

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE BILL 1106

Short Title: Expand Leg. Ethics Committee Juris.

(Public)

---

Sponsors: Representatives Payne; and Luebke.

---

Referred to: Ethics.

---

April 24, 1991

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 members or render written opinions if so requested by the member  
6 about questions of ethics or possible points of conflict and suggested  
7 standards of conduct of committee members in the consideration of  
8 specific bills or groups of bills. members upon ethical points raised.

9 (7) ~~To suggest to legislators activities which should be avoided. propose rules~~  
10 of legislative ethics and conduct. The rules, when adopted by the  
11 House of Representatives and the Senate, shall be the standards  
12 adopted for that term.

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

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

18 **"§ 120-103. Possible violations; procedures; disposition.**

19 (a) Institution of Proceedings. – On its own motion, or in response to signed and  
20 sworn complaint of any individual filed with the Committee, the Committee shall  
21 inquire into any alleged ~~violation of any provision of this Article. violation:~~

22 (1) Of any provision of this Article, including activities described by rules  
23 adopted in accordance with G.S. 120-103(7), or

24 (2) Of the criminal law by a legislator while acting in his official capacity  
25 as a participant in the lawmaking process.

26 (a1) Complaint. –

27 (1) A complaint filed under this Article shall state the nature of the  
28 violation, the date the alleged violation occurred, and either (i) that the  
29 contents of the complaint are within the knowledge of the individual  
30 verifying the complaint or (ii) the basis upon which the individual  
31 verifying the complaint believes the allegations to be true.

32 (2) Any individual who verifies a complaint knowing the allegations in the  
33 complaint to be untrue may be prosecuted for perjury under G.S. 14-  
34 209.

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

1 (c) Subpoenas. – The Committee may issue subpoenas to compel the attendance  
2 of witnesses or the production of documents, books or other records. The Committee  
3 may apply to the superior court to compel obedience to the subpoenas of the  
4 Committee. Notwithstanding any other provision of law, every State agency, local  
5 governmental agency, and units and subdivisions thereof shall make available to the  
6 Committee any documents, records, data, statements or other information, except tax  
7 returns or information relating thereto, which the Committee designates as being  
8 necessary for the exercise of its powers and duties.

9 ~~(d) Disposition of Cases.—When the Committee has concluded its inquiries into  
10 alleged violations, the Committee may dispose of the matter in one or more of the  
11 following ways:~~

12 ~~(1) The Committee may dismiss the complaint and take no further action.  
13 In such case the Committee shall retain its records and findings in  
14 confidence unless the individual under inquiry requests in writing that  
15 the records and findings be made public.~~

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

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

23 (d1) Disposition of Cases. –

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

26 a. Dismiss the complaint and take no further action.

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

28 c. Refer the matter:

29 1. To the Attorney General for possible prosecution  
30 through appropriate channels or the appropriate house  
31 for appropriate action, or both, if the Committee finds  
32 substantial evidence of a violation of a criminal statute;  
33 or

34 2. To the appropriate house for appropriate action, which  
35 shall include censure and expulsion, if the Committee  
36 finds substantial evidence of unethical activities.

37 (2) If the Committee issues a censure or reprimand as provided in  
38 subdivision (1)b. above, the legislator so affected may upon written  
39 request to the Committee have the matter referred as provided under  
40 subdivision (1)c.2. above.

41 (3) In the case of a dismissal or private reprimand, the Committee shall  
42 retain its records or findings in confidence, unless the individual under  
43 inquiry requests in writing that the records and findings be made  
44 public. If the Committee later finds that a legislator's subsequent

- 1                    unethical activities were similar to and the subject of an earlier private  
2                    reprimand then the Committee may make public the earlier reprimand  
3                    and the records and findings related to it.  
4                    (4) Any action by the Committee under this Article does not limit the right  
5                    of each house of the General Assembly to discipline or to expel its  
6                    members."  
7                    Sec. 3. This act is effective upon ratification.