

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 979
Committee Substitute Favorable 5/14/91

Short Title: SBI Investigate Misconduct.

(Public)

Sponsors:

Referred to:

April 19, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE STATE BUREAU OF INVESTIGATION TO
3 INVESTIGATE CRIMES INVOLVING BRIBERY AND MISCONDUCT IN
4 PUBLIC OFFICE.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 114-15 reads as rewritten:

7 "**§ 114-15. Investigations of lynchings, election frauds, etc.; services subject to call**
8 **of Governor; witness fees and mileage for Director and assistants.**

9 (a) The Bureau shall, through its Director and upon request of the Governor,
10 investigate and prepare evidence in the event of any lynching or mob violence in the
11 State; shall investigate all cases arising from frauds in connection with elections when
12 requested to do so by the Board of Elections, and when so directed by the Governor.
13 Such investigation, however, shall in nowise interfere with the power of the Attorney
14 General to make such investigation as he is authorized to make under the laws of the
15 State. The Bureau is authorized further, at the request of the Governor, to investigate
16 cases of frauds arising under the Social Security Laws of the State, of violations of the
17 gaming laws, and lottery laws, and matters of similar kind when called upon by the
18 Governor so to do. In all such cases it shall be the duty of the Department to keep such
19 records as may be necessary and to prepare evidence in the cases investigated, for the
20 use of enforcement officers and for the trial of causes. The services of the Director of
21 the Bureau, and of his assistants, may be required by the Governor in connection with
22 the investigation of any crime committed anywhere in the State when called upon by the

1 enforcement officers of the State, and when, in the judgment of the Governor, such
2 services may be rendered with advantage to the enforcement of the criminal law.

3 (b) The State Bureau of Investigation is hereby authorized to investigate without
4 request the attempted arson of, or arson of, damage of, theft from, or theft of, or misuse
5 of, any State-owned personal property, buildings, or other real property or any assault
6 upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3) or any
7 executive officer named in G.S. 147-3(c).

8 (c) The Bureau also is authorized at the request of the Governor to conduct a
9 background investigation on a person that the Governor plans to nominate for a position
10 that must be confirmed by the General Assembly, the Senate, or the House of
11 Representatives. The background investigation of the proposed nominee shall be
12 limited to an investigation of the person's criminal record, educational background,
13 employment record, records concerning the listing and payment of taxes, and credit
14 record, and to a requirement that the person provide the information contained in the
15 statements of economic interest required to be filed by persons subject to Executive
16 Order Number 1, filed on January 31, 1985, as contained on pages 1405 through 1419
17 of the 1985 Sessions Laws (First Session, 1985). The Governor must give the person
18 being investigated written notice that he intends to request a background investigation at
19 least 10 days prior to the date that he requests the State Bureau of Investigation to
20 conduct the background investigation. The written notice shall be sent by regular mail,
21 and there is created a rebuttable presumption that the person received the notice if the
22 Governor has a copy of the notice.

23 (d) The State Bureau of Investigation is hereby further authorized to investigate
24 without request the commission or attempted commission of the violation of all sections
25 of Article 3 of Chapter 133 of the General Statutes, and G.S. 75-1 and G.S. 75-2 as the
26 crimes relate to G.S. 133-34, including the combination, conspiracy, or other unlawful
27 act in restraint of trade involving a contract for the purchase of equipment, goods,
28 services or materials, or for construction or repair, let or to be let by a governmental
29 agency; or involving a subcontract for the purchase of equipment, goods, services or
30 materials, or for construction or repair with a prime contractor or proposed prime
31 contractor for a governmental agency.

32 (e) The State Bureau of Investigation is hereby further authorized to investigate
33 without request the bribery and/or the receipt or attempted receipt, either directly or
34 indirectly, of anything of value or personal advantage, or the promise thereof, by any
35 public officer, public employee, officer or official, for performing or omitting to
36 perform any official act or duty or with any express or implied understanding that any
37 such official act or duty or omission to act is to be in any degree influenced thereby.

38 (f) The State Bureau of Investigation is hereby further authorized to investigate
39 without request any case involving charges of public corruption, involving the abuse of
40 public office by a public officer or a public employee with the focus on the job-
41 relatedness of the offense and where the offense involves abuse of the public trust
42 placed in the public officer or public employee. 'Corruption', as that term is used in this
43 statute, is defined as the act of an official or fiduciary person who unlawfully and
44 wrongfully uses his station or character to procure some benefit for himself or for

1 another person, contrary to duty and the rights of others. The word 'corruption', when
2 used in this statute, generally imports a wrongful design to acquire some pecuniary or
3 other advantage.

4 (g) The State Bureau of Investigation is further authorized upon request of the
5 Governor or the Attorney General, to investigate the commission or attempted
6 commission of the crimes defined in the following statutes:

7 (1) All sections of Article ~~4A-4A~~, Article 29, and Article 31 of Chapter 14
8 of the General Statutes;

9 (2) G.S. 14-277.1;

10 (3) G.S. 14-277.2;

11 (4) G.S. 14-283;

12 (5) G.S. 14-284;

13 (6) G.S. 14-284.1;

14 (7) G.S. 14-288.2;

15 (8) G.S. 14-288.7;

16 (9) G.S. 14-288.8; and

17 (10) G.S. 14-288.20.

18 (h) All records and evidence collected and compiled by the Director of the
19 Bureau and his assistants shall not be considered public records within the meaning of
20 G.S. 132-1, and following, of the General Statutes of North Carolina and may be made
21 available to the public only upon an order of a court of competent jurisdiction. Provided
22 that all records and evidence collected and compiled by the director of the Bureau and
23 his assistants shall, upon request, be made available to the district attorney of any
24 district if the same concerns persons or investigations in his district.

25 (i) In all cases where the cost is assessed against the defendant and paid by him,
26 there shall be assessed in the bill of cost, mileage and witness fees to the Director and
27 any of his assistants who are witnesses in cases arising in courts of this State. The fees
28 so assessed, charged and collected shall be forwarded by the clerks of the court to the
29 Treasurer of the State of North Carolina, and there credited to the Bureau of
30 Identification and Investigation Fund."

31 Sec. 2. This act is effective upon ratification.