.

- (2) For any other meeting, except an emergency meeting, the public body shall cause written notice of the meeting stating its purpose (i) to be posted on the principal bulletin board of the public body or, if the public body has no such bulletin board, at the door of its usual meeting room, and (ii) to be mailed, e-mailed, or delivered to each newspaper, wire service, radio station, and television station that has filed a written request for notice with the clerk or secretary of the public body or with some other person designated by the public body. The public body shall also cause notice to be mailed, e-mailed, or delivered to any person, in addition to the representatives of the media listed above, who has filed a written request with the clerk, secretary, or other person designated by the public body. This notice shall be posted and mailed, e-mailed, or delivered at least 48 hours before the time of the meeting. The notice required to be posted on the principal bulletin board or at the door of its usual meeting room shall be posted on the door of the building or on the building in an area accessible to the public if the building containing the principal bulletin board or usual meeting room is closed to the public continuously for 48 hours before the time of the meeting. The public body may require each newspaper, wire service, radio station, and television station submitting a written request for notice to renew the request annually. The public body shall charge a fee to persons other than the media, who request notice, of ten dollars (\$10.00) per calendar year, and may require them to renew their requests quarterly. No fee shall be charged for notices sent by e-mail.

- (3) For an emergency meeting, the public body shall cause notice of the meeting to be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written request, which includes the newspaper's, wire service's, or station's telephone number, for emergency notice with the clerk or secretary of the public body or with some other person designated by the public body. This notice shall be given either by e-mail, by telephone, or by the same method used to notify the members of the public body and shall be given immediately after notice has been given to those members. This notice shall be given at the expense of the party notified. Only business connected with the emergency may be considered at a meeting to which notice is given pursuant to this paragraph.

- (c) Repealed by S.L. 1991-694, § 6.

- (d) If a public body has a Web site and has established a schedule of regular meetings, the public body shall post the schedule of regular meetings to the Web site.

- (e) If a public body has a Web site that one or more of its employees maintains, the public body shall post notice of any meeting held under subdivisions (b)(1) and (b)(2) of this section prior to the scheduled time of that meeting.

- (f) For purposes of this section, an "emergency meeting" is one called because of generally unexpected circumstances that require immediate consideration by the public body.

§ 143-318.13. Electronic meetings; written ballots; acting by reference.

- (a) Electronic Meetings.--If a public body holds an official meeting by use of conference telephone or other electronic means, it shall provide a location and means whereby members of the public may listen to the meeting and the notice of the meeting required by this Article shall specify that location. A fee of up to twenty-five dollars (\$25.00) may be charged each such listener to defray in part the cost of providing the necessary location and equipment.

- (b) Written Ballots.--Except as provided in this subsection or by joint resolution of the General Assembly, a public body may not vote by secret or written ballot. If a public body decides to vote by written ballot, each member of the body so voting shall sign his or her ballot; and the minutes of the public body shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the clerk or secretary to the public body immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots may be destroyed.
- (c) Acting by Reference.--The members of a public body shall not deliberate, vote, or otherwise take action upon any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the public body to understand what is being deliberated, voted, or acted upon. However, this subsection does not prohibit a public body from deliberating, voting, or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted, or acted upon, are available for public inspection at the meeting.

§ 143-318.14. Broadcasting or recording meetings.

- (a) Except as herein below provided, any radio or television station is entitled to broadcast all or any part of a meeting required to be open. Any person may photograph, film, tape-record, or otherwise reproduce any part of a meeting required to be open.
- (b) A public body may regulate the placement and use of equipment necessary for broadcasting, photographing, filming, or recording a meeting, so as to prevent undue interference with the meeting. However, the public body must allow such equipment to be placed within the meeting room in such a way as to permit its intended use, and the ordinary use of such equipment shall not be declared to constitute undue interference; provided, however, that if the public body, in good faith, should determine that the size of the meeting room is such that all the members of the public body, members of the public present, and the equipment and personnel necessary for broadcasting, photographing, filming, and tape-recording the meeting cannot be accommodated in the meeting room without unduly interfering with the meeting and an adequate alternative meeting room is not readily available, then the public body, acting in good faith and consistent with the purposes of this Article, may require the pooling of such equipment and the personnel operating it; and provided further, if the news media, in order to facilitate news coverage, request an alternate site for the meeting, and the public body grants the request, then the news media making such request shall pay any costs incurred by the public body in securing an alternate meeting site.

§ 143-318.14A. Legislative commissions, committees, and standing subcommittees.

- (a) Except as provided in subsection (e) below, all official meetings of commissions, committees, and standing subcommittees of the General Assembly (including, without limitation, joint committees and study committees), shall be held in open session. For the purpose of this section,

the following also shall be considered to be “commissions committees and standing subcommittees of the General Assembly”:

- (1) The Legislative Research Commission;
- (2) The Legislative Services Commission;
- (3) Repealed by S.L. 2006-203, § 93, eff. July 1, 2007.
- (4) Repealed by S.L. 2011-291, § 2.50, eff. June 24, 2011.
- (5) The Joint Legislative Commission on Governmental Operations;
- (6) The Joint Legislative Commission on Local Government;
- (7) Deleted by S.L. 1997-443, § 12.30, eff. August 28, 1997.
- (8) Repealed by S.L. 2011-291, § 2.50, eff. June 24, 2011.
- (9) The Environmental Review Commission;
- (10) The Joint Legislative Transportation Oversight Committee;
- (11) The Joint Legislative Education Oversight Committee;
- (12) Repealed by S.L. 2011-291, § 2.50, eff. June 24, 2011; S.L. 2011-266, § 1.28(b), eff. July 1, 2011.
- (13) The Commission on Children with Special Needs;
- (14) Repealed by S.L. 2011-291, § 2.50, eff. June 24, 2011.
- (15) The Agriculture and Forestry Awareness Study Commission; and
- (16) Repealed by S.L. 2011-291, § 2.50, eff. June 24, 2011.
- (17) The standing Committees on Pensions and Retirement.
- (b) Reasonable public notice of all meetings of commissions, committees, and standing subcommittees of the General Assembly shall be given. For purposes of this subsection, “reasonable public notice” includes, but is not limited to:
 - (1) Notice given openly at a session of the Senate or of the House; or
 - (2) Notice mailed or sent by electronic mail to those who have requested notice, and to the Legislative Services Office, which shall post the notice on the General Assembly web site.
 - G.S. 143-318.12 shall not apply to meetings of commissions, committees, and standing subcommittees of the General Assembly.
- (c) A commission, committee, or standing subcommittee of the General Assembly may take final action only in an open meeting.
- (d) A violation of this section by members of the General Assembly shall be punishable as prescribed by the rules of the House or the Senate.
- (e) The following sections shall apply to meetings of commissions, committees, and standing subcommittees of the General Assembly: G.S. 143-318.10(e) and G.S. 143-318.11, G.S. 143-318.13 and G.S. 143-318.14, G.S. 143-318.16 through G.S. 143-318.17.

§ 143-318.15. Repealed by S.L. 2006-203, § 94, eff. July 1, 2007.

§ 143-318.16. Injunctive relief against violations of Article.

- (a) The General Court of Justice has jurisdiction to enter mandatory or prohibitory

injunctions to enjoin (i) threatened violations of this Article, (ii) the recurrence of past violations of this Article, or (iii) continuing violations of this Article. Any person may bring an action in the appropriate division of the General Court of Justice seeking such an injunction; and the plaintiff need not allege or prove special damage different from that suffered by the public at large. It is not a defense to such an action that there is an adequate remedy at law.

- (b) Any injunction entered pursuant to this section shall describe the acts enjoined with reference to the violations of this Article that have been proved in the action.
- (c) Repealed by Laws 1985 (Reg. Sess., 1986), c. 932, § 3, eff. Oct. 1, 1986.

§ 143-318.16A. Additional remedies for violations of Article.

- (a) Any person may institute a suit in the superior court requesting the entry of a judgment declaring that any action of a public body was taken, considered, discussed, or deliberated in violation of this Article. Upon such a finding, the court may declare any such action null and void. Any person may seek such a declaratory judgment, and the plaintiff need not allege or prove special damage different from that suffered by the public at large. The public body whose action the suit seeks to set aside shall be made a party. The court may order other persons be made parties if they have or claim any right, title, or interest that would be directly affected by a declaratory judgment voiding the action that the suit seeks to set aside.
- (b) A suit seeking declaratory relief under this section must be commenced within 45 days following the initial disclosure of the action that the suit seeks to have declared null and void; provided, however, that any suit for declaratory judgment brought pursuant to this section that seeks to set aside a bond order or bond referendum shall be commenced within the limitation periods prescribed by G.S. 159-59 and G.S. 159-62. If the challenged action is recorded in the minutes of the public body, its initial disclosure shall be deemed to have occurred on the date the minutes are first available for public inspection. If the challenged action is not recorded in the minutes of the public body, the date of its initial disclosure shall be determined by the court based on a finding as to when the plaintiff knew or should have known that the challenged action had been taken.
- (c) In making the determination whether to declare the challenged action null and void, the court shall consider the following and any other relevant factors:
 - (1) The extent to which the violation affected the substance of the challenged action;
 - (2) The extent to which the violation thwarted or impaired access to meetings or proceedings that the public had a right to attend;
 - (3) The extent to which the violation prevented or impaired public knowledge or understanding of the people's business;
 - (4) Whether the violation was an isolated occurrence, or was a part of a continuing pattern of violations of this Article by the public body;
 - (5) The extent to which persons relied upon the validity of the challenged action, and the effect on such persons of declaring the challenged action void;
 - (6) Whether the violation was committed in bad faith for the purpose of evading or subverting the public policy embodied in this Article.
- (d) A declaratory judgment pursuant to this section may be entered as an alternative to, or in combination with, an injunction entered pursuant to G.S. 143-318.16.

- (e) The validity of any enacted law or joint resolution or passed simple resolution of either house of the General Assembly is not affected by this Article.

§ 143-318.16B. Assessments and awards of attorneys' fees.

When an action is brought pursuant to G.S. 143-318.16 or G.S. 143-318.16A, the court may make written findings specifying the prevailing party or parties, and may award the prevailing party or parties a reasonable attorney's fee, to be taxed against the losing party or parties as part of the costs. The court may order that all or any portion of any fee as assessed be paid personally by any individual member or members of the public body found by the court to have knowingly or intentionally committed the violation; provided, that no order against any individual member shall issue in any case where the public body or that individual member seeks the advice of an attorney, and such advice is followed.

§ 143-318.16C. Accelerated hearing; priority.

Actions brought pursuant to G.S. 143-318.16 or G.S. 143-318.16A shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

§ 143-318.16D. Local acts.

Any reference in any city charter or local act to an "executive session" is amended to read "closed session".

§ 143-318.17. Disruptions of official meetings.

A person who willfully interrupts, disturbs, or disrupts an official meeting and who, upon being directed to leave the meeting by the presiding officer, willfully refuses to leave the meeting is guilty of a Class 2 misdemeanor.

§ 143-318.18. Exceptions.

This Article does not apply to:

- (1) Grand and petit juries.
- (2) Any public body that is specifically authorized or directed by law to meet in executive or confidential session, to the extent of the authorization or direction.
- (3) The Judicial Standards Commission.
- (3a) The North Carolina Innocence Inquiry Commission.
- (4) Repealed by Laws 1991, c. 694, § 9.
- (4a) The Legislative Ethics Committee.

- (4b) A conference committee of the General Assembly.
- (4c) A caucus by members of the General Assembly; however, no member of the General Assembly shall participate in a caucus which is called for the purpose of evading or subverting this Article.
- (5) Law enforcement agencies.
- (6) A public body authorized to investigate, examine, or determine the character and other qualifications of applicants for professional or occupational licenses or certificates or to take disciplinary actions against persons holding such licenses or certificates, (i) while preparing, approving, administering, or grading examinations or (ii) while meeting with respect to an individual applicant for or holder of such a license or certificate. This exception does not amend, repeal, or supersede any other statute that requires a public hearing or other practice and procedure in a proceeding before such a public body.
- (7) Any public body subject to the State Budget Act, Chapter 143C of the General Statutes and exercising quasi-judicial functions, during a meeting or session held solely for the purpose of making a decision in an adjudicatory action or proceeding.
- (8) The boards of trustees of endowment funds authorized by G.S. 116-36 or G.S. 116-238.
- (9) Repealed by Laws 1991, c. 694, § 9.
- (10) The Board of Awards.
- (11) The General Court of Justice.

End Notes