~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

May 12, 2010

**H. 4542**

Introduced by Reps. Harrison, Weeks and McLeod

S. Printed 5/12/10--S.

Read the first time April 21, 2010.

**A** **BILL**

TO AMEND SECTION 8‑13‑320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DUTIES AND POWERS OF THE STATE ETHICS COMMISSION, SO AS TO DELETE THE PROHIBITION OF THE RELEASE OF INFORMATION UNTIL FINAL DISPOSITION OF AN ETHICS INVESTIGATION AND REQUIRE THAT THE INFORMATION MAY NOT BE RELEASED UNTIL A FINDING OF PROBABLE CAUSE HAS BEEN MADE.

Amend Title To Conform

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

SECTION 1. Section 8‑13‑320(10)(g) of the 1976 Code, as last amended by Act 387 of 2006, is further amended to read:

“(g) All investigations, inquiries, hearings, and accompanying documents must remain confidential until ~~final disposition of a matter~~ a finding of probable cause or dismissal unless the respondent waives the right to confidentiality. The willful release of confidential information is a misdemeanor, and any person releasing ~~such~~ confidential information, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year.”

SECTION 2. Section 8-13-540 of the 1976 Code is amended to read:

“Section 8-13-540. Unless otherwise provided for by House or Senate rule, as appropriate, each ethics committee must conduct its investigation of a complaint filed pursuant to this chapter or Chapter 17 of Title 2 in accordance with this section.

(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. All investigations, inquiries, hearings, and accompanying documents must remain confidential until a finding of probable cause or dismissal, unless the respondent waives the right to confidentiality.

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.~~ 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~~ open 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) determine that a technical violation as provided for in Section 8‑13‑1170 has occurred;

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

(d) 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 3. Section 8-13-1372 of the 1976 Code is amended to read:

“Section 8-13-1372 (A) The ~~State Ethics Commission~~ appropriate supervisory office, in its discretion, may determine that errors or omissions on campaign reports are inadvertent and unintentional and not an effort to violate a requirement of this chapter and may be handled as technical violations which are not subject to the provisions of this chapter pertaining to ethical violations. Technical violations must remain confidential unless requested to be made public by the candidate filing the report. In lieu of all other penalties, the ~~State Ethics Commission~~ appropriate supervisory office may assess a technical violations penalty not to exceed fifty dollars.

(B) A violation other than an inadvertent or unintentional violation must be ~~referred to~~ considered by the appropriate supervisory office for appropriate action.”

SECTION 4. This act takes effect upon approval by the Governor.

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