

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS35326-RN-6 (03/13)

Short Title: Open Ethics Hearings/No Lobbyist Solicitation. (Public)

Sponsors: Senator Berger of Rockingham.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE THE LEGISLATIVE ETHICS COMMITTEE SUBJECT TO THE OPEN MEETINGS LAW, TO PROHIBIT LOBBYISTS FROM SOLICITING CAMPAIGN CONTRIBUTIONS, AND TO MAKE ETHICS COMPLAINTS AND INVESTIGATION HEARINGS OPEN TO THE PUBLIC.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-318.18 reads as rewritten:

"§ 143-318.18. Exceptions.

This Article does not apply to:

- (1) Grand and petit juries.
- (2) Any public body that is specifically authorized or directed by law to meet in executive or confidential session, to the extent of the authorization or direction.
- (3) The Judicial Standards Commission.
- (3a) The North Carolina Innocence Inquiry Commission.
- (4) Repealed by Session Laws 1991, c. 694, s. 9.
- ~~(4a) The Legislative Ethics Committee.~~
- (4b) A conference committee of the General Assembly.
- (4c) A caucus by members of the General Assembly; however, no member of the General Assembly shall participate in a caucus which is called for the purpose of evading or subverting this Article.
- (5) Law enforcement agencies.
- (6) A public body authorized to investigate, examine, or determine the character and other qualifications of applicants for professional or occupational licenses or certificates or to take disciplinary actions against persons holding such licenses or certificates, (i) while preparing, approving, administering, or grading examinations or (ii)

1 while meeting with respect to an individual applicant for or holder of
 2 such a license or certificate. This exception does not amend, repeal, or
 3 supersede any other statute that requires a public hearing or other
 4 practice and procedure in a proceeding before such a public body.

5 (7) **(Effective until July 1, 2007)** Any public body subject to the
 6 Executive Budget Act (G.S. 143-1 et seq.) and exercising
 7 quasi-judicial functions, during a meeting or session held solely for the
 8 purpose of making a decision in an adjudicatory action or proceeding.

9 (7) **(Effective July 1, 2007)** Any public body subject to the State Budget
 10 Act, Chapter 143C of the General Statutes and exercising
 11 quasi-judicial functions, during a meeting or session held solely for the
 12 purpose of making a decision in an adjudicatory action or proceeding.

13 (8) The boards of trustees of endowment funds authorized by G.S. 116-36
 14 or G.S. 116-238.

15 (9) Repealed by Session Laws 1991, c. 694, s. 9.

16 (10) The Board of Awards.

17 (11) The General Court of Justice."

18 **SECTION 2.(a)** G.S. 163-278.6 is amended by adding a new subdivision to

19 read:

20 "**§ 163-278.6. Definitions.**

21 When used in this Article:

22 ...

23 (5a) The term 'Constitutional officers of the State' means officers whose
 24 offices are established in Article III of the Constitution.

25"

26 **SECTION 2.(b)** Article 22A of Chapter 163 of the General Statutes is
 27 amended by adding a new section to read:

28 "**§ 163-278.13C. Limitation on contributions by registered lobbyists.**

29 (a) No lobbyist registered under Chapter 120C of the General Statutes shall do
 30 any of the following:

31 (1) Make or offer to make a contribution to a legislator, executive branch
 32 official, or candidate campaign committee.

33 (2) Make a contribution to any candidate, officeholder, or political
 34 committee, directing or requesting that the contribution be made in
 35 turn to a legislator, executive branch official, or candidate campaign
 36 committee.

37 (3) Transfer any amount of money or anything of value to any entity,
 38 directing or requesting that the entity use what was transferred to
 39 contribute to a legislator, executive branch official, or candidate
 40 campaign committee.

41 (4) Solicit a contribution from any individual, political committee, or other
 42 entity on behalf of a legislator, executive branch official, or candidate
 43 campaign committee. This subdivision does not apply to a registered
 44 lobbyist soliciting a contribution on behalf of a political party

1 executive committee if the solicitation is solely for a separate
2 segregated fund kept by the political party limited to use for activities
3 that are not candidate-specific, including generic voter registration and
4 get-out-the-vote efforts, pollings, mailings, and other general activities
5 and advertising that do not refer to a specific individual candidate.

6 (5) Deliver any contribution made by another to a legislator, executive
7 branch official, or candidate campaign committee.

8 (b) No legislator, executive branch official, or candidate campaign committee or
9 the real or purported agent of that legislator, executive branch official, or candidate
10 campaign committee shall do any of the following:

11 (1) Solicit a contribution from a lobbyist registered under Chapter 120C of
12 the General Statutes.

13 (2) Solicit a third party, requesting or directing that the third party directly
14 or indirectly solicit a contribution from a lobbyist registered under
15 Chapter 120C of the General Statutes or relay to the lobbyist registered
16 under Chapter 120C of the General Statutes the legislator's, executive
17 branch official's, or candidate campaign committee's solicitation of a
18 contribution.

19 (3) Accept a contribution from a lobbyist registered under Chapter 120C
20 of the General Statutes.

21 (c) It shall not be deemed a violation of this section for a legislator or executive
22 branch official to serve on a board or committee of an organization that makes a
23 solicitation of a lobbyist registered under Chapter 120C of the General Statutes as long
24 as that legislator or executive branch official does not directly participate in the
25 solicitation and that legislator or executive branch official does not directly benefit from
26 the solicitation.

27 (d) This section shall not prohibit a lobbyist registered under Chapter 120C of the
28 General Statutes from advising any of the following with regard to contributions to a
29 legislator, executive branch official, or candidate campaign committee:

30 (1) A political committee that employs or contracts with, or whose parent
31 entity employs or contracts with, that lobbyist.

32 (2) Individual members of a political committee described in subdivision
33 (1) of this subsection.

34 (3) The lobbyist's principal as defined in G.S. 120C-100.

35 (e) This section shall not apply to a lobbyist filing a notice of candidacy for
36 office as a member of the General Assembly or a Constitutional officer of the State
37 making a contribution to that lobbyist.

38 (f) As used in this section, the following terms mean:

39 (1) Candidate campaign committee. – As defined in G.S. 163-278.38Z,
40 and that candidate has filed a notice of candidacy for office as a
41 member of the General Assembly or a Constitutional officer of the
42 State.

43 (2) Executive branch official. – As defined in G.S. 138A-3(30)a.

44 (3) Legislator. – As defined in G.S. 120C-100.

1 (g) A violation of this section is punishable by a civil fine in accordance with
2 G.S. 163-278.34 only."

3 **SECTION 3.(a)** G.S. 120-103.1(i)(2) reads as rewritten:

4 "(i) Hearing. –

5 ...

6 (2) The Committee shall send a notice of the hearing to the complainant
7 and the legislator. The notice shall contain the time and place for a
8 hearing on the matter, which shall begin no less than 30 days and no
9 more than 90 days after the date of the notice. Upon the notice
10 required under this subsection being sent, the complaint and any
11 written response shall be public records, and all other documents
12 offered at the hearing in conjunction with the complaint shall be public
13 records."

14 **SECTION 3.(b)** G.S. 120-103.1(i)(3)b. reads as rewritten:

15 "(i) Hearing. –

16 ...

17 (3) At any hearing held by the Committee:

18 a. Oral evidence shall be taken only on oath or affirmation.

19 b. ~~The hearing shall be held in closed session unless the legislator~~
20 ~~requests that the hearing be held in open session. In any event,~~
21 ~~the deliberations by the Committee on a complaint may be held~~
22 ~~in closed session.~~The hearing shall be open to the public. The
23 deliberations by the Committee on a complaint may be held in
24 closed session, but the decision of the Committee shall be
25 announced in open session."

26 **SECTION 3.(c)** G.S. 120-103.1 is amended by adding a new subsection to
27 read:

28 "(k1) Findings and Record. – The Committee shall render formal and binding
29 opinions of its findings and recommendations made pursuant to complaints or
30 Committee investigations. In all matters in which the complaint is a public record, the
31 Committee shall ensure that a complete record is made and preserved as a public
32 record."

33 **SECTION 3.(d)** G.S. 120-103.1(l) reads as rewritten:

34 "(l) Confidentiality. – ~~Except as provided under subsection (k) of this section, the~~
35 ~~complaint, response, records, and findings of the Committee shall be confidential and~~
36 ~~not matters of public record, except when the legislator under inquiry requests in writing~~
37 ~~that the complaint, response, records, and findings be made public prior to the time the~~
38 ~~Committee recommends sanctions. At such time as the Committee recommends~~
39 ~~sanctions to the house of which the legislator is a member, the complaint, response, and~~
40 ~~Committee's report to the house shall be made public.~~All motions, complaints, written
41 requests, investigations, and investigative materials shall be confidential and not a
42 matter of public record, except as otherwise provided in this section."

43 **SECTION 4.(a)** G.S. 138A-12(i)(2) reads as rewritten:

44 "(i) Hearing. –

1 ...
2 (2) The Commission shall send a notice of the hearing to the complainant,
3 and the public servant. The notice shall contain the time and place for
4 a hearing on the matter, which shall begin no less than 30 days and no
5 more than 90 days after the date of the notice. Upon the notice
6 required under this subsection being sent, the complaint and any
7 written response shall be public records, and all other documents
8 offered at the hearing in conjunction with the complaint shall be public
9 records."

10 **SECTION 4.(b)** G.S. 138A-12(i)(4)b. reads as rewritten:

11 "(i) Hearing. –

12 ...
13 (4) At any hearing held by the Commission:
14 a. Oral evidence shall be taken only on oath or affirmation.
15 ~~b. The hearing shall be held in closed session unless the public~~
16 ~~servant requests that the hearing be held in open session. In any~~
17 ~~event, the deliberations by the Commission on a complaint may~~
18 ~~be held in closed session. The hearing shall be open to the~~
19 ~~public. The deliberations by the Commission on a complaint~~
20 ~~may be held in closed session, but the decision of the~~
21 ~~Commission shall be announced in open session."~~

22 **SECTION 4.(c)** G.S. 138A-12(m) reads as rewritten:

23 "(m) Reports and Records. – The Commission shall render the results of its inquiry
24 in writing. When a matter is referred under subdivision (h)(2) and (3), or subsection (k)
25 of this section, the Commission's report shall consist of the complaint, response, and
26 detailed results of its inquiry in support of the Commission's finding of a violation under
27 this Chapter. In all matters in which the complaint is a public record, the Commission
28 shall ensure that a complete record is made and preserved as a public record."

29 **SECTION 4.(d)** G.S. 138A-12(n) reads as rewritten:

30 "(n) Confidentiality. – ~~Complaints and responses filed with the Commission and~~
31 ~~reports and other investigative documents and records of the Commission connected to~~
32 ~~an inquiry under this section shall be confidential and not matters of public record,~~
33 ~~except when the covered person or legislative employee under inquiry requests in~~
34 ~~writing that the records and findings be made public prior to the time the employing~~
35 ~~entity imposes public sanctions. At such time as public sanctions are imposed on a~~
36 ~~covered person, the complaint, response, and Commission's report to the employing~~
37 ~~entity shall be made public. All motions, complaints, written requests, investigations,~~
38 ~~and investigative materials shall be confidential and not a matter of public record,~~
39 ~~except as otherwise provided in this section."~~

40 **SECTION 5.** Section 2 of this act becomes effective October 1, 2007.
41 Sections 3 and 4 are effective when they become law and apply to complaints filed on
42 or after that date. The remainder of this act is effective when it becomes law.