

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 162
Second Edition Engrossed 3/2/89

Short Title: Expansion of Leg. Ethics Comm. Juris.

(Public)

Sponsors: Senators Winner; Allran, Barnes, Cobb, Rauch, Smith, and Walker.

Referred to: Rules.

February 15, 1989

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE JURISDICTION OF THE LEGISLATIVE ETHICS
COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-102 reads as rewritten:

"§ 120-102. Powers and duties of Committee.

In addition to the other powers and duties specified in this Article, the Committee has the following powers and duties:

- (1) To prescribe forms for the statements of economic interest and other reports required by this Article, and to furnish these forms to persons who are required to file statements or reports.
- (2) To receive and file any information voluntarily supplied that exceeds the requirements of this Article.
- (3) To organize in a reasonable manner statements and reports filed with it and to make these statements and reports available for public inspection and copying during regular office hours. Copying facilities shall be made available at a charge not to exceed actual cost.
- (4) To preserve statements and reports filed with the Committee for a period of 10 years from the date of receipt. At the end of the 10-year period, these documents shall be destroyed.
- (5) To prepare a list of ethical principles and guidelines to be used by each legislator in determining his role in supporting or opposing specific types of legislation, and to advise each General Assembly committee of specific danger areas where conflict of interest may exist and to

1 suggest rules of conduct that should be adhered to by committee
2 members in order to avoid conflict.

3 (6) To advise General Assembly committees, at the request of a committee
4 chairman, or at the request of three members of a committee, about
5 possible points of conflict and suggested standards of conduct of
6 committee members in the consideration of specific bills or groups of
7 bills.

8 (7) ~~To suggest to legislators activities which should be avoided.~~ adopt rules
9 specifying unethical activities which legislators shall avoid.

10 (8) Upon receipt of information that a legislator owes money to the State
11 and is delinquent in making repayment of such obligation, to
12 investigate and dispose of the matter according to the terms of this
13 Article."

14 Sec. 2. G.S. 120-103 reads as rewritten:

15 **"§ 120-103. Possible violations; procedures; disposition.**

16 (a) Institution of Proceedings. – On its own motion, or in response to signed and
17 sworn complaint of any individual filed with the Committee, the Committee shall
18 inquire into any alleged violation ~~of any of:~~

19 (1) Any provision of this Article, including any rules adopted pursuant to
20 this Article, or

21 (2) Of the criminal law by a legislator while acting in his official capacity.

22 (b) Notice and Hearing. – If, after such preliminary investigation as it may make,
23 the Committee determines to proceed with an inquiry into the conduct of any individual,
24 the Committee shall notify the individual as to the fact of the inquiry and the charges
25 against him and shall schedule one or more hearings on the matter. The individual shall
26 have the right to present evidence, cross-examine witnesses, and be represented by
27 counsel at any hearings. The Committee may, in its discretion, hold hearings in closed
28 session; however, the individual whose conduct is under inquiry may, by written
29 demand filed with the Committee, require that all hearings before the Committee
30 concerning him be public or in closed session.

31 (c) Subpoenas. – The Committee may issue subpoenas to compel the attendance
32 of witnesses or the production of documents, books or other records. The Committee
33 may apply to the superior court to compel obedience to the subpoenas of the
34 Committee. Notwithstanding any other provision of law, every State agency, local
35 governmental agency, and units and subdivisions thereof shall make available to the
36 Committee any documents, records, data, statements or other information, except tax
37 returns or information relating thereto, which the Committee designates as being
38 necessary for the exercise of its powers and duties.

39 ~~(d) Disposition of Cases. – When the Committee has concluded its inquiries into~~
40 ~~alleged violations, the Committee may dispose of the matter in one or more of the~~
41 ~~following ways:~~

42 ~~(1) The Committee may dismiss the complaint and take no further action.~~
43 ~~In such case the Committee shall retain its records and findings in~~

1 confidence unless the individual under inquiry requests in writing that
2 the records and findings be made public.

3 (2) ~~The Committee may, if it finds substantial evidence that a criminal
4 statute has been violated, refer the matter to the Attorney General for
5 possible prosecution through appropriate channels.~~

6 (3) ~~The Committee may refer the matter to the appropriate House of the
7 General Assembly for appropriate action. That House may, if it finds
8 the member guilty of unethical conduct as defined in this Article,
9 censure, suspend or expel the member.~~

10 (d) Disposition of Cases.—

11 (1) After the Committee has concluded its inquiries into the alleged
12 violations, the Committee shall:

13 a. Dismiss the complaint and take no further action,

14 b. Issue a public censure or private reprimand to the legislator, or

15 c. Refer the matter

16 1. To the Attorney General for possible prosecution
17 through appropriate channels or the appropriate house
18 for appropriate action, or both, if the Committee finds
19 substantial evidence of a violation of a criminal statute;
20 or

21 2. To the appropriate house for appropriate action, which
22 shall include censure and expulsion, if the Committee
23 finds substantial evidence of unethical activities.

24 (1a) If the committee issues a censure or reprimand as provided in
25 subsection (1) b. above, the legislator so affected may upon written
26 request to the committee have the matter referred as provided under
27 subsection (1) c. 2. above.

28 (2) In the case of a dismissal or private reprimand, the Committee shall
29 retain its records or findings in confidence, unless the individual under
30 inquiry requests in writing that the records and findings be made
31 public. If the Committee later finds that a legislator's subsequent
32 unethical activities were similar to and the subject of an earlier private
33 reprimand then the Committee may make public the earlier reprimand
34 and the records and findings related to it.

35 (3) Any action by the Committee under this Article does not limit the right
36 of each house of the General Assembly to discipline or to expel its
37 members."

38 Sec. 3. This act is effective upon ratification.