**A** **BILL**

TO AMEND SECTION 8‑13‑540, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CONDUCT OF ETHICS INVESTIGATIONS AND HEARINGS, AND TO THE ETHICS COMMITTEES’ FINDINGS AND REPORTS, SO AS TO REVISE THE ETHICS COMMITTEES’ POSSIBLE ACTIONS AFTER REVIEWING THE STATE ETHICS COMMISSION’S RECOMMENDATIONS AND RELEVANT EVIDENCE.

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

SECTION 1. Section 8‑13‑540(D) of the 1976 Code, as last amended by Act 282 of 2016, is further amended to read:

“(D)(1) Upon receipt of the commission’s report, the appropriate ethics committee, ~~may concur or nonconcur with the commission’s recommendation, or~~ within forty‑five days from the committee’s receipt of the report, may request the commission to continue the investigation in order to review information previously received or consider additional matters not considered by the commission.

~~(2)~~ ~~If, after reviewing the commission’s recommendation and relevant evidence, the ethics committee determines that there is not competent and substantial evidence a violation of this chapter or of Chapter 17, Title 2 has occurred, the committee shall dismiss the complaint and send a written decision to the respondent and the complainant. The notice of dismissal must be made public if the commission made a recommendation that probable cause existed.~~

~~(3)~~(2) If, after reviewing the commission’s recommendation and relevant evidence, the ethics committee determines that the respondent has committed only a technical violation pursuant to Section 8‑13‑1170 or 8‑13‑1372, the provisions of the appropriate section apply.

~~(4)~~(3) ~~If,~~ After reviewing the commission’s recommendation and relevant evidence, the ethics committee ~~determines that there is competent and substantial evidence that a violation of this chapter or of Chapter 17, Title 2 has occurred, except for a technical violation of Section 8‑13‑1170 or 8‑13‑1372, the committee shall~~, except as otherwise provided in item (2) of this subsection, ~~as appropriate~~ shall:

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

(b) concur with the commission’s findings of no probable cause and dismissal of the complaint; or

~~(b)~~(c) convene a formal public hearing on the matter.

The ethics committee may obtain its own information~~,~~ or request additional investigation by the State Ethics Commission~~,~~ if it needs additional information to make a determination ~~as to whether or not competent and substantial evidence of~~ that a violation exists. An advisory opinion to the respondent pursuant to subitem (a) must be made public.

~~(5)~~(4) If the ethics committee convenes a formal public hearing:

(a) the investigator or attorney handling the investigation for the State Ethics Commission shall present the evidence related to the complaint to the appropriate ethics committee;

(b) it is the duty of the investigator or attorney to further investigate the subject of the complaint and any related matters under the jurisdiction and at the direction of the ethics committee, to request assistance from appropriate state agencies as needed, to request authorization from the committee for funds for the hiring of auditors, investigators, or other assistance as necessary, to prepare subpoenas, and to present evidence to the committee at ~~any~~ a public hearing. The appropriate committee shall maintain the authority to approve subpoenas, authorize expenditures, dismiss complaints, schedule hearings, grant continuances, and any other authority as provided for by their rules;

(c) 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 respondent 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;

(d) all hearings must be open to the public.

~~(6)~~(5)(a) After the formal public hearing, the ethics committee shall determine its findings of fact and issue its final order.

(b) If the ethics committee, based on competent and substantial evidence, finds the respondent has not violated this chapter or Chapter 17, Title 2, the committee shall dismiss the complaint and send a written decision to the respondent and the complainant.

(c) If the ethics committee, based on competent and substantial evidence, finds the respondent has violated this chapter or Chapter 17, Title 2, the committee shall:

(i) administer a public reprimand;

(ii) determine that a technical violation as provided for in Section 8‑13‑1170 or 8‑13‑1372 has occurred;

(iii) require the respondent to pay a civil penalty not to exceed two thousand dollars for each nontechnical violation that is unrelated to the late filing of a required statement or report or failure to file a required statement or report;

(iv) require the forfeiture of gifts, receipts, or profits, or the value of each~~,~~ obtained in violation of Chapter 13, Title 8 or Chapter 17, Title 2;

(v) recommend expulsion of the member;

(vi) provide a copy of the complaint and accompanying materials to the Attorney General if the committee finds that there is probable cause to believe the respondent wilfully violated a section of this chapter or Chapter 17, Title 2 that imposes a criminal penalty; or

(vii) require a combination of subitems (i) through (vi) as necessary and appropriate.

(d) The ethics committee shall report its findings in writing to the Speaker of the House of Representatives or President Pro Tempore of the Senate, as appropriate. The report must be accompanied by an order of punishment or dismissal and supported and signed by a majority of the ethics committee members.

(e) Upon the issuance of the final order, the following documents become public record: exhibits introduced at the hearing, the committee’s findings, and the final order. Exhibits introduced must be redacted prior to release to exclude personal information where the public disclosure would constitute an unreasonable invasion of personal privacy. In addition, any documents in the commission’s report that substantiate the commission’s recommendation of probable cause ~~that~~ which would constitute a public document and are not exempt from disclosure under the Freedom of Information Act or other state or federal law also shall become public record. These documents must be redacted, as appropriate, in compliance with state or federal law.”

SECTION 2. The provisions of this act are effective as of April 1, 2017, and apply to complaints filed on or after April 1, 2017. However, the provisions in Section 8‑13‑310 regarding the selection of the initial members to serve on the State Ethics Commission as of April 1, 2017, and the termination of terms of the members serving on the commission as of March 31, 2017, take effect after the date of the Governor’s signature for the limited purpose of having the initial members of the reconstituted State Ethics Commission begin service on April 1, 2017. The State Ethics Commission, House Ethics Committee, and Senate Ethics Committee maintain jurisdiction over all open complaints and investigations pending in the appropriate entity on or before March 31, 2017. The reconstituted State Ethics Commission has jurisdiction over open complaints and investigations pending within the State Ethics Commission as of March 31, 2017.

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