

Article 14.

Legislative Ethics Act.

Part 1. Code of Legislative Ethics.

§ 120-85: Repealed by Session Laws 2006-201, s. 4, effective January 1, 2007.

§ 120-85.1. Definitions.

As used in this Article, the following terms mean:

- (1) Business with which associated. – As defined in G.S. 138A-3.
- (2) Confidential information. – As defined in G.S. 138A-3.
- (3) Economic interest. – As defined in G.S. 138A-3.
- (4) Immediate family. – As defined in G.S. 138A-3.
- (5) Legislator. – As defined in G.S. 138A-3.
- (6) Nonprofit corporation or organization with which associated. – As defined in G.S. 138A-3.
- (7) Vested trust. – As defined in G.S. 138A-3. (2006-201, s. 5.)

§ 120-86. Bribery, etc.

(a) No person shall offer or give to a legislator or a member of a legislator's immediate family, or to a business with which the legislator is associated, and no legislator shall solicit or receive, anything of monetary value, including a gift, favor or service or a promise of future employment, based on any understanding that the legislator's vote, official actions or judgment would be influenced thereby, or where it could reasonably be inferred that the thing of value would influence the legislator in the discharge of the legislator's duties.

(b) It shall be unlawful for the partner, client, customer, or employer of a legislator or the agent of that partner, client, customer, or employer, directly or indirectly, to threaten economically that legislator with the intent to influence the legislator in the discharge of the legislator's duties.

(b1) It shall be unlawful for any person, directly or indirectly, to threaten economically another person in order to compel the threatened person to attempt to influence a legislator in the discharge of the legislator's duties.

(c) It shall be unethical for a legislator to contact the partner, client, customer, or employer of another legislator if the purpose of the contact is to cause the partner, client, customer, or employer, directly or indirectly, to threaten economically that legislator with the intent to influence that legislator in the discharge of the legislator's duties.

(d) Repealed by Session Laws 2006-201, s. 6, effective January 1, 2007.

(e) Violation of subsection (a), (b), or (b1) is a Class F felony. Violation of subsection (c) is not a crime but is punishable under G.S. 120-103.1. (1975, c. 564, s. 1; 1983, c. 780, s. 2; 1993, c. 539, s. 1302; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.27(a); 2006-201, s. 6.)

§ 120-86.1. Personnel-related action unethical.

It shall be unethical for a legislator to take, promise, or threaten any legislative action, as defined in G.S. 120C-100(5), for the purpose of influencing or in retaliation for any action regarding State employee hirings, promotions, grievances, or disciplinary actions subject to Chapter 126 of the General Statutes. (1997-520, s. 7; 2006-201, s. 20(a).)

§ 120-87. Disclosure of confidential information.

(a) No legislator shall use or disclose in any way confidential information gained in the course of the legislator's official activities or by reason of the legislator's official position that could result in financial gain for: (i) the legislator; (ii) a business with which the legislator is

associated; (iii) a nonprofit corporation or organization with which the legislator is associated; (iv) a member of the legislator's immediate family; or (v) any other person.

(b) Repealed by Session Laws 2006-201, s. 4, effective January 1, 2007. (1975, c. 564, s. 1; 2004-199, s. 31(b); 2006-201, s. 4; 2007-347, s. 1; 2007-484, s. 16.)

§ **120-88**: Repealed by Session Laws 2006-201, s. 4, effective January 1, 2007.

Part 2. Statement of Economic Interest.

§ **120-89**: Repealed by Session Laws 2006-201, s. 4, effective January 1, 2007.

§ **120-90**: Repealed by Session Laws 2001-119, s. 2.

§ **120-91**: **Repealed by 1987 (Reg. Sess., 1988), c. 1028, s. 3.**

§§ **120-92 through 120-94**: Repealed by Session Laws 2006-201, s. 4, effective January 1, 2007.

§ **120-95**: **Repealed by 1987 (Reg. Sess., 1988), c. 1028, s. 3.**

§ **120-96**: Repealed by Session Laws 2006-201, s. 4, effective January 1, 2007.

§ **120-97**: **Repealed by 1987 (Reg. Sess., 1988), c. 1028, s. 3.**

§ **120-98**: Repealed by Session Laws 2006-201, s. 4, effective January 1, 2007.

Part 3. Legislative Ethics Committee.

§ **120-99. Creation; composition.**

(a) The Legislative Ethics Committee is created and shall consist of 12 members, six Senators appointed by the President Pro Tempore of the Senate, and six members of the House of Representatives appointed by the Speaker of the House. The President Pro Tempore of the Senate shall appoint three members from a list of nominees submitted by the majority leader of the Senate and three members from a list of nominees submitted by the minority leader of the Senate. The Speaker of the House shall appoint three members from a list of nominees submitted by the majority leader of the House and three members from a list of nominees submitted by the minority leader of the House. The nominating majority or minority leader shall submit to the person making the appointment a list of twice the number of vacancies on the Committee that are to be filled from that leader's nominees.

(b) The President Pro Tempore of the Senate and the Speaker of the House as the appointing officers shall each designate a cochair of the Legislative Ethics Committee from the respective officer's appointees to serve as cochair for the current General Assembly, and until the cochair's successor is designated. The cochair appointed by the President Pro Tempore of the Senate shall preside over the Legislative Ethics Committee during the odd-numbered year, and the cochair appointed by the Speaker of the House shall preside in the even-numbered year. A cochair may preside at anytime during the absence of the presiding cochair or upon the presiding cochair's designation. In the event a cochair is unable to act as cochair on a specific matter before the Legislative Ethics Committee, and so indicates in writing to the appointing officer and the Legislative Ethics Committee, the respective officer shall designate from that officer's appointees a member to serve as cochair for that specific matter.

(c) Repealed by Session Laws 2006-201, s. 8, effective January 1, 2007.

(d) The appointments of the President Pro Tempore of the Senate and the Speaker of the House shall ensure that the composition of the Legislative Ethics Committee is bipartisan in equal numbers. (1975, c. 564, s. 1; 1985, c. 790, s. 6; 1991, c. 739, s. 15; 1995, c. 180, s. 1; 2004-199, s. 31(d); 2006-201, ss. 7, 8; 2009-10, s. 1.)

§ 120-100. Term of office; vacancies.

(a) Appointments to the Legislative Ethics Committee shall be made immediately after the convening of the regular session of the General Assembly in odd-numbered years. The term of office for members of the Legislative Ethics Committee shall be four years from the date of the convening of the General Assembly in which the member is appointed to the Committee. Members shall not serve two consecutive full terms.

(b) A vacancy occurs on the Legislative Ethics Committee when a member resigns or is no longer a member of the General Assembly. A vacancy occurring for any reason during a term shall be filled for the unexpired term by the authority making the appointment which caused the vacancy, and the person appointed to fill the vacancy shall, if possible, be a member of the same political party as the member who caused the vacancy, from a list of two nominees submitted by that party's leader.

(c) In the event a member of the Legislative Ethics Committee is unable to act on a specific matter before the Legislative Ethics Committee, and so indicates in writing to the appointing officer and the Legislative Ethics Committee, the appointing officer may appoint another member of the respective chamber from a list of two members submitted by the majority leader or minority leader who nominated the member who is unable to act on the matter to serve as a member of the Legislative Ethics Committee for the specific matter only. If on any specific matter, the number of members of the Legislative Ethics Committee who are unable to act on a specific matter exceeds four members, the appropriate appointing officer shall appoint other members of the General Assembly to serve as members of the Legislative Ethics Committee for that specific matter only. (1975, c. 564, s. 1; 1995, c. 180, s. 2; 2004-199, s. 31(e); 2009-10, s. 2.)

§ 120-101. Quorum; expenses of members.

(a) Eight members constitute a quorum of the Committee. A vacancy on the Committee does not impair the right of the remaining members to exercise all the powers of the Committee.

(b) The members of the Committee, while serving on the business of the Committee, are performing legislative duties and are entitled to the subsistence and travel allowances to which members of the General Assembly are entitled when performing legislative duties. (1975, c. 564, s. 1; 1995, c. 180, s. 3; 2006-201, s. 9.)

§ 120-102. Powers and duties of Committee.

(a) In addition to the other powers and duties specified in this Article, the Committee may:

- (1) through (4) Repealed by Session Laws 2006-201, s. 10, effective January 1, 2007.
- (5) Prepare a list of ethical principles and guidelines to be used by legislators and legislative employees to identify potential conflicts of interest and prohibited behavior, prepare advisory memoranda to legislators and legislative employees on specific ethical concerns, and suggest rules of conduct that shall be adhered to by legislators and legislative employees.
- (5a) Advise each General Assembly committee of specific danger areas where conflicts of interest may exist and to suggest rules of conduct that should be adhered to by committee members in order to avoid conflict.

- (6) Advise General Assembly members or render written opinions if so requested by the member about questions of ethics or possible points of conflict and suggested standards of conduct of members upon ethical points raised.
- (6a) Review, modify, or overrule advisory opinions issued to legislators by the State Ethics Commission under G.S. 138A-13.
- (7) Propose rules of legislative ethics and conduct. The rules, when adopted by the House of Representatives and the Senate, shall be the standards adopted for that term.
- (8) Upon receipt of information that a legislator owes money to the State and is delinquent in making repayment of such obligation, investigate and dispose of the matter according to the terms of this Article.
- (9) Investigate alleged violations in accordance with G.S. 120-103.1 and hire separate legal counsel, through the Legislative Services Commission, for these purposes.
- (10) Adopt procedures to implement this Article.
- (11) Perform other duties as may be necessary to accomplish the purposes of this Article.

(b) G.S. 120-19.1 through G.S. 120-19.8 shall apply to the proceedings of the Legislative Ethics Committee as if it were a joint committee of the General Assembly, except that both cochairs shall sign all subpoenas on behalf of the Committee. Notwithstanding any other law, every State agency, local governmental agency, and units and subdivisions thereof shall make available to the Committee any documents, records, data, statements or other information, except tax returns or information relating thereto, which the Committee designates as being necessary for the exercise of its powers and duties. (1975, c. 564, s. 1; 1979, c. 864, s. 3; 1991, c. 700, s. 1; 2006-201, s. 10; 2007-348, s. 1.)

§ 120-103: Repealed by Session Laws 2006-201, s. 11, effective January 1, 2007.

§ 120-103.1. Investigations by the Committee.

(a) Institution of Proceedings. – On its own motion, or upon receipt of a referral of a complaint from the State Ethics Commission under Chapter 138A of the General Statutes, the Committee shall conduct an investigation into any of the following:

- (1) The application or alleged violation of Chapter 138A of the General Statutes and of this Article.
- (2) Repealed by Session Laws 2007-348, s. 2, effective August 9, 2007.
- (3) The alleged violation of the criminal law by a legislator while acting in the legislator's official capacity as a participant in the lawmaking process.

(a1) Complaints on Its Own Motion. – An investigation initiated by the Committee on its own motion instituted under subsection (a) of this section shall be treated as a complaint for purposes of this section and need not be sworn or verified. Any requirements under this section that require the Committee to notify the complainant shall not apply to complaints taken up by the Committee on its own motion. If the Committee is acting on a complaint referred to the Committee by the Commission where the Commission was acting on its own motion, the Committee shall be deemed to have satisfied the notice requirements by providing notice to the Commission. Any notice provided to the Commission under this section is confidential and shall not be disclosed by the Commission.

(b) Initial Consideration of a Complaint. – All of the following shall apply to the Committee's initial consideration of a complaint:

- (1) The Committee may, in its sole discretion, request additional information to be provided by the complainant within a specified period of time of no less than seven business days.
- (2) The Committee may decline to accept or further investigate a complaint if it determines that any of the following apply:
 - a. The complaint is frivolous or brought in bad faith.
 - b. The individuals and conduct complained of have already been the subject of a prior complaint.
 - c. The conduct complained of is primarily a matter more appropriately and adequately addressed and handled by other federal, State, or local agencies or authorities, including law enforcement authorities. If other agencies or authorities are conducting an investigation of the same actions or conduct involved in a complaint filed under this section, the Committee may stay its complaint investigation pending final resolution of the other investigation.
- (3) Repealed by Session Laws 2009-549, s. 1, effective August 28, 2009.
- (4) Notwithstanding any other provisions of this section, complaints filed with the Committee concerning the conduct of the Lieutenant Governor shall be referred to the State Ethics Commission under Chapter 138A of the General Statutes without investigation by the Committee.

(c) Investigation of Complaints. – The Committee shall investigate all complaints properly before the Committee in a timely manner. Within 60 days of receiving a complaint or a referral of a complaint to the Committee, the Committee shall do at least one of the following:

- (1) Dismiss the complaint.
- (2) Initiate a preliminary investigation of the complaint.
- (3) Refer the complaint for further investigation and a hearing in accordance with subsection (i) of this section.
- (4) Make recommendations to the house in which the legislator who is the subject of the complaint is a member without further investigation, if the referral is from the State Ethics Commission.

(c1) Preliminary Investigation. – The Committee may initiate a preliminary investigation if it determines that the complaint alleges facts sufficient to constitute a violation of matters over which the Committee has jurisdiction as set forth in subsection (a) of this section. In determining whether there is reason to believe that a violation has or may have occurred, a member of the Committee may take general notice of available information even if not formally provided to the Committee in the form of a complaint. The Committee may utilize the services of a hired investigator when conducting investigations. The Committee shall provide written notification of the initiation of an investigation under this section to the legislator who is the subject of the complaint within 10 days of the date of the Committee's decision to initiate an investigation.

(d) Repealed by Session Laws 2009-549, s. 1, effective August 28, 2009.

(e) Investigation by the Committee of Matters Other Than Complaints. – The Committee may investigate matters other than complaints properly before the Committee under subsection (a) of this section. For any investigation initiated under this subsection, the Committee may take any action it deems necessary or appropriate to further compliance with this Article, including the initiation of a complaint, the issuance of an advisory opinion under G.S. 120-104, or referral to appropriate law enforcement or other authorities pursuant to subdivision (j)(2) of this section.

(f) Legislator Cooperation with Investigation. – Legislators shall promptly and fully cooperate with the Committee in any Committee-related investigation. Failure to cooperate fully with the Committee in any investigation shall be grounds for sanctions under this section.

(g) Dismissal of Complaint After Preliminary Investigation. – If the Committee determines at the end of its preliminary investigation that the complaint does not allege facts sufficient to constitute a violation of matters over which the Committee has jurisdiction as set forth in subsection (a) of this section, the Committee shall dismiss the complaint and provide written notice of the dismissal to the individual who filed the complaint and to the legislator against whom the complaint was filed.

(h) Probable Cause Determination. – If at the end of its preliminary investigation, the Committee determines that probable cause exists to proceed with further investigation into the conduct of a legislator, the Committee shall determine the charges that will be the basis for further investigation of the complaint and provide written notice to the individual who filed the complaint and the legislator that the Committee will conduct further investigation and the charges against the legislator. The legislator shall be given an opportunity to file a written response to the charges with the Committee.

(h1) Consideration of Response and Notice of Hearing. – The Committee shall give full and fair consideration to the complaint and to the legislator's response to the complaint. If the Committee determines that the complaint cannot be resolved without further investigation and a hearing, or if the legislator requests a public hearing, the Committee shall hold a hearing on the charges against the legislator. The Committee shall send a notice of the hearing to the complainant and to the legislator. The notice shall contain the charges against the legislator and the time and place for the hearing. The Committee shall begin the hearing no sooner than 15 days and no later than 90 days after the date of the notice of hearing.

(i) Hearing. – All the following shall apply to any hearing on a complaint held by the Committee:

- (1)-(3) Repealed by Session Laws 2009-549, s. 1, effective August 28, 2009.
- (4) Oral evidence shall be taken only on oath or affirmation.
- (5) The hearing shall be open to the public, except for matters that could otherwise be considered in closed session under G.S. 143-318.11, matters involving minors, or matters involving a personnel record. In any event, the deliberations by the Commission on a complaint may be held in closed session.
- (6) The legislator being investigated shall have the right to present evidence, call and examine witnesses, cross-examine witnesses, introduce exhibits, and be represented by counsel.

(j) Disposition of Investigations. – Except as permitted under subsections (b) and (g) of this section, after the hearing, the Committee shall dispose of the matter before the Committee under this section, in any of the following ways:

- (1) If the Committee finds that the alleged violation is not established by clear and convincing evidence, the Committee shall dismiss the complaint.
- (2) If the Committee finds that the alleged violation is established by clear and convincing evidence, the Committee shall do one or more of the following:
 - a. Issue a public or private admonishment to the legislator.
 - b. Refer the matter to the Attorney General for investigation and referral to the district attorney for possible prosecution or the appropriate house for appropriate action, or both, if the Committee finds substantial evidence of a violation of a criminal statute.
 - c. Refer the matter to the appropriate house for appropriate action, which may include censure and expulsion.
- (3) If the Committee issues an admonishment as provided in subdivision (2)a. of this subsection, the legislator affected may, upon written request to the Committee, have the matter referred as provided under subdivision (2)c. of this subsection.

(k) Effect of Dismissal or Private Admonishment. – If the Committee dismisses a complaint or issues a private admonishment prior to commencing a hearing under subsection (i) of this section, the Committee shall retain its records or findings in confidence, unless the legislator under inquiry requests in writing that the records and findings be made public. If the Committee later finds that a legislator's subsequent unethical activities were similar to and the subject of an earlier private admonishment, then the Committee may make public the earlier admonishment and the records and findings related to it.

(l) Confidentiality. – Except as provided under subsection (k) of this section, the complaint, response, records, and findings of the Committee connected to an inquiry under this section shall be confidential and not matters of public record, except as otherwise provided in this section or when the legislator under inquiry requests in writing that the complaint, response, and findings be made public. Once a hearing under subsection (i) of this section commences the complaint, response, Committee's report to the house, and all other documents offered at the hearing in conjunction with the complaint, that are not otherwise privileged or confidential under law, shall be public records. If no hearing is held, at such time as the Committee recommends sanctions to the house of which the legislator is a member, the complaint, response, and Committee's report to the house shall be made public.

(m) Concurrent Jurisdiction. – Any action or lack of action by the Committee under this section shall not limit the right of each house of the General Assembly to discipline or to expel its members.

(n) Reports. – The Committee shall publish annual statistics on complaints filed with or considered by the Committee, including the number of complaints filed, the number of complaints dismissed, the number of complaints resulting in admonishment, the number of complaints referred to the appropriate house for appropriate action, the number of complaints referred for criminal prosecution, and the number and age of complaints pending action by the Committee. (2006-201, s. 12; 2007-347, s. 2; 2007-348, ss. 2-4; 2008-187, s. 20; 2008-213, ss. 1(a), 3; 2009-549, s. 1.)

§ 120-104. Advisory opinions.

(a) At the request of any member of the General Assembly, the Committee shall render formal advisory opinions on specific questions involving legislative ethics.

(b) The Committee shall receive and review recommended advisory opinions issued to legislators, except the Lieutenant Governor, by the State Ethics Commission under G.S. 138A-13. The opinion shall not be considered a formal advisory opinion until the advisory opinion is adopted by the Committee. The Committee may modify or overrule the recommended advisory opinions issued to legislators by the State Ethics Commission, and the final action on the opinion by the Committee shall control.

(c) A legislator who acts in reliance on a formal advisory opinion issued by the Committee under this section shall be entitled to the immunity granted under G.S. 138A-13(b).

(d) Staff to the Committee may issue informal, nonbinding advisory opinions under procedures adopted by the Committee.

(e) The Committee may interpret Chapter 138A of the General Statutes as it applies to legislators, except the Lieutenant Governor, and these interpretations are binding on all legislators upon publication.

(f) The Committee shall submit its formal advisory opinions to the State Ethics Commission, and the State Ethics Commission shall publish the Committee's opinions under G.S. 138A-13(d). The Committee shall edit for publication purposes as necessary to protect the identities of the individuals requesting opinions prior to submission to the State Ethics Commission. The Committee may distribute the edited formal advisory opinion to members of the General Assembly prior to publication by the State Ethics Commission.

(g) Except as provided under subsection (f) of this section, a request made by a legislator to the Committee for an advisory opinion, advisory opinions issued under this section, recommended advisory opinions received from the State Ethics Commission, and any supporting documents submitted or caused to be submitted to the Committee in connection with requests for advisory opinions or recommended advisory opinions are confidential. Neither the identity of the legislator making the request nor the existence of the request may be revealed to any person without the consent of the legislator. A legislator requesting or receiving an advisory opinion may authorize the release to any other person, the State, or any governmental unit of the request, the recommended advisory opinion, the advisory opinion, or any supporting documents.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advisory opinions, recommended advisory opinions, advisory opinions issued by the Committee, and any supporting documents are not "public records" as defined in G.S. 132-1.

(h) Requests for advisory opinions may be withdrawn by the requestor at any time prior to the issuance of an advisory opinion. (1975, c. 564, s. 1; 2006-201, s. 13; 2007-347, s. 3; 2007-348, ss. 5, 6; 2008-213, s. 2(a).)

§ 120-105. Continuing study of ethical questions.

The Committee shall conduct continuing studies of questions of legislative ethics including revisions and improvements of this Article and Chapter 138A and Chapter 120C of the General Statutes. The Committee shall report to the General Assembly from time to time recommendations for amendments to the statutes and legislative rules which the Committee deems desirable in promoting, maintaining and effectuating high standards of ethics in the legislative branch of State government. (1975, c. 564, s. 1; 2006-201, s. 14.)

§ 120-106. Article applicable to presiding officers.

The provisions of this Article shall apply to the presiding officers of the General Assembly. (1975, c. 564, s. 2.)

§§ 120-107 through 120-111. Reserved for future codification purposes.