

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 700
HOUSE BILL 1106

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 suggest rules of conduct that should be adhered to by committee members in order to avoid conflict.
- (6) To advise General Assembly ~~committees, at the request of a committee chairman, or at the request of three members of a committee, about 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 committee members in the consideration of specific bills or groups of bills. members upon ethical points raised.
- (7) To ~~suggest to legislators activities which should be avoided. 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, to investigate and dispose of the matter according to the terms of this Article."

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

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

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

- (1) Of any provision of this Article, or of the rules adopted in accordance with G.S. 120-102(7); or
- (2) Of the criminal law by a legislator while acting in his official capacity as a participant in the lawmaking process.

(a1) Complaint. –

- (1) A complaint filed under this Article shall state the nature of the violation, the date the alleged violation occurred, and either (i) that the contents of the complaint are within the knowledge of the individual verifying the complaint or (ii) the basis upon which the individual verifying the complaint believes the allegations to be true.
- (2) Any individual who verifies a complaint knowing the allegations in the complaint to be untrue may be prosecuted for perjury under G.S. 14-209.

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

(c) Subpoenas. – The Committee may issue subpoenas to compel the attendance of witnesses or the production of documents, books or other records. The Committee may apply to the superior court to compel obedience to the subpoenas of the Committee. Notwithstanding any other provision of 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.

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

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

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

- ~~(2) The Committee may, if it finds substantial evidence that a criminal statute has been violated, refer the matter to the Attorney General for possible prosecution through appropriate channels.~~
- ~~(3) The Committee may refer the matter to the appropriate House of the General Assembly for appropriate action. That House may, if it finds the member guilty of unethical conduct as defined in this Article, censure, suspend or expel the member.~~

(d1) Disposition of Cases. –

- (1) After the Committee has concluded its inquiries into the alleged violations, the Committee shall:
 - a. Dismiss the complaint.
 - b. Issue a public or private admonishment to the legislator, or
 - c. Refer the matter:
 1. To the Attorney General for possible prosecution through appropriate channels or the appropriate house for appropriate action, or both, if the Committee finds substantial evidence of a violation of a criminal statute;
or
 2. To the appropriate house for appropriate action, which shall include censure and expulsion, if the Committee finds substantial evidence of unethical activities.
- (2) If the Committee issues an admonishment as provided in subdivision (1)b. above, the legislator so affected may upon written request to the Committee have the matter referred as provided under subdivision (1)c.2. above.
- (3) In the case of a dismissal or private admonishment, the Committee shall retain its records or findings in confidence, unless the individual 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.
- (4) Any action by the Committee under this Article does not limit the right of each house of the General Assembly to discipline or to expel its members."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 15th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives