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*Senate Bill 411: TAC Members (MPOs & RPOs)*

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## SENATE BILL 411: TAC MEMBERS (MPOs and RPOs)

### SENATE BILL 411 (SL 2013-156)

On June 19, 2013 the Governor signed Senate Bill 411 into law. The Act is entitled "AN ACT TO PROVIDE THAT THE TRANSPORTATION ADVISORY COMMITTEES OF METROPOLITAN PLANNING ORGANIZATIONS AND RURAL TRANSPORTATION PLANNING ORGANIZATIONS ARE SUBJECT TO STANDARD ETHICS PROVISIONS".

### HOW DOES SB 411 AFFECT TAC MEMBERS OF MPOS & RPOS?

1. TAC members and their alternates or designees are no longer covered under the State Government Ethics Act. Thus, they are
  - a. **not subject** to the State Government Ethics Act gift ban;
  - b. **not subject** to the State Government Ethics Act conflicts provisions;
  - c. **not required** to attend state government ethics training
  
2. However, TAC members and their alternates or designees DO have new ethics requirements.
  - a. **Conflict of interest provision:**
    - i. No member or their alternate or designee may participate in any action as a MPO or RPO TAC member if the action may result in a reasonably foreseeable financial benefit to the member, the member's extended family, or any business with which the member is associated.
    - ii. A TAC member or their alternate or designee may participate in an action of the MPO or RPO if the action is ministerial only and does not require the exercise of discretion.
    - iii. When the committee records in its minutes that it cannot obtain a quorum because the TAC member or their alternate or designee is disqualified, the TAC member or their alternate or designee may be counted for purposes of a quorum but shall abstain from taking any further action.
  
  - b. **Duty to disclose conflicts of interest:**
    - i. TAC members and their alternates or designees have a duty to promptly disclose in writing to their MPO or RPO any actual or potential conflicts of interest.
    - ii. These disclosures are a public record.

- iii. These disclosures must be attached to the minutes of the meeting in which any discussion or vote was taken by the MPO or RPO related to that conflicts disclosure.

**c. Confidential information:**

MPO and RPO TAC members and their alternates or designees shall not use or disclose any nonpublic information gained as a member in a way that would affect a personal financial interest of the member, the member's extended family or a business with which the member is associated.

If you have questions regarding the conflict of interest provisions, the duty to disclose conflicts of interest or the confidential information provision you may consult with the attorney that advises your MPO or RPO or contact Norma Houston at the UNC School of Government (SOG): 919-966-5381 or [nhouston@sog.unc.edu](mailto:nhouston@sog.unc.edu).

For more information on SB 411, see Coates' Canons: NC Local Government Law blog: '[New Ethics Requirements for Local Transportation Planning Organizations – Round 2](#)'

**d. Requirement to file Statement of Economic Interest and Real Estate Disclosure Form:**

- i. All MPO and RPO TAC members and their alternates or designees must file a statement of economic interest (SEI) with the State Ethics Commission and a list of all real estate owned wholly or in part by the member, the member's extended family or a business with which the member is associated within the jurisdiction of the MPO or RPO on which the member is serving.
- ii. Current MPO and RPO TAC members and their alternates or designees must file their SEI and Real Estate Disclosure Form annually by April 15<sup>th</sup>.
- iii. New TAC members and their alternates or designees shall file an SEI and Real Estate Disclosure Form and be evaluated by the State Ethics Commission before taking their position on the MPO or RPO.
- iv. The SEI, Real Estate Disclosure Form, and written evaluation by the State Ethics Commission are public records.
- v. Failure to timely file a complete SEI and Real Estate Disclosure Form may result in a \$250 fine.

**e. Penalties:**

- i. Violating the conflict of interest provision is a Class 1 misdemeanor.
- ii. Knowingly concealing or failing to disclose information required to be disclosed on the SEI or Real Estate Disclosure Form is a Class 1 misdemeanor.
- iii. Knowingly providing false information on the SEI or Real Estate Disclosure Form is a Class H felony.

For questions on the SEI and Real Estate Disclosure Form contact the State Ethics Commission's SEI Unit at 919-715-2071 or [sei@doa.nc.gov](mailto:sei@doa.nc.gov)