

NORTH CAROLINA GENERAL ASSEMBLY  
1975 SESSION

CHAPTER 564  
SENATE BILL 147

AN ACT TO BE KNOWN AS THE LEGISLATIVE ETHICS ACT.

The General Assembly of North Carolina enacts:

**Section 1.** A new Article is added to Chapter 120 of the General Statutes, to read as follows:

"Article 12.

"Legislative Ethics Act.

"A. Code of Legislative Ethics.

"§ 120-58. **Definitions.** — As used in this Article:

(a) 'Business with which he is associated' means any enterprise, incorporated or otherwise, doing business in the State of which the legislator or any member of his immediate household is a director, officer, owner, partner, employee, or of which the legislator and his immediate household, either singularly or collectively, is a holder of securities worth five thousand dollars (\$5,000) or more at fair market value as of December 31 of the preceding year, or constituting five percent (5%) or more of the outstanding stock of such enterprise.

(b) 'Immediate household' means the legislator, his spouse, and all dependent children of the legislator.

(c) 'Vested trust' as set forth in G.S. 120-68(d) means any trust, annuity or other funds held by a trustee or other third party for the benefit of the member or a member of his immediate household.

"§ 120-59. No person shall offer or give to a legislator or a member of a legislator's immediate household, or to a business with which he 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 such 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 his duties.

"§ 120-60. No legislator shall use or disclose confidential information gained in the course of or by reason of his official position or activities in any way that could result in financial gain for himself, a business with which he is associated or a member of his immediate household or any other person.

"§ 120-61. When a legislator must act on a legislative matter as to which he has an economic interest, personal, family, or client, he shall consider whether his judgment will be substantially influenced by the interest, and consider the need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the legislature. If after considering these factors the legislator concludes that an actual economic interest does exist which would impair his independence of judgment, then he shall not take any action to further the economic interest, and shall ask that he be excused, if necessary, by the presiding officer in accordance with the rules of the respective body. If the legislator has a material doubt as to whether he should act, he may submit the question to the Legislative Ethics Committee for an advisory opinion in accordance with G.S. 120-76.

"B. Statement of Economic Interest.

**"§ 120-62. Statement of Economic Interest by legislative candidates; filing required.** — Every person who files as a candidate for nomination or election to a seat in either house of the General Assembly shall file a Statement of Economic Interest as specified in this act within 10 days of the filing deadline for the office he seeks.

**"§ 120-63. Place and manner of filing.** — The Statement of Economic Interest shall cover the preceding calendar year and shall be filed at the same place, and in the same manner, as the notice of candidacy which a candidate seeking party nomination for the office of State Senator or Member of the State House of Representatives is required to file under the provisions of G.S. 163-106.

**"§ 120-64. Certification of Statements of Economic Interest.** — The chairman of the county board of elections with which a Statement of Economic Interest is filed shall forward a certified copy of the statement to the State Board of Elections and the offices to which copies of the notice of candidacy filed by a candidate seeking party nomination for the office of State Senator or Member of the State House of Representatives is required to be forwarded under the provisions of G.S. 163-108.

**"§ 120-65. Filing by candidates not nominated in primary elections.** — A person who is nominated pursuant to the provisions of G.S. 163-114 after the primary and before the general election, and a person who qualifies, pursuant to the provisions of G.S. 163-122 as an independent candidate in a general election shall file with the county board of elections of each county in the senatorial or representative district a Statement of Economic Interest. A person nominated pursuant to G.S. 163-114 shall file the statement within three days following his nomination, or not later than the day preceding the general election, whichever occurs first. A person seeking to qualify as an independent candidate under G.S. 163-122 shall file the Statement of Economic Interest with the petition filed pursuant to that section. A person elected pursuant to G.S. 163-11 (Vacancy in office) shall file a Statement of Economic Interest within 10 days after taking the oath of office.

**"§ 120-65.1. County boards of elections to notify candidates of Economic Interest Statement requirements.** — Each county board of elections shall provide for notification of the Economic Interest Statement requirements of G.S. 120-67 and G.S. 120-68 to be given to any candidate filing for nomination or election to the General Assembly at the time of his or her filing in the particular county.

**"§ 120-66. Statements of Economic Interest are public records.** — The Statements of Economic Interest are public records and shall be made available for inspection and copying by any person during normal business hours at the office of the various county boards of election where the statements or copies thereof are filed. If a county board of elections of a county does not keep an office open during normal business hours each day, that board shall deliver a copy of all Statements of Economic Interest filed with it to the Clerk of Superior Court of the county, and the Statements shall be available for inspection and copying by any person during normal business hours at that Clerk's Office.

**"§ 120-67. Legislators to File Statement of Economic Interest with Legislative Services Office.** — Every member of the General Assembly however selected, shall, by January 15 next following his election file a Statement of Economic Interest with the Legislative Services Officer of the General Assembly. A copy of the Statement so filed shall be placed in the Legislative Library and shall be available for inspection and copying by any person during normal library hours. On or before December 16 of the year members of the General Assembly are elected, the Legislative Services Officer shall cause notice of the filing requirement of this section to be mailed to all elected members of the General Assembly.

**"§ 120-68. Contents of Statement.** — Any Statement of Economic Interest filed under this act shall be on a form prescribed by the Committee, and the person filing the Statement shall supply the following information:

- (a) The identity, by name, of any business with which he, or any member of his immediate household, is associated;
- (b) The character and location of all real estate of a fair market value in excess of five thousand dollars (\$5,000), other than his personal residence (curtilage), in the State in which he, or a member of his immediate household has any beneficial interest, including an option to buy and a lease for 10 years or over;
- (c) The type of each creditor to whom he, or a member of his immediate household owes money, except indebtedness secured by lien upon his personal residence only, in excess of five thousand dollars (\$5,000);
- (d) The name of each 'vested trust' in which he or a member of his immediate household has a financial interest in excess of five thousand dollars (\$5,000) and the nature of such interest;
- (e) The name and nature of his and his immediate household member's respective business or profession or employer and the types of customers and types of clientele served;
- (f) A list of businesses with which he is associated that do business with the State, and a brief description of the nature of such business;
- (g) In the case of professional persons and associations, a list of classifications of business clients which classes were charged or paid two thousand five hundred dollars (\$2,500) or more during the previous calendar year for professional services rendered by him, his firm or partnership. This list need not include the name of the client but shall list the type of the business of each such client or class of client, and brief description of the nature of the services rendered.

**"§ 120-69. Updating statements.** — Each person who is required to file a Statement of Economic Interests under this act shall file an updated Statement at the office required by this act by January 15 of the second year following his or her election on a form prescribed by the Legislative Ethics Committee. The Committee shall forward the form to those required to file same on or before December 16.

**"§ 120-70. Penalty for failure to file.** — (a) In the case of a candidate, if the Statement of Economic Interest required by this Article is not filed when required herein, the county board of elections shall immediately notify the candidate that his name will not be placed on the ballot unless the Statement is received within 15 days. If the Statement is not received within 15 days, the candidate shall be disqualified and his filing fee returned.

(b) In the case of a member, willful failure to file shall result in that member's not being allowed to take the oath of office or enter or continue upon his duties or receive any compensation from public funds provided, however, the Committee may, for good cause shown, allow said member to file the required Statement and remove his disability.

"C. Legislative Ethics Committee.

**"§ 120-71. Creation; composition.** — The Legislative Ethics Committee is created to consist of a chairman and eight members, four Senators appointed by the President of the Senate, two from a list of four submitted by the Majority Leader and two from a list of four submitted by the Minority Leader, and four members of the House of Representatives appointed by the Speaker of the House, two from a list of four submitted by the Majority Leader and two from a list of four submitted by the Minority Leader.

The President of the Senate shall designate a member of the General Assembly as Chairman of the Committee in odd-numbered years, and the Speaker of the House shall designate a member of the General Assembly as Chairman of the Committee in even-numbered years. The chairman will vote only in the event of a tie vote.

**"§ 120-72. Term of office; vacancies.** — Initial members of the Legislative Ethics Committee shall be appointed as soon as practicable after the ratification of this Article and shall serve until the expiration of their current terms as members of the General Assembly. Thereafter, appointments shall be made immediately after the convening of the regular session of the

General Assembly in odd-numbered years, and appointees shall serve until the expiration of their then current terms as members of the General Assembly. The chairman shall serve for one year and shall be appointed each year. 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.

**"§ 120-73. Quorum; expenses of members.** — Five 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.

The chairman and 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.

**"§ 120-74. 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:

(a) 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.

(b) To receive and file any information voluntarily supplied that exceeds the requirements of this Article.

(c) 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.

(d) 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.

(e) 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.

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

(g) To suggest to legislators activities which should be avoided.

**"§ 120-75. 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.

(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 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.

"§ 120-76. **Advisory opinions.** — At the request of any member of the General Assembly, the Committee shall render advisory opinions on specific questions involving legislative ethics. These advisory opinions, edited as necessary to protect the identity of the legislator requesting the opinion, shall be published periodically by the Committee.

"§ 120-77. **Continuing study of ethical questions.** — The Committee shall conduct continuing studies of questions of legislative ethics including revisions and improvements of this act as well as sections to cover the administrative branch of government and 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."

**Sec. 2.** The provisions of this act shall apply to the presiding officers of the General Assembly.

**Sec. 3.** This act shall become effective on December 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.