

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

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**SENATE BILL 68
Education/Higher Education Committee Substitute Adopted 3/14/17
House Committee Substitute Favorable 4/4/17
Fourth Edition Engrossed 4/6/17
Proposed Conference Committee Substitute S68-PCCS45405-STf-1**

Short Title: Bipartisan Bd of Elections and Ethics Enforce.

(Public)

Sponsors:

Referred to:

February 13, 2017

A BILL TO BE ENTITLED

1
2 AN ACT TO REPEAL G.S. 126-5(D)(2C), AS ENACTED BY S.L. 2016-126; TO REPEAL
3 PART I OF S.L. 2016-125; AND TO CONSOLIDATE THE FUNCTIONS OF
4 ELECTIONS, CAMPAIGN FINANCE, LOBBYING, AND ETHICS UNDER ONE
5 QUASI-JUDICIAL AND REGULATORY AGENCY BY CREATING THE NORTH
6 CAROLINA BIPARTISAN STATE BOARD OF ELECTIONS AND ETHICS
7 ENFORCEMENT.

8 Whereas, the General Assembly finds that bipartisan cooperation with elections
9 administration and ethics enforcement lend confidence to citizens in the integrity of their
10 government; and

11 Whereas, the General Assembly finds that the State Board of Elections, which is
12 charged with elections administration and campaign finance enforcement, is an "independent
13 regulatory and quasi-judicial agency and shall not be placed within any principal administrative
14 department" pursuant to G.S. 163-28; and

15 Whereas, the General Assembly finds that the State Ethics Commission, which is
16 charged with interpretation of the State Government Ethics Act and the Lobbying Law, is
17 "located within the Department of Administration for administrative purposes only, but shall
18 exercise all of its powers, including the power to employ, direct, and supervise all personnel,
19 independently of the Secretary of Administration" pursuant to G.S. 138A-9; and

20 Whereas, the functions of ethics, elections, and lobbying affect and regulate a
21 similar group of persons; and

22 Whereas, the rights of that group of persons affected may include issues directly
23 related to the First Amendment right of free speech; and

24 Whereas, the General Assembly finds it beneficial and conducive to consistency to
25 establish one quasi-judicial and regulatory body with oversight authority for ethics, elections,
26 and lobbying; and

27 Whereas, the General Assembly also finds it imperative to ensure protections of free
28 speech rights and increase public confidence in the decisions to restrict free speech; and

29 Whereas, the General Assembly finds that voices from all major political parties
30 should be heard in decisions relating to First Amendment rights of free speech; and

31 Whereas, the General Assembly finds that important governmental and First
32 Amendment rights will be impacted in the decisions of the quasi-judicial and regulatory body
33 regulating ethics, elections, and lobbying; Now, therefore,



* S 6 8 - P C C S 4 5 4 0 5 - S T F - 1 *

1 The General Assembly of North Carolina enacts:

2 **SECTION 1.** G.S. 126-5(d)(2c), as enacted by S.L. 2016-126, is repealed.

3 **SECTION 2.** Part I of S.L. 2016-125 is repealed.

4 **SECTION 3.** Recodification; Technical and Conforming Changes. – The Revisor
5 of Statutes shall recodify Chapter 138A of the General Statutes, Chapter 120C of the General
6 Statutes, as well as Chapter 163 of the General Statutes, as amended by this act, into a new
7 Chapter 163A of the General Statutes to be entitled "Elections and Ethics Enforcement Act," as
8 enacted by Section 4 of this act. The Revisor may also recodify into the new Chapter 163A of
9 the General Statutes other existing statutory laws relating to elections and ethics enforcement
10 that are located elsewhere in the General Statutes as the Revisor deems appropriate. The new
11 Chapter 163A of the General Statutes shall have the following structure:

12 **SUBCHAPTER I. GENERAL PROVISIONS.**

13 Article 1. Bipartisan State Board of Elections and Ethics Enforcement.

14 **SUBCHAPTER II. ETHICS AND LOBBYING.**

15 Article 5. General Provisions.

16 Article 6. Public Disclosure of Economic Interests.

17 Article 7. Ethical Standards for Covered Persons.

18 Article 8. Lobbying.

19 Part 1. Registration.

20 Part 2. Prohibitions and Restrictions.

21 Part 3. Reporting.

22 Part 4. Liaison Personnel.

23 Part 5. Exemptions.

24 Part 6. Miscellaneous.

25 Article 9. Violation Consequences.

26 **SUBCHAPTER III. ELECTION AND ELECTION LAWS.**

27 Article 15. Time of Primaries and Elections.

28 Part 1. Time of Primaries and Elections.

29 Part 2. Time of Elections to Fill Vacancies.

30 Article 16. Election Officers.

31 Part 1. State Board Powers and Duties.

32 Part 2. County Boards of Elections.

33 Part 3. Political Activities by Board of Elections Members and Employees.

34 Part 4. Precinct Election Officials.

35 Article 17. Qualifying to Vote.

36 Part 1. Qualifications of Voters.

37 Part 2. Registration of Voters.

38 Part 3. Challenges.

39 Part 4. HAVA Administrative Complaint Procedure.

40 Article 18. Political Parties.

41 Article 19. Nomination of Candidates.

42 Part 1. Primary Elections.

43 Part 2. Nomination by Petition.

44 Part 3. Challenge to Candidacy.

45 Article 20. Conduct of Primaries and Elections.

46 Part 1. Precincts and Voting Places.

47 Part 2. Precinct Boundaries.

48 Part 3. Voting.

49 Part 4. Counting Official Ballots, Canvassing Votes, Hearing Protests, and
50 Certifying Results.

51 Part 5. Members of United States House of Representatives.

- 1 Part 6. Presidential Electors.
2 Part 7. Presidential Preference Primary Act.
3 Part 8. Petitions for Elections and Referenda.
4 Article 21. Absentee Voting.
5 Part 1. Absentee Ballot.
6 Part 2. Uniform Military and Overseas Voters Act.
7 Article 22. Regulation of Election Campaigns.
8 Part 1. Corrupt Practices and Other Offenses Against the Elective Franchise.
9 Article 23. Regulating Contributions and Expenditures in Political Campaigns.
10 Part 1. In General.
11 Part 2. Disclosure Requirements for Media Advertisements.
12 Part 3. Municipal Campaign Reporting.
13 Article 24. The North Carolina Public Campaign Fund.
14 Article 25. The Voter-Owned Elections Act.
15 Article 26. Legal Expense Funds.
16 Article 27. Municipal Elections.
17 Part 1. Municipal Election Procedure.
18 Part 2. Conduct of Municipal Elections.
19 Article 28. Nomination and Election of Appellate, Superior, and District Court
20 Judges.

21 When recodifying, the Revisor is authorized to change all references to the State Ethics
22 Commission, to the State Board of Elections, or to the Secretary of State, to instead be
23 references to the Bipartisan State Board of Elections and Ethics Enforcement. The Revisor may
24 separate subsections of existing statutory sections into new sections and, when necessary to
25 organize relevant law into its proper place in the above structure, may rearrange sentences that
26 currently appear within subsections. The Revisor may modify statutory citations throughout the
27 General Statutes, as appropriate, and may modify any references to statutory divisions, such as
28 "Chapter," "Subchapter," "Article," "Part," "section," and "subsection," adjust the order of lists
29 of multiple statutes to maintain statutory order, correct terms and conform names and titles
30 changed by this act, eliminate duplicative references to the Bipartisan State Board of Elections
31 and Ethics Enforcement that result from the changes authorized by this section, and make
32 conforming changes to catch lines and references to catch lines. The Revisor may also adjust
33 subject and verb agreement and the placement of conjunctions. The Revisor shall consult with
34 the State Ethics Commission, the State Board of Elections, the Secretary of State, and the new
35 Bipartisan State Board of Elections and Ethics Enforcement on this recodification.

36 **SECTION 4.(a)** The General Statutes are amended by adding a new Chapter to
37 read:

38 **"Chapter 163A.**

39 **"Elections and Ethics Enforcement Act."**

40 **SECTION 4.(b)** Chapter 163A of the General Statutes, as enacted by this act, is
41 amended by adding a new Subchapter to read:

42 **"SUBCHAPTER I. GENERAL PROVISIONS."**

43 **SECTION 4.(c)** Subchapter I of Chapter 163A of the General Statutes, as enacted
44 by this act, is amended by adding a new Article to read:

45 **"Article 1.**

46 **"Bipartisan State Board of Elections and Ethics Enforcement.**

47 **"§ 163A-1. Bipartisan State Board of Elections and Ethics Enforcement established.**

48 **There is established the Bipartisan State Board of Elections and Ethics Enforcement,**
49 **referred to as the State Board in this Chapter.**

50 **"§ 163A-2. Membership.**

1 (a) The State Board shall consist of eight individuals registered to vote in North
2 Carolina, appointed by the Governor, four of whom shall be of the political party with the
3 highest number of registered affiliates and four of whom shall be of the political party with the
4 second highest number of registered affiliates, as reflected by the latest registration statistics
5 published by the State Board. The Governor shall appoint four members each from a list of six
6 nominees submitted by the State party chairs of the two political parties with the highest
7 number of registered affiliates, as reflected by the latest registration statistics published by the
8 State Board.

9 (b) Members shall serve for two-year terms, beginning May 1 of the odd-numbered
10 year.

11 (c) Members shall be removed by the Governor from the State Board only for
12 misfeasance, malfeasance, or nonfeasance. Violation of G.S. 163A-3(d) shall be considered
13 nonfeasance.

14 (d) Any vacancy occurring on the State Board shall be filled by an individual affiliated
15 with the same political party of the vacating member. Any vacancy occurring in the State Board
16 shall be filled by the Governor, and the person so appointed shall fill the unexpired term. The
17 Governor shall fill the vacancy from a list of two names submitted by the State party chair of
18 the political party with which the vacating member was affiliated if that list is submitted within
19 30 days of the occurrence of the vacancy.

20 (e) At the first meeting held after new appointments are made, the members of the State
21 Board shall take the following oath:

22 "I, _____, do solemnly swear (or affirm) that I will support the
23 Constitution of the United States; that I will be faithful and bear true allegiance to
24 the State of North Carolina and to the constitutional powers and authorities which
25 are or may be established for the government thereof; that I will endeavor to
26 support, maintain, and defend the Constitution of said State; and that I will well and
27 truly execute the duties of the office of member of the Bipartisan State Board of
28 Elections and Ethics Enforcement according to the best of my knowledge and
29 ability, according to law, so help me God."

30 (f) At the first meeting in May, the State Board shall organize by electing one of its
31 members chair and one of its members vice-chair, each to serve a two-year term as such. In
32 2017 and every four years thereafter, the chair shall be a member of the political party with the
33 highest number of registered affiliates, as reflected by the latest registration statistics published
34 by the State Board, and the vice-chair a member of the political party with the second highest
35 number of registered affiliates. In 2019 and every four years thereafter, the chair shall be a
36 member of the political party with the second highest number of registered affiliates, as
37 reflected by the latest registration statistics published by the State Board, and the vice-chair a
38 member of the political party with the highest number of registered affiliates.

39 (g) At the first meeting held after new appointments are made after taking the oath, the
40 State Board shall elect one of its members secretary, to serve a two-year term as such.

41 (h) No person shall be eligible to serve as a member of the State Board who:

42 (1) Holds any elective or appointive office under the government of the United
43 States, the State of North Carolina, or any political subdivision thereof.

44 (2) Holds any office in a political party or organization.

45 (3) Is a candidate for nomination or election to any office.

46 (4) Is a campaign manager or treasurer of any candidate in a primary or election.

47 (5) Has served two full consecutive terms.

48 (i) No person while serving on the State Board shall:

49 (1) Make a reportable contribution to a candidate for a public office over which
50 the State Board would have jurisdiction or authority.

51 (2) Register as a lobbyist under Article 8 of this Chapter.

1 (3) Make written or oral statements intended for general distribution or
2 dissemination to the public at large supporting or opposing the nomination
3 or election of one or more clearly identified candidates for public office.

4 (4) Make written or oral statements intended for general distribution or
5 dissemination to the public at large supporting or opposing the passage of
6 one or more clearly identified referendum or ballot issue proposals.

7 (5) Solicit contributions for a candidate, political committee, or referendum
8 committee.

9 (j) Members of the State Board shall receive per diem, subsistence, and travel, as
10 provided in G.S. 138-5 and G.S. 138-6.

11 **"§ 163A-3. Meetings; quorum; majority.**

12 (a) The State Board shall meet at least monthly and at other times as called by its chair
13 or by a majority of its members. In the case of a vacancy in the chair, meetings may be called
14 by the vice-chair.

15 (b) A majority of the members constitutes a quorum for the transaction of business by
16 the State Board.

17 (c) Unless otherwise specified in this Chapter, an affirmative vote of at least five
18 members of the State Board shall be required for all actions by the State Board.

19 (d) If any member of the State Board fails to attend a meeting, and by reason thereof
20 there is no quorum, the members present shall adjourn from day to day for not more than three
21 days. By the end of which time, if there is no quorum, the Governor may summarily remove
22 any member failing to attend and appoint a successor.

23 **"§ 163A-4. Powers of the State Board in the execution of State Board duties.**

24 (a) In the performance of the duties enumerated in Article 8 of Subchapter II of this
25 Chapter and Subchapter III of this Chapter, the State Board shall have power to issue
26 subpoenas, summon witnesses, and compel the production of papers, books, records, and other
27 evidence. Such subpoenas for designated witnesses or identified papers, books, records, and
28 other evidence shall be signed and issued by the chair.

29 (b) In the absence of the chair or upon the chair's refusal to act, the vice-chair may sign
30 and issue subpoenas, summon witnesses, and compel the production of papers, books, records,
31 and other evidence approved in accordance with subsection (a) of this section.

32 (c) In the performance of the duties enumerated in this Chapter, the State Board, acting
33 through the chair, shall have the power to administer oaths. In the absence of the chair or upon
34 the chair's refusal to act, any member of the State Board may administer oaths.

35 (d) Except as provided in subsection (a) of this section, the State Board, upon a vote of
36 five or more of its members, may petition the Superior Court of Wake County for the approval
37 to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of
38 violations of the remainder this Chapter. The court shall authorize subpoenas under this
39 subsection when the court determines they are necessary for the enforcement of this Chapter.
40 Subpoenas issued under this subsection shall be enforceable by the court through contempt
41 powers. Venue shall be with the Superior Court of Wake County for any nonresident person, or
42 that person's agent, who makes a reportable expenditure under this Chapter, and personal
43 jurisdiction may be asserted under G.S. 1-75.4.

44 **"§ 163A-5. Independent agency, staff, and offices.**

45 (a) The State Board shall be and remain an independent regulatory and quasi-judicial
46 agency and shall not be placed within any principal administrative department. The State Board
47 shall exercise its statutory powers, duties, functions, and authority and shall have all powers
48 and duties conferred upon the heads of principal departments under G.S. 143B-10.

49 (b) The State Board may employ professional and clerical staff, including an Executive
50 Director.

51 **"§ 163A-6. Executive Director of the State Board.**

1 (a) There is hereby created the position of Executive Director of the State Board, who
 2 shall perform all duties imposed by statute and such duties as may be assigned by the State
 3 Board.

4 (b) The State Board shall appoint an Executive Director for a term of two years with
 5 compensation to be determined by the Office of State Human Resources. The Executive
 6 Director shall serve beginning May 15 after the first meeting held after new appointments to
 7 the State Board are made, unless removed for cause, until a successor is appointed. In the event
 8 of a vacancy, the vacancy shall be filled for the remainder of the term.

9 (c) The Executive Director shall be responsible for staffing, administration, and
 10 execution of the State Board's decisions and orders and shall perform such other responsibilities
 11 as may be assigned by the State Board.

12 (d) The Executive Director shall be the chief State elections official."

13 **SECTION 5.(a)** G.S. 138A-6 is repealed.

14 **SECTION 5.(b)** G.S. 138A-7 is repealed.

15 **SECTION 5.(c)** G.S. 138A-8 is repealed.

16 **SECTION 5.(d)** G.S. 138A-9 is repealed.

17 **SECTION 5.(e)** G.S. 138A-12(r) is repealed.

18 **SECTION 5.(f)** G.S. 138A-13 reads as rewritten:

19 "**§ 138A-13. Request for advice.**

20 ...

21 (a2) A request for a formal advisory opinion under subsection (a) of this section shall be
 22 in writing, electronic or otherwise. The ~~Commission~~State Board shall issue formal advisory
 23 opinions having prospective application only. A public servant or legislative employee who
 24 relies upon the advice provided to that public servant or legislative employee on a specific
 25 matter addressed by the requested formal advisory opinion shall be immune from all of the
 26 following:

27 (1) Investigation by the ~~Commission~~State Board, except for an inquiry under
 28 G.S. 138A-12(b)(3).

29 (2) Any adverse action by the employing entity.

30 ~~(3) Investigation by the Secretary of State.~~

31 ...

32 (b1) A request by a legislator for a recommended formal advisory opinion shall be in
 33 writing, electronic or otherwise. The ~~Commission~~State Board shall issue recommended formal
 34 advisory opinions having prospective application only. Until action is taken by the Committee
 35 under G.S. 120-104, a legislator who relies upon the advice provided to that legislator on a
 36 specific matter addressed by the requested recommended formal advisory opinion shall be
 37 immune from all of the following:

38 (1) Investigation by the Committee or ~~Commission~~State Board, except for an
 39 inquiry under G.S. 138A-12(b)(3).

40 (2) Any adverse action by the house of which the legislator is a member.

41 ~~(3) Investigation by the Secretary of State.~~

42 Any recommended formal advisory opinion issued to a legislator under this subsection shall
 43 immediately be delivered to the chairs of the Committee, together with a copy of the request.
 44 Except for the Lieutenant Governor, the immunity granted under this subsection shall not apply
 45 after the time the Committee modifies or overturns the advisory opinion of the Commission in
 46 accordance with G.S. 120-104.

47 "

48 **SECTION 6.** Chapter 120C of the General Statutes reads as rewritten:

49 **"Chapter 120C.**

50 **"Lobbying.**

51 ...

1 **"§ 120C-101. Rules and forms.**

2 (a) ~~The Commission-State Board shall adopt any rules or definitions necessary to~~
3 ~~interpret the provisions of this Chapter-Article and adopt any rules necessary to administer the~~
4 ~~provisions of this Chapter, except for Articles 2, 4 and 8 of this Chapter. The Secretary of State~~
5 ~~shall adopt any rules, orders, and forms as are necessary to administer the provisions of Articles~~
6 ~~2, 4 and 8 of this Chapter. The Secretary of State may appoint a council to advise the Secretary~~
7 ~~in adopting rules under this section-Article.~~

8 (b) With respect to the forms adopted under subsection (a) of this section, the ~~Secretary~~
9 ~~of State-State Board~~ shall adopt rules to protect from disclosure all confidential information
10 under Chapter 132 of the General Statutes related to economic development initiatives or to
11 industrial or business recruitment activities. The information shall remain confidential until the
12 State, a unit of local government, or the business has announced a commitment by the business
13 to expand or locate a specific project in this State or a final decision not to do so, and the
14 business has communicated that commitment or decision to the State or local government
15 agency involved with the project.

16 (c) In adopting rules under this ~~Chapter-Article~~, the ~~Commission-State Board~~ is exempt
17 from the requirements of Article 2A of Chapter 150B of the General Statutes, except that the
18 ~~Commission-State Board~~ shall comply with G.S. 150B-21.2(d). At least 30 business days prior
19 to adopting a rule, the ~~Commission-State Board~~ shall:

- 20 (1) Publish the proposed rules in the North Carolina Register.
- 21 (2) Submit the rule and a notice of public hearing to the Codifier of Rules, and
22 the Codifier of Rules shall publish the proposed rule and the notice of public
23 hearing on the Internet to be posted within five business days.
- 24 (3) Notify those on the mailing list maintained in accordance with
25 G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a
26 rule and of the public hearing.
- 27 (4) Accept written comments on the proposed rule for at least 15 business days
28 prior to adoption of the rule.
- 29 (5) Hold at least one public hearing on the proposed rule no less than five days
30 after the rule and notice have been published.

31 A rule adopted under this subsection becomes effective the first day of the month following the
32 month the final rule is submitted to the Codifier of Rules for entry into the North Carolina
33 Administrative Code, and applies prospectively. A rule adopted by the Commission that does
34 not comply with the procedural requirements of this subsection shall be null, void, and without
35 effect. For purposes of this subsection, a rule is any ~~Commission-State Board~~ regulation,
36 standard, or statement of general applicability that interprets an enactment by the General
37 Assembly or Congress, or a regulation adopted by a federal agency, or that describes the
38 procedure or practice requirements of the ~~Commission-State Board~~.

39 ~~(d) For purposes of G.S. 150B-21.3(b2), a written objection filed by the Commission to~~
40 ~~a rule adopted by the Secretary of State pursuant to this Chapter shall be deemed written~~
41 ~~objections from 10 or more persons under that statute. Notwithstanding G.S. 150B-21.3(b2), a~~
42 ~~rule adopted by the Secretary of State pursuant to this Chapter objected to by the Commission~~
43 ~~under this subsection shall not become effective until an act of the General Assembly~~
44 ~~approving the rule has become law. If the General Assembly does not approve a rule under this~~
45 ~~subsection by the day of adjournment of the next regular session of the General Assembly that~~
46 ~~begins at least 25 days after the date the Rules Review Commission approves the rule, the~~
47 ~~permanent rule shall not become effective and any temporary rule associated with the~~
48 ~~permanent rule expires. If the General Assembly fails to approve a rule by the day of~~
49 ~~adjournment, the Secretary of State may initiate rulemaking for a new permanent rule,~~
50 ~~including by the adoption of a temporary rule.~~

51 **"§ 120C-102. Request for advice.**

1 (a) At the request of any person, State agency, or governmental unit affected by this
2 ~~Chapter, Article, the Commission-State Board~~ shall render advice on specific questions
3 involving the meaning and application of this ~~Chapter Article~~ and that person's, State agency's,
4 or any governmental unit's compliance therewith. Requests for advice and advice rendered in
5 response to those requests shall relate to real or reasonably anticipated fact settings or
6 circumstances.

7 (a1) A request for a formal opinion under subsection (a) of this section shall be in
8 writing, electronic or otherwise. The ~~Commission-State Board~~ shall issue formal advisory
9 opinions having prospective application only. An individual, State agency, or governmental
10 unit who relies upon the advice provided to that individual, State agency, or governmental unit
11 on a specific matter addressed by a requested formal advisory opinion shall be immune from all
12 of the following:

- 13 (1) Investigation by the ~~Commission-State Board~~.
- 14 (2) Any adverse action by the employing entity.
- 15 (3) ~~Investigation by the Secretary of State.~~

16 (b) Staff to the ~~Commission-State Board~~ may issue advice, but not formal advisory
17 opinions, under procedures adopted by the ~~Commission-State Board~~.

18 (c) The ~~Commission-State Board~~ shall publish its formal advisory opinions within 30
19 days of issuance, edited as necessary to protect the identities of the individuals requesting
20 opinions.

21 (d) Except as provided under subsections (c) and (d1) of this section, a request for
22 advice, any advice provided by ~~Commission-State Board~~ staff, any formal advisory opinions,
23 any supporting documents submitted or caused to be submitted to the ~~Commission-State Board~~
24 or ~~Commission-State Board~~ staff, and any documents prepared or collected by the ~~Commission~~
25 ~~State Board~~ or the ~~Commission-State Board~~ staff in connection with a request for advice are
26 confidential. The identity of the individual, State agency, or governmental unit making the
27 request for advice, the existence of the request, and any information related to the request may
28 not be revealed without the consent of the requestor. An individual, State agency, or
29 governmental unit who requests advice or receives advice, including a formal advisory opinion,
30 may authorize the release to any other person, the State, or any governmental unit of the
31 request, the advice, or any supporting documents.

32 For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice,
33 any advice, and any documents related to requests for advice are not "public records" as
34 defined in G.S. 132-1.

35 ~~(d1) Staff to the Commission may share all information and documents related to~~
36 ~~requests under subsection (a) and (a1) of this section with staff of the Office of the Secretary of~~
37 ~~State. The information and documents in the possession of the staff of the Office of the~~
38 ~~Secretary of State shall remain confidential and not public records. The Commission shall~~
39 ~~forward an unedited copy of each formal advisory opinion under this section to the Secretary of~~
40 ~~State at the time the formal advisory opinion is issued to the requestor, and the Secretary of~~
41 ~~State shall treat that unedited advisory opinion as confidential and not a public record.~~

42 (e) Requests for advisory opinions may be withdrawn by the requestor at any time prior
43 to the issuance of a formal advisory opinion.

44 ...

45 **"§ 120C-601. Powers and duties of the ~~Commission-State Board~~.**

46 (a) The ~~Commission-State Board~~ may investigate complaints of violations of this
47 ~~Chapter and shall refer complaints related solely to Articles 2, 4, or 8 of this Chapter to the~~
48 ~~Secretary of State.~~Article.

49 (b) ~~The Commission may petition the Superior Court of Wake County for the approval~~
50 ~~to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of~~
51 ~~violations of this Chapter. The court shall authorize subpoenas under this subsection when the~~

1 court determines they are necessary for the enforcement of this Chapter. Subpoenas issued
2 under this subsection shall be enforceable by the court through contempt powers. Venue shall
3 be with the Superior Court of Wake County for any nonresident person, or that person's agent,
4 who makes a reportable expenditure under this Chapter, and personal jurisdiction may be
5 asserted under G.S. 1-75.4.

6 (c) Complaints of violations of this ~~Chapter Article~~ and all other records accumulated in
7 conjunction with the investigation of these complaints shall be considered confidential records
8 and may be released only by order of a court of competent jurisdiction. Any information
9 obtained by the ~~Commission State Board~~ from any law enforcement agency, administrative
10 agency, or regulatory organization on a confidential or otherwise restricted basis in the course
11 of an investigation shall be confidential and exempt from G.S. 132-6 to the same extent that it
12 is confidential in the possession of the providing agency or organization.

13 (d) The ~~Commission State Board~~ shall publish annual statistics on complaints,
14 including the number of complaints, the number of apparent violations of this ~~Chapter Article~~
15 referred to a district attorney, the number of dismissals, and the number and age of complaints
16 pending.

17 **"§ 120C-602. Punishment for violation.**

18 (a) Whoever willfully violates any provision of ~~Article 2 or Article 3 of this Chapter~~
19 ~~Part 2 or Part 3 of this Article~~ shall be guilty of a Class 1 misdemeanor, except as provided in
20 those Articles. In addition, no lobbyist who is convicted of a violation of the provisions of this
21 ~~Chapter Article~~ shall in any way act as a lobbyist for a period of two years from the date of
22 conviction.

23 (b) ~~In addition to the criminal penalties set forth in this section, the Secretary of State~~
24 ~~may levy civil fines for a violation of any provision of Articles 2, 4, or 8 of this Chapter up to~~
25 ~~five thousand dollars (\$5,000) per violation.~~ In addition to the criminal penalties set forth in
26 this section, the ~~Commission State Board~~ may levy civil fines for a violation of any provision
27 of this ~~Chapter except Article 2, 4, or 8 of this Chapter Article~~ up to five thousand dollars
28 (\$5,000) per violation.

29 **"§ 120C-603. Enforcement by district attorney and Attorney General.**

30 (a) The ~~Commission or the Secretary of State, as appropriate, State Board~~ may
31 investigate complaints of violations of this ~~Chapter Article~~ and shall report apparent violations
32 of this ~~Chapter Article~~ to the district attorney of the prosecutorial district as defined in
33 G.S. 7A-60 of which Wake County is a part, who shall prosecute any person or governmental
34 unit who violates any provisions of this ~~Chapter Article~~.

35 (b) Complaints of violations of this ~~Chapter Article~~ involving the ~~Commission State~~
36 ~~Board~~ or any member employee of the ~~Commission State Board~~ shall be referred to the
37 Attorney General for investigation. The Attorney General shall, upon receipt of a complaint,
38 make an appropriate investigation thereof, and the Attorney General shall forward a copy of the
39 investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of
40 which Wake County is a part, who shall prosecute any person or governmental unit who
41 violates any provisions of this ~~Chapter Article~~.

42"

43 **SECTION 7.(a)** G.S. 163-19 is repealed.

44 **SECTION 7.(b)** G.S. 163-20 reads as rewritten:

45 **"§ 163-20. Meetings of Board; quorum; minutes.**

46 (a) ~~Call of Meeting.~~ The State Board of Elections shall meet at the call of the
47 chairman whenever necessary to discharge the duties and functions imposed upon it by this
48 Chapter. The chairman shall call a meeting of the Board upon the written application or
49 applications of any two members thereof. If there is no chairman, or if the chairman does not
50 call a meeting within three days after receiving a written request or requests from two
51 members, any three members of the Board shall have power to call a meeting of the Board, and

1 any duties imposed or powers conferred on the Board by this Chapter may be performed or
2 exercised at that meeting, although the time for performing or exercising the same prescribed
3 by this Chapter may have expired.

4 (b) Place of Meeting. – Except as provided in subsection (c), below, the State Board of
5 Elections shall meet in its offices in the City of Raleigh, or at another place in Raleigh to be
6 designated by the chairman. However, subject to the limitation imposed by subsection (c),
7 below, upon the prior written request of any four a majority of its members, the State Board of
8 Elections shall meet at any other place in the State designated by the four a majority of its
9 members.

10 (c) Meetings to Investigate Alleged Violations of This Chapter. – When called upon to
11 investigate or hear sworn alleged violations of this Chapter, the State Board of Elections shall
12 meet and hear the matter in the county in which the violations are alleged to have occurred.

13 (d) Quorum. ~~A majority of the members constitutes a quorum for the transaction of~~
14 ~~business by the State Board of Elections. If any member of the Board fails to attend a meeting,~~
15 ~~and by reason thereof there is no quorum, the members present shall adjourn from day to day~~
16 ~~for not more than three days, by the end of which time, if there is no quorum, the Governor~~
17 ~~may summarily remove any member failing to attend and appoint his successor.~~

18 (e) Minutes. – The State Board of Elections shall keep minutes recording all
19 proceedings and findings at each of its meetings. The minutes shall be recorded in a book
20 which shall be kept in the office of the Board in Raleigh."

21 SECTION 7.(c) G.S. 163-21 is repealed.

22 SECTION 7.(d) G.S. 163-23 is repealed.

23 SECTION 7.(e) G.S. 163-26 is repealed.

24 SECTION 7.(f) G.S. 163-27 is repealed.

25 SECTION 7.(g) G.S. 163-28 is repealed.

26 SECTION 7.(h) G.S. 163-30 reads as rewritten:

27 "**§ 163-30. County boards of elections; appointments; terms of office; qualifications;**
28 **vacancies; oath of office; instructional meetings.**

29 In every county of the State there shall be a county board of elections, to consist of ~~three~~
30 four persons of good moral character who are registered voters in the county in which they are
31 to act. ~~Members~~ Two of the members of the county board of elections shall be of the political
32 party with the highest number of registered affiliates, and two shall be of the political party
33 with the second highest number of registered affiliates, as reflected by the latest registration
34 statistics published by the State Board. In 2017, members of county boards of elections shall be
35 appointed by the State Board on the second Tuesday in July. In 2019, members of county
36 boards of elections shall be appointed by the State Board of Elections on the last Tuesday in
37 June 1985, and every two years thereafter, and their terms of office shall continue for two years
38 from the specified date of appointment and until their successors are appointed and qualified.
39 ~~Not more than two members of the county board of elections shall belong to the same political~~
40 ~~party.~~

41 No person shall be eligible to serve as a member of a county board of elections who holds
42 any elective office under the government of the United States, or of the State of North Carolina
43 or any political subdivision thereof.

44 No person who holds any office in a state, congressional district, county or precinct
45 political party or organization, or who is a campaign manager or treasurer of any candidate or
46 political party in a primary or election, shall be eligible to serve as a member of a county board
47 of elections, provided however that the position of delegate to a political party convention shall
48 not be considered an office for the purpose of this section.

49 No person shall be eligible to serve as a member of a county board of elections who is a
50 candidate for nomination or election.

1 No person shall be eligible to serve as a member of a county board of elections who is the
2 wife, husband, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father,
3 father-in-law, sister, sister-in-law, brother, brother-in-law, aunt, uncle, niece, or nephew of any
4 candidate for nomination or election. Upon any member of the board of elections becoming
5 ineligible, that member's seat shall be declared vacant. This paragraph only applies if the
6 county board of elections is conducting the election for which the relative is a candidate.

7 The State ~~chairman~~chair of each political party shall have the right to recommend to the
8 State Board of Elections ~~three~~ registered voters in each county for appointment to the board of
9 elections for that county. If such recommendations are received by the Board 15 or more days
10 before the last Tuesday in June ~~1985~~,2017, and each two years thereafter, it shall be the duty of
11 the State Board of Elections to appoint the county boards from the names thus recommended.

12 Whenever a vacancy occurs in the membership of a county board of elections for any cause
13 the State ~~chairman~~chair of the political party of the vacating member shall have the right to
14 recommend two registered voters of the affected county for such office, and it shall be the duty
15 of the State Board of Elections to fill the vacancy from the names thus recommended.

16 At the meeting of the county board of elections required by G.S. 163-31 to be held on
17 Tuesday following the third Monday in July in the year of their appointment the members shall
18 take the following oath of office:

19 "I, _____, do solemnly swear (or affirm) that I will support the
20 Constitution of the United States; that I will be faithful and bear true allegiance
21 to the State of North Carolina and to the constitutional powers and authorities
22 which are or may be established for the government thereof; that I will endeavor
23 to support, maintain and defend the Constitution of said State, not inconsistent
24 with the Constitution of the United States; and that I will well and truly execute
25 the duties of the office of member of the _____ County Board of Elections
26 to the best of my knowledge and ability, according to law; so help me God."

27 At the first meeting in July annually, the county boards shall organize by electing one of its
28 members chair and one of its members vice-chair, each to serve a one-year term as such. In the
29 odd-numbered year, the chair shall be a member of the political party with the highest number
30 of registered affiliates, as reflected by the latest registration statistics published by the State
31 Board, and the vice-chair a member of the political party with the second highest number of
32 registered affiliates. In the even-numbered year, the chair shall be a member of the political
33 party with the second highest number of registered affiliates, as reflected by the latest
34 registration statistics published by the State Board, and the vice-chair a member of the political
35 party with the highest number of registered affiliates.

36 Each member of the county board of elections shall attend each instructional meeting held
37 pursuant to G.S. 163-46, unless excused for good cause by the ~~chairman~~chair of the board, and
38 shall be paid the sum of twenty-five dollars (\$25.00) per day for attending each of those
39 meetings."

40 **SECTION 7.(i)** G.S. 163-31 reads as rewritten:

41 "**§ 163-31. Meetings of county boards of elections; quorum; majority; minutes.**

42 In each county of the State the members of the county board of elections shall meet at the
43 courthouse or board office at noon on the Tuesday following the third Monday in July in the
44 year of their appointment by the State Board of Elections and, after taking the oath of office
45 provided in G.S. 163-30, they shall organize by electing one member ~~chairman~~chair and
46 another member secretary of the county board of elections. On the Tuesday following the third
47 Monday in August of the year in which they are appointed the county board of elections shall
48 meet and appoint precinct chief judges and judges of elections. The board may hold other
49 meetings at such times as the ~~chairman~~chair of the board, or any ~~two~~three members thereof,
50 may direct, for the performance of duties prescribed by law. ~~A majority of the~~ Three members
51 shall constitute a quorum for the transaction of board business. Except where required by law to

1 act unanimously, a majority vote for action of the board shall require three of the four
2 members. The ~~chairman~~-chair shall notify, or cause to be notified, all members regarding every
3 meeting to be held by the board.

4 The county board of elections shall keep minutes recording all proceedings and findings at
5 each of its meetings. The minutes shall be recorded in a book which shall be kept in the board
6 office and it shall be the responsibility of the secretary, elected by the board, to keep the
7 required minute book current and accurate. The secretary of the board may designate the
8 director of elections to record and maintain the minutes under his or her supervision."

9 **SECTION 7.(j)** G.S. 163-182.13 reads as rewritten:

10 "**§ 163-182.13. New elections.**

11 (a) When State Board May Order New Election. – The State Board ~~of Elections~~ may
12 order a new election, upon agreement of at least ~~four~~-five of its members, in the case of any one
13 or more of the following:

- 14 (1) Ineligible voters sufficient in number to change the outcome of the election
15 were allowed to vote in the election, and it is not possible from examination
16 of the official ballots to determine how those ineligible voters voted and to
17 correct the totals.
- 18 (2) Eligible voters sufficient in number to change the outcome of the election
19 were improperly prevented from voting.
- 20 (3) Other irregularities affected a sufficient number of votes to change the
21 outcome of the election.
- 22 (4) Irregularities or improprieties occurred to such an extent that they taint the
23 results of the entire election and cast doubt on its fairness.

24 (b) State Board to Set Procedures. – The State Board ~~of Elections~~ shall determine when
25 a new election shall be held and shall set the schedule for publication of the notice, preparation
26 of absentee official ballots, and the other actions necessary to conduct the election.

27 (c) Eligibility to Vote in New Election. – Eligibility to vote in the new election shall be
28 determined by the voter's eligibility at the time of the new election, except that in a primary, no
29 person who voted in the initial primary of one party shall vote in the new election in the
30 primary of another party. The State Board ~~of Elections~~ shall ~~promulgate~~-adopt rules to effect
31 the provisions of this subsection.

32 (d) Jurisdiction in Which New Election Held. – The new election shall be held in the
33 entire jurisdiction in which the original election was held.

34 (e) Which Candidates to Be on Official Ballot. – All the candidates who were listed on
35 the official ballot in the original election shall be listed in the same order on the official ballot
36 for the new election, except in either of the following:

- 37 (1) If a candidate dies or otherwise becomes ineligible between the time of the
38 original election and the new election, that candidate may be replaced in the
39 same manner as if the vacancy occurred before the original election.
- 40 (2) If the election is for a multiseat office, and the irregularities could not have
41 affected the election of one or more of the candidates, the new election, upon
42 agreement of at least ~~four~~-five members of the State Board, may be held
43 among only those candidates whose election could have been affected by the
44 irregularities.

45 (f) Tie Votes. – If ineligible voters voted in an election and it is possible to determine
46 from the official ballots the way in which those votes were cast and to correct the results, and
47 consequently the election ends in a tie, the provisions of G.S. 163-182.8 concerning tie votes
48 shall apply."

49 **SECTION 7.(k)** G.S. 163-278.22(7) reads as rewritten:

50 "(7) To make investigations to the extent the State Board deems necessary with
51 respect to statements filed under the provisions of this Article and with

1 respect to alleged failures to file any statement required under the provisions
2 of this Article or Article 22M of the General Statutes and, upon complaint
3 under oath by any registered voter, with respect to alleged violations of any
4 part of this Article or Article 22M of the General Statutes. The State Board
5 shall conclude all investigations no later than one year from the date of the
6 start of the investigation, unless the State Board has reported an apparent
7 violation to the proper district attorney and additional investigation of the
8 apparent violation is deemed necessary by the State Board."

9 **SECTION 8.** G.S. 120-70.141 reads as rewritten:

10 **"§ 120-70.141. Purpose and powers of Committee.**

11 (a) The Joint Legislative Elections Oversight Committee shall examine, on a continuing
12 basis, election administration and campaign finance regulation in North Carolina, in order to
13 make ongoing recommendations to the General Assembly on ways to improve elections
14 administration and campaign finance regulation. In this examination, the Committee shall do
15 the following:

16 (1) Study the budgets, programs, and policies of the Bipartisan State Board of
17 Elections and Ethics Enforcement and the county boards of elections to
18 determine ways in which the General Assembly may improve election
19 ~~administration and campaign finance regulation administration.~~

20 (1a) Study the budgets, programs, and policies of the Bipartisan State Board of
21 Elections and Ethics Enforcement and the county boards of elections to
22 determine ways in which the General Assembly may improve campaign
23 finance regulation.

24 (2) Examine election statutes and court decisions to determine any legislative
25 changes that are needed to improve election administration and campaign
26 finance regulation.

27 (3) Study other states' initiatives in election administration and campaign
28 finance regulation to provide an ongoing commentary to the General
29 Assembly on these initiatives and to make recommendations for
30 implementing similar initiatives in North Carolina; and

31 (4) Study any other election matters that the Committee considers necessary to
32 fulfill its mandate.

33 (b) The Committee may make interim reports to the General Assembly on matters for
34 which it may report to a regular session of the General Assembly. A report to the General
35 Assembly may contain any legislation needed to implement a recommendation of the
36 Committee."

37 **SECTION 9.** Notwithstanding G.S. 163A-2, as enacted by Section 4 of this act, the
38 chairs of the two political parties shall submit a list of names to the Governor on or before April
39 20, 2017, and the Governor shall make appointments from those lists no later than May 1,
40 2017. The State chairs of the two political parties shall not nominate, and the Governor shall
41 not appoint, any individual who has served two or more full consecutive terms on the State
42 Board of Elections or State Ethics Commission, as of April 30, 2017.

43 **SECTION 10.** Notwithstanding G.S. 163A-2(f) and (g), as enacted by Section 4 of
44 this act, the Governor shall appoint a member of the State Board to serve as chair, a member to
45 serve as vice-chair, and a member to serve as secretary of the State Board until its first meeting
46 in May 2019, at which time the State Board shall select it a chair and vice-chair in accordance
47 with G.S. 163A-2(f) and select a secretary in accordance with G.S. 163A-2(g).

48 **SECTION 11.** Any previous assignment of duties of a quasi-legislative or
49 quasi-judicial nature by the Governor or General Assembly to the agencies or functions
50 transferred by this act shall have continued validity with the transfer under this act. Except as
51 otherwise specifically provided in this act, each enumerated commission, board, or other

1 function of State government transferred to the Bipartisan State Board of Elections and Ethics
2 Enforcement, as created in this act, is a continuation of the former entity for purposes of
3 succession to all the rights, powers, duties, and obligations of the former. Where the former
4 entities are referred to by law, contract, or other document in their former name, the Bipartisan
5 State Board of Elections and Ethics Enforcement, as created in this act, is charged with
6 exercising the functions of the former named entity.

7 **SECTION 12.** No action or proceeding pending on May 1, 2017, brought by or
8 against the State Board of Elections, the State Ethics Commission, or the Secretary of State
9 regarding the lobbyist registration and lobbying enforcement of the Secretary of State shall be
10 affected by any provision of this act, but the same may be prosecuted or defended in the name
11 of the Bipartisan State Board of Elections and Ethics Enforcement, as created in this act. In
12 these actions and proceedings, the Bipartisan State Board of Elections and Ethics Enforcement
13 or its Executive Director, as appropriate, shall be substituted as a party upon proper application
14 to the courts or other administrative or quasi-judicial bodies.

15 Any business or other matter undertaken or commanded by any State program or
16 office or contract transferred by this act to the Bipartisan State Board of Elections and Ethics
17 Enforcement pertaining to or connected with the functions, powers, obligations, and duties set
18 forth herein, which is pending on May 1, 2017, may be conducted and completed by the
19 Bipartisan State Board of Elections and Ethics Enforcement in the same manner and under the
20 same terms and conditions and with the same effect as if conducted and completed by the
21 original program, office, or commissioners or directors thereof.

22 **SECTION 13.** The consolidation provided for under this act shall not affect any
23 ongoing investigation or audit. Any ongoing hearing or other proceeding before the State Ethics
24 Commission or State Board of Elections on May 1, 2017, shall be transferred to the Bipartisan
25 State Board of Elections and Ethics Enforcement, as created by this act, on May 1, 2017.
26 Prosecutions for offenses or violations committed before May 1, 2017, are not abated or
27 affected by this act, and the statutes that would be applicable but for this act remain applicable
28 to those prosecutions.

29 **SECTION 14.** Rules and forms adopted by the State Ethics Commission, Secretary
30 of State related to lobbying, and the State Board of Elections shall remain in effect as provided
31 in G.S. 150B-21.7. Policies, procedures, and guidance shall remain in effect until amended or
32 repealed by the Bipartisan State Board of Elections and Ethics Enforcement. The list of covered
33 boards adopted by the State Ethics Commission under G.S. 138A-11 as of April 30, 2017, shall
34 continue in effect until amended or repealed by the Bipartisan State Board of Elections and
35 Ethics Enforcement.

36 **SECTION 15.** Any evaluation of a statement of economic interest issued by the
37 State Ethics Commission pursuant to Article 3 of Chapter 138A of the General Statutes in 2016
38 shall remain in effect until amended or repealed by the Bipartisan State Board of Elections and
39 Ethics Enforcement.

40 **SECTION 16.** The authority, powers, duties and functions, records, personnel,
41 property, and unexpended balances of appropriations, allocations, or other funds, including the
42 functions of budgeting and purchasing, of the State Ethics Commission are transferred to the
43 Bipartisan State Board of Elections and Ethics Enforcement, as created in this act. The
44 authority, powers, duties and functions, records, personnel, property, and unexpended balances
45 of appropriations, allocations, or other funds, including the functions of budgeting and
46 purchasing, of the State Board of Elections are transferred to the Bipartisan State Board of
47 Elections and Ethics Enforcement, as created in this act. The authority, powers, duties and
48 functions, records, personnel, property, and unexpended balances of appropriations, allocations,
49 or other funds, including the functions of budgeting and purchasing, of the lobbying
50 registration and lobbying enforcement functions of the Secretary of State are transferred to the

1 Bipartisan State Board of Elections and Ethics Enforcement, as created in this act. The Director
2 of the Budget shall resolve any disputes arising out of this transfer.

3 **SECTION 17.** Notwithstanding G.S. 163A-6, the Bipartisan State Board of
4 Elections and Ethics Enforcement shall not appoint an Executive Director until May 2019.
5 Until such time as the Bipartisan State Board of Elections and Ethics Enforcement appoints an
6 Executive Director in accordance with G.S. 163A-6, as enacted by this act, the Executive
7 Director of the State Board of Elections under G.S. 163-26, as of December 31, 2016, shall be
8 the Executive Director.

9 **SECTION 18.** The appropriations and resources of the State Ethics Commission is
10 transferred to the Bipartisan State Board of Elections and Ethics Enforcement, and the transfer
11 shall have all the elements of a Type I transfer under G.S. 143A-6.

12 **SECTION 19.** The appropriations and resources of the State Board of Elections,
13 including any office space of the State Board of Elections, is transferred to the Bipartisan State
14 Board of Elections and Ethics Enforcement, and the transfer shall have all the elements of a
15 Type I transfer under G.S. 143A-6, with the Budget Code for the newly established State Board
16 being the previous State Board of Elections Budget Code of 18025.

17 **SECTION 20.** The appropriations and resources of the lobbying registration and
18 lobbying enforcement functions of the Secretary of State are transferred to the Bipartisan State
19 Board of Elections and Ethics Enforcement, and the transfers shall have all the elements of a
20 Type I transfer under G.S. 143A-6. Specifically, the following positions shall be transferred:
21 Lobbying Compliance Director (Position 60008800), Law Enforcement Agent (Position
22 60008806), Administrative Assistant II (Position 60008801), Administrative Assistant II
23 (Position 60008802), and Administrative Assistant II (Position 60008803).

24 **SECTION 21.** The Bipartisan State Board of Elections and Ethics Enforcement
25 shall report to the Joint Legislative Commission on Governmental Operations, Joint Legislative
26 Elections Oversight Committee, and the Legislative Ethics Committee on or before April 1,
27 2018, and again on or before March 1, 2019, as to recommendations for statutory changes
28 necessary to further implement this consolidation.

29 **SECTION 22.** Notwithstanding the recodification in Section 3 of this act, the
30 Bipartisan State Board of Elections and Ethics Enforcement shall not administer or enforce Part
31 1, Part 3, or Part 6 of Article 8 of Chapter 163A of the General Statutes, and the Secretary of
32 State shall maintain the authority to administer and enforce Articles 2, 4, and 8 of Chapter
33 120C of the General Statutes, as those Articles existed on May 1, 2017, until October 1, 2017.
34 Section 20 of this act becomes effective October 1, 2017. Sections 9 and 10 of this act become
35 effective when it becomes law. G.S. 163-30, as amended by Section 7(h) of this act, and
36 G.S. 163-31, as amended by Section 7(i) of this act, become effective July 1, 2017.
37 G.S. 163-278.22(7), as amended by Section 7(k) of this act, becomes effective May 1, 2017,
38 and applies to investigations initiated on or after that date. Except as otherwise provided, this
39 act becomes effective May 1, 2017.