**A** **BILL**

TO AMEND SECTION 8‑13‑540 OF THE 1976 CODE, RELATING TO THE SENATE AND HOUSE OF REPRESENTATIVES ETHICS COMMITTEES, TO PROVIDE THAT RESPONDENTS IN ETHICS COMMITTEE INVESTIGATIONS MAY WAIVE THE RIGHT TO CONFIDENTIALITY, TO PROVIDE THAT THE COMMITTEES MAY IMPOSE A CIVIL PENALTY OF UP TO TWO THOUSAND DOLLARS FOR ETHICAL VIOLATIONS, AND TO PROVIDE THAT THE COMMITTEES MAY REQUIRE THE FORFEITURE OF GIFTS OR PROFITS OBTAINED IN VIOLATION OF THIS CHAPTER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 8‑13‑540 of the 1976 Code is amended to read:

“Section 8‑13‑540. (1) When a complaint is filed with or by the ethics committee, a copy must promptly be sent to the person alleged to have committed the violation. If the ethics committee determines the complaint does not allege facts sufficient to constitute a violation, the complaint must be dismissed and the complainant and respondent notified. If the ethics committee finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to appropriate law enforcement authorities. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than one year. In lieu of the criminal penalty provided by this subsection, a civil penalty of not more than one thousand dollars may be assessed against the complainant upon proof, by a preponderance of the evidence, that the filing of the complaint was wilful and without just cause or with malice. If the ethics committee determines the complaint alleges facts sufficient to constitute a violation, it shall promptly investigate the alleged violation and may compel by subpoena the attendance and testimony of witnesses and the production of pertinent books and papers.

If after such preliminary investigation, the ethics committee finds that probable cause exists to support an alleged violation, it shall, as appropriate:

(a) render an advisory opinion to the respondent and require the respondent’s compliance within a reasonable time; or

(b) convene a formal hearing on the matter within thirty days of the respondent’s failure to comply with the advisory opinion. All ethics committee investigations and records relating to the preliminary investigation are confidential, unless the respondent waives the right of confidentiality. No complaint shall be accepted which is filed later than four years after the alleged violation occurred.

(2) If a hearing is to be held, the respondent must be allowed to examine and make copies of all evidence in the ethics committee’s possession relating to the charges. At the hearing the charged party must be afforded appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses. All hearings must be conducted in executive session.

(3) After the hearing, the ethics committee shall determine its findings of fact. If the ethics committee, based on competent and substantial evidence, finds the respondent has violated this chapter or Chapter 17 of Title 2, it shall:

(a) administer a public or private reprimand;

(b) impose a civil penalty of not more than two thousand dollars for each violation;

(c) require the forfeiture of gifts, receipts, or profits, or the value thereof, obtained in violation of this chapter, voiding nonlegislative state action obtained in violation of this chapter;

~~(b)~~(d) determine that a technical violation as provided for in Section 8‑13‑1170 has occurred;

~~(c)~~(e) recommend expulsion of the member; and/or~~,~~;

~~(d)~~(f) in the case of an alleged criminal violation, refer the matter to the Attorney General for investigation. The ethics committee shall report its findings in writing to the Speaker of the House or President Pro Tempore of the Senate, as appropriate. The report must be accompanied by an order of punishment and supported and signed by a majority of the ethics committee members. If the ethics committee finds the respondent has not violated a code or statutory provision, it shall dismiss the charges.

(4) An individual has ten days from the date of the notification of the ethics committee’s action to appeal the action to the full legislative body.

(5) No ethics committee member may participate in any matter in which he is involved.

(6) The ethics committee shall establish procedures which afford respondents appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses.”

SECTION 2. This act takes effect upon approval by the Governor.

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