



Person County Economic Development Commission Ethics Training

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Overview of Presentation

- 1. Open Meetings Law**
- 2. Public Records Act - Overview**
- 3. Public Records Act - Confidentiality in Economic Development**
- 4. Conflicts of Interest**
- 5. Criminal Self-Dealing Statutes**
- 6. What If You Are Unsure?**



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. ... (b). "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.



Open Meetings Law

§ 143-318.10. ... (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.

§ 143-318.10. ... (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.



Open Meetings Law

§ 143-318.11. Closed sessions.

§ 143-318.12. Public notice of official meetings.

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

§ 143-318.14. Broadcasting or recording meetings.



Public Records Act

§ 132-1. "Public records" defined.

(a) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.

(b) The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. ...



Public Records Act: Confidentiality in Economic Development

§ 132-1.2. Confidential information.

Nothing in this Chapter shall be construed to require or authorize a public agency or its subdivision to disclose any information that:

(1) Meets all of the following conditions:

- a. Constitutes a "trade secret" as defined in G.S. 66-152(3).
- b. Is the property of a private "person" as defined in G.S. 66-152(2).
- c. Is disclosed or furnished to the public agency in connection with the owner's performance of a public contract or in connection with a bid, application, proposal, industrial development project, or in compliance with laws, regulations, rules, or ordinances of the United States, the State, or political subdivisions of the State.
- d. Is designated or indicated as "confidential" or as a "trade secret" at the time of its initial disclosure to the public agency.



Public Records Act: Economic Development Incentives

§ 132-1.11. Economic development incentives.

(a) Assumptions and Methodologies. – Subject to the provisions of this Chapter regarding confidential information and the withholding of public records relating to the proposed expansion or location of specific business or industrial projects when the release of those records would frustrate the purpose for which they were created, whenever a public agency or its subdivision performs a cost-benefit analysis or similar assessment with respect to economic development incentives offered to a specific business or industrial project, the agency or its subdivision must describe in detail the assumptions and methodologies used in completing the analysis or assessment. This description is a public record and is subject to all provisions of this Chapter and other law regarding public records.

(b) Disclosure of Public Records Requirements. – Whenever an agency or its subdivision first proposes, negotiates, or accepts an application for economic development incentives with respect to a specific industrial or business project, the agency or subdivision must disclose that any information obtained by the agency or subdivision is subject to laws regarding disclosure of public records. In addition, the agency or subdivision must fully and accurately describe the instances in which confidential information may be withheld from disclosure, the types of information that qualify as confidential information, and the methods for ensuring that confidential information is not disclosed.



Conflicts of Interest

§ 153A-44. Members excused from voting.

The board may excuse a member from voting, but only upon questions involving the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234* or G.S. 160D-109. ...

G.S. 160D-109(b0: (b) Appointed Boards. – Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

**on next slide*



Criminal “Self-Dealing” Statutes

NOTE: EDC members are “public officers.”

G.S. § 14-234: Public officers benefiting from public contracts[.]

G.S. § 14-234.1: Misuse of confidential information.

G.S. § 14-234.2: Public Officer benefitting from public position.

G.S. § 14-234.3: Nonprofit officials participating in contracts.



What if I Am Unsure ...

What if you are unsure as to whether you should vote?

What if you are unsure as to whether you have a conflict of interest?



Any Questions?

Thank you!