

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 785

Short Title: Close Loopholes in Ethics Compensation. (Public)

Sponsors: Representative L. Hall (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Rules, Calendar, and Operations of the House.

April 15, 2015

A BILL TO BE ENTITLED
AN ACT TO CLOSE CERTAIN LOOPHOLES WITH RESPECT TO OUTSIDE EARNED
INCOME BY CABINET DEPARTMENT POSITIONS AND TO REQUIRE MORE
DISCLOSURES OF INCOME ON THE STATEMENTS OF ECONOMIC INTEREST.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 138A-33 reads as rewritten:

"§ 138A-33. Other compensation.

(a) A public servant or legislative employee shall not solicit or receive personal financial gain, other than that received by the public servant or legislative employee from the State, or with the approval of the employing entity, for acting in the public servant's or legislative employee's official capacity, or for advice or assistance given in the course of carrying out the public servant's or legislative employee's duties.

(b) A public servant as defined by G.S. 138A-3(30)a., d., and f. shall not receive any outside earned income while serving in that position.

SECTION 2. G.S. 138A-24 reads as rewritten:

"§ 138A-24. Contents of statement.

(a) Any statement of economic interest filed under this Article shall be on a form prescribed by the Commission. Answers must be provided to all questions. The form shall include the following information about the filing person and the filing person's immediate family:

- (1) Except as otherwise provided in this subdivision, the name, current mailing address, occupation, employer, and business of the filing person. Any individual holding or seeking elected office for which residence is a qualification for office shall include a home address. A judicial officer may use a current mailing address instead of the home address on the form required in this subsection. The filing person may also use the initials instead of the name of any unemancipated child of the filing person who also resides in the household of the filing person. If the filing person provides the initials of an unemancipated child, the filing person shall concurrently provide the name of the unemancipated child to the Commission. The name of an unemancipated child provided by the filing person to the Commission shall not be a public record under Chapter 132 of the General Statutes and is privileged and confidential.
- (2) A list of each asset and liability included in this subdivision of whatever nature (including legal, equitable, or beneficial interest) with a value of at



1 least ~~ten one~~ thousand dollars (~~\$10,000~~)(\$1,000) owned by the filing person
2 and the filing person's immediate family, except assets or liabilities held in a
3 blind trust. This list shall include the following:

4 a. All real estate located in the State owned wholly or in part by the
5 filing person or the filing person's immediate family, including
6 descriptions adequate to determine the location by city and county of
7 each parcel.

8 b. Real estate that is currently leased or rented to or from the State.

9 c. Personal property sold to or bought from the State within the
10 preceding two years.

11 d. Personal property currently leased or rented to or from the State.

12 e. The name of each publicly owned company. For purposes of this
13 sub-subdivision, the term "publicly owned company" shall not
14 include a widely held investment fund, including a mutual fund,
15 regulated investment company, or pension or deferred compensation
16 plan, if all of the following apply:

17 1. The filing person or a member of the filing person's
18 immediate family neither exercises nor has the ability to
19 exercise control over the financial interests held by the fund.

20 2. The fund is publicly traded, or the fund's assets are widely
21 diversified.

22 f. The name of each nonpublicly owned company or business entity,
23 including interests in sole proprietorships, partnerships, limited
24 partnerships, joint ventures, limited liability companies, limited
25 liability partnerships, and closely held corporations.

26 g. For each company or business entity listed under sub-subdivision f.
27 of this subdivision, if known, a list of any other companies or
28 business entities in which the company or business entity owns
29 securities or equity interests exceeding a value of ~~ten one~~ thousand
30 dollars (~~\$10,000~~)(\$1,000).

31 h. Repealed by Session Laws 2010-169, s. 13(a), effective January 1,
32 2011, and applicable to statements of economic interest filed on or
33 after that date.

34 i. Recodified as subdivision (a)(16) by Session Laws 2010-169, s.
35 13(c), effective January 1, 2011, and applicable to statements of
36 economic interest filed on or after that date.

37 j. For a vested trust created, established, or controlled by the filing
38 person of which the filing person or the members of the filing
39 person's immediate family are the beneficiaries, excluding a blind
40 trust, the name and address of the trustee, a description of the trust,
41 and the filing person's relationship to the trust.

42 k. A list of all liabilities, excluding indebtedness on the filing person's
43 primary personal residence, by type of creditor and debtor.

44 l. Repealed by Session Laws 2007-348, s. 34. See Editor's note for
45 effective date.

46 m. A list of all stock options in a company or business not otherwise
47 disclosed on this statement.

48 (3) The name of each source (not specific amounts) of income of more than ~~five~~
49 one thousand dollars (~~\$5,000~~)(\$1,000) received during the previous year by
50 business or industry type, if that source is not listed under subdivision (2) of
51 this subsection. Income shall include salary, wages, professional fees,

- 1 honoraria, interest, dividends, rental income, and business income from any
2 source other than capital gains, federal government retirement, military
3 retirement, or social security income.
- 4 (4) If the filing person is a practicing attorney, an indication of whether the
5 filing person, or the law firm with which the filing person is affiliated,
6 earned legal fees during the past year in excess of ~~ten one~~ thousand dollars
7 (~~\$10,000~~)(~~\$1,000~~) from any of the following categories of legal
8 representation:
- 9 a. Administrative law.
10 b. Admiralty law.
11 c. Corporate law.
12 d. Criminal law.
13 e. Decedents' estates law.
14 f. Environmental law.
15 g. Insurance law.
16 h. Labor law.
17 i. Local government law.
18 j. Negligence or other tort litigation law.
19 k. Real property law.
20 l. Securities law.
21 m. Taxation law.
22 n. Utilities regulation law.
- 23 (5) Except for a filing person in compliance under subdivision (4) of this
24 subsection, if the filing person is a licensed professional or provides
25 consulting services, either individually or as a member of a professional
26 association, a list of categories of business and the nature of services
27 rendered, for which payment for services were charged or paid during the
28 past year in excess of ~~ten one~~ thousand dollars (~~\$10,000~~)(~~\$1,000~~).
- 29 (6) An indication of whether the filing person, the filing person's employer, a
30 member of the filing person's immediate family, or the immediate family
31 member's employer is licensed or regulated by, or has a business relationship
32 with, the board or employing entity with which the filing person is or will be
33 associated. This subdivision does not apply to a legislator, a judicial officer,
34 or that legislator's or judicial officer's immediate family.
- 35 (7) A list of societies, organizations, or advocacy groups, pertaining to subject
36 matter areas over which the public servant's agency or board may have
37 jurisdiction, in which the public servant or a member of the public servant's
38 immediate family is a director, officer, or governing board member. This
39 subdivision does not apply to a legislator, a judicial officer, or that
40 legislator's or judicial officer's immediate family.
- 41 (8) A list of all things with a total value of over two hundred dollars (\$200.00)
42 per calendar quarter given and received without valuable consideration and
43 under circumstances that a reasonable person would conclude that the thing
44 was given for lobbying, if such things were given by a person not required to
45 report under Chapter 120C of the General Statutes, excluding things given
46 by a member of the filing person's extended family. The list shall include
47 only those things received during the 12 months preceding the reporting
48 period under subsection (d) of this section, and shall include the source of
49 those things. The list required by this subdivision shall not apply to things of
50 monetary value received by the filing person prior to the time the filing

- 1 person filed or was nominated as a candidate for office, as described in
2 G.S. 138A-22, or was appointed or employed as a covered person.
- 3 (9) A list of any felony convictions of the filing person, excluding any felony
4 convictions for which a pardon of innocence or order of expungement has
5 been granted.
- 6 (10) Any other information that the filing person believes may assist the
7 Commission in advising the filing person with regards to compliance with
8 this Chapter.
- 9 (11) A list of any nonprofit corporation or organization with which associated
10 during the preceding calendar year, including a list of which of those
11 nonprofit corporations or organizations with which associated do business
12 with the State or receive State funds and a brief description of the nature of
13 the business, if known or with which due diligence could reasonably be
14 known.
- 15 (12) A statement of whether the filing person or the filing person's immediate
16 family is or has been a lobbyist or lobbyist principal registered under
17 Chapter 120C of the General Statutes within the preceding 12 months.
- 18 (13) A list of all contributions as defined in G.S. 163-278.6(6) with a cumulative
19 total of more than one thousand dollars (\$1,000) made by the filing person
20 only, during the preceding calendar year, to the candidate or candidate
21 campaign committee of the covered person as defined in G.S. 138A-3(30)a.
22 appointing the filing person to the covered board.
- 23 (14) A statement indicating "Yes" or "No" as to whether the filing person
24 engaged in each of the following activities during the preceding calendar
25 year, with respect to or on the behalf of the candidate or candidate campaign
26 committee of the covered person as defined in G.S. 138A-3(30)a. appointing
27 the filing person: (i) collected contributions from multiple contributors, took
28 possession of such multiple contributions, and transferred or delivered those
29 collected multiple contributions, (ii) hosted a fund-raiser in the filing
30 person's residence or place of business, or (iii) volunteered for
31 campaign-related activity. This subdivision only applies to filing persons in
32 the following categories:
- 33 a. A public servant, or a prospective appointee to, as defined in
34 G.S. 138A-3(30)c.
- 35 b. A judicial officer that serves on, or a prospective appointee to, the
36 Supreme Court, the Court of Appeals, the superior court, or the
37 district court.
- 38 c. A covered person serving on, or a prospective appointee to, one of
39 the following panels or boards:
- 40 1. Alcoholic Beverage Control Commission.
 - 41 2. Coastal Resources Commission.
 - 42 3. State Board of Education.
 - 43 4. State Board of Elections.
 - 44 5. Division of Employment Security.
 - 45 6. Environmental Management Commission.
 - 46 7. Industrial Commission.
 - 47 8. State Human Resources Commission.
 - 48 9. Rules Review Commission.
 - 49 10. Board of Transportation.
 - 50 11. Board of Governors of the University of North Carolina.
 - 51 12. Utilities Commission.

13. Wildlife Resources Commission.

(15) The name of each business with which associated that the filing person or a member of the filing person's immediate family is an employee, director, officer, partner, proprietor, or member or manager.

(16) For any company or business entity listed under subdivision (15) of this subsection and sub-subdivisions f. and g. of subdivision (2) of this subsection, if known, a statement whether that company or business entity has any material business dealings or business contracts with the State, or is regulated by the State, including a brief description of the business activity.

(b) The Supreme Court, the Committee, constitutional officers of the State, heads of principal departments, the Board of Governors of The University of North Carolina, the State Board of Community Colleges, other boards, and the appointing authority or employing entity may require a filing person to file supplemental information in conjunction with the filing of that filing person's statement of economic interest. These supplemental filings requirements shall be filed with the Commission and included on the forms to be filed with the Commission. The Commission shall evaluate the supplemental forms as part of the statement of economic interest. The failure to file supplemental forms shall be subject to the provisions of G.S. 138A-25.

(c) Each statement of economic interest shall contain a certification by the filing person that the filing person has read the statement and that, to the best of the filing person's knowledge and belief, the statement is true, correct, and complete. The filing person's certification also shall provide that the filing person has not transferred, and will not transfer, any asset, interest, or other property with the intent to conceal it from disclosure while retaining an equitable interest therein.

(c1) Reserved for future codification purposes.

(c2) Recodified as G.S. 138A-22(c2) by Session Laws 2010-169, s. 22(b), effective August 2, 2010.

(d) All information provided in the statement of economic interest shall be current as of the last day of December of the year preceding the date the statement of economic interest was due.

(e) The Commission shall prepare a written evaluation of each statement of economic interest relative to conflicts of interest and potential conflicts of interest. This subsection does not apply to statements of economic interest of legislators and judicial officers. The Commission shall submit the evaluation to all of the following:

(1) The filing person who submitted the statement.

(2) The head of the agency in which the filing person serves.

(3) The Governor for gubernatorial appointees and employees in agencies under the Governor's authority.

(4) Repealed by Session Laws 2008-213, s. 74, effective August 15, 2008.

(5) The appointing or hiring authority for those public servants not under the Governor's authority.

(6) The State Board of Elections for those filing persons who are elected.

(7) Repealed by Session Laws 2008-213, s. 74, effective August 15, 2008.

(f) The Commission shall prepare a written evaluation of each statement of economic interest for nominees of the Board of Governors of The University of North Carolina elected pursuant to G.S. 116-6, and nominees of the State Board of Community Colleges elected pursuant to G.S. 115D-2.1 within seven days of the submission of the completed statement of economic interest to the Commission."

SECTION 3. This act becomes effective October 1, 2015, and applies to statements of economic interest filed on or after that date.