

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

2

SENATE BILL 722  
Rules and Operation of the Senate Committee Substitute  
With Amendment Adopted 5/1/91

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

(Public)

Sponsors:

Referred to:

April 22, 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

1 types of legislation, and to advise each General Assembly committee  
2 of specific danger areas where conflict of interest may exist and to  
3 suggest rules of conduct that should be adhered to by committee  
4 members in order to avoid conflict.

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

10 (7) To suggest to legislators activities which should be avoided. propose for  
11 adoption by the General Assembly rules of legislative ethics and  
12 conduct.

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 (a1) Complaint. –

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

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

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

43 (c) Subpoenas. – The Committee may issue subpoenas to compel the attendance  
44 of witnesses or the production of documents, books or other records. The Committee

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

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

- 10 (1) ~~The Committee may dismiss the complaint and take no further action.~~  
11 ~~In such case the Committee shall retain its records and findings in~~  
12 ~~confidence unless the individual under inquiry requests in writing that~~  
13 ~~the records and findings be made public.~~
- 14 (2) ~~The Committee may, if it finds substantial evidence that a criminal~~  
15 ~~statute has been violated, refer the matter to the Attorney General for~~  
16 ~~possible prosecution through appropriate channels.~~
- 17 (3) ~~The Committee may refer the matter to the appropriate House of the~~  
18 ~~General Assembly for appropriate action. That House may, if it finds~~  
19 ~~the member guilty of unethical conduct as defined in this Article,~~  
20 ~~censure, suspend or expel the member.~~

21 (d) Disposition of Cases. —

- 22 (1) After the Committee has concluded its inquiries into the alleged  
23 violations, the Committee shall:
- 24 a. Dismiss the complaint and take no further action,  
25 b. Issue a public censure or private reprimand to the legislator, or  
26 c. Refer the matter
- 27 1. To the Attorney General for possible prosecution  
28 through appropriate channels or the appropriate house  
29 for appropriate action, or both, if the Committee finds  
30 substantial evidence of a violation of a criminal statute;  
31 or  
32 2. To the appropriate house for appropriate action, which  
33 shall include censure and expulsion, if the Committee  
34 finds substantial evidence of unethical activities.
- 35 (2) If the Committee issues a censure or reprimand as provided in  
36 subdivision (1) b. above, the legislator so affected may upon written  
37 request to the Committee have the matter referred as provided under  
38 subdivision (1) c. 2. above.
- 39 (3) In the case of a dismissal or private reprimand, the Committee shall  
40 retain its records or findings in confidence, unless the individual under  
41 inquiry requests in writing that the records and findings be made  
42 public. If the Committee later finds that a legislator's subsequent  
43 unethical activities were similar to and the subject of an earlier private

1                    reprimand then the Committee may make public the earlier reprimand  
2                    and the records and findings related to it.

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

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