**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3445**

**STATUS INFORMATION**

House Resolution

Sponsors: Reps. Harrison, Allison, J.R. Smith, Lowe, Pitts, Brady, Funderburk, Clemmons and Toole

Document Path: l:\council\bills\ms\7129ahb11.docx

Introduced in the House on January 26, 2011

Adopted by the House on May 1, 2012

Summary: House of Representatives Rule 4.16

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/26/2011 House Introduced ([House Journal‑page 11](file:///h:\hj%20archive\2011\01-26-11.docx))

1/26/2011 House Referred to Committee on **Rules** ([House Journal‑page 11](file:///h:\hj%20archive\2011\01-26-11.docx))

1/27/2011 House Member(s) request name added as sponsor: J.R.Smith, Lowe, Pitts, Brady

1/17/2012 House Member(s) request name added as sponsor: Funderburk

1/19/2012 House Member(s) request name added as sponsor: Clemmons

1/25/2012 House Member(s) request name added as sponsor: Toole

5/1/2012 House Committee report: Favorable **Rules** ([House Journal‑page 42](file:///h:\hj%20archive\2012\05-01-12.docx))

5/1/2012 House Adopted ([House Journal‑page 46](file:///h:\hj%20archive\2012\05-01-12.docx))

5/1/2012 House Roll call Yeas‑98 Nays‑0 ([House Journal‑page 46](file:///h:\hj%20archive\2012\05-01-12.docx))

**VERSIONS OF THIS BILL**

[1/26/2011](file:///p:\pprever\2011-12\3445_20110126.docx)

**A** **HOUSE RESOLUTION**

TO AMEND RULE 4.16 OF THE RULES OF THE HOUSE OF REPRESENTATIVES, RELATING TO THE HOUSE ETHICS COMMITTEE’S DUTIES AND PROCEDURES, SO AS TO PROVIDE ADDITIONAL DUTIES, COMPLAINT PROCEDURES, AND PROCEDURES FOR FINDINGS OF PROBABLE CAUSE, TO PROVIDE PENALTIES FOR VIOLATIONS, TO ADD PROVISIONS REGARDING THE RECEIPT OF DOCUMENTS RELATING TO PROCEEDINGS IN ACTIONS TAKEN AGAINST A MEMBER, AND TO PROVIDE PROVISIONS FOR EXPULSION OF A MEMBER OF THE HOUSE OF REPRESENTATIVES UNDER CERTAIN CIRCUMSTANCES.

Be it resolved by the House of Representatives:

That Rule 4.16 of the Rules of the House of Representatives be amended to read:

“**4.16** a. ~~The House of Representatives Legislative Ethics Committee has the following duties in addition to those provided for by statutory law:~~

~~(1)~~ ~~upon request of any member, officer, or employee of the House of Representatives, to render advisory opinions with regard to legislative ethics when in its judgment such opinions would serve the public interest;~~

~~(2)~~ ~~to make available annually to the House of Representatives a compilation of the principles set forth in advisory opinions rendered;~~

~~(3)~~ ~~upon the filing of a complaint with the Ethics Committee alleging a violation of the ethics law or House Rules or upon the referral by the Speaker of a matter in which there is an allegation of conduct in contempt of the House or which otherwise violates House Rules, the Committee shall conduct a hearing and/or render an advisory opinion and report its findings, with any order of punishment, to the Speaker.~~

~~b.~~ ~~All papers, documents, and proceedings relating to conduct or disciplinary action against members are confidential and must be handled in the manner prescribed in Section 8‑13‑540 of the 1976 Code unless made public by the Committee in a report to the House of Representatives.~~ The House of Representatives Legislative Ethics Committee consists of six (6) members. The committee has the following powers and duties:

(1)(a) to receive complaints or charges concerning conduct alleged to be unethical from any citizen of this State or member of the House against:

(i) House members;

(ii) former House members, provided the allegations are related to the former member’s service in the House;

(iii) candidates for the House;

(iv) former candidates for the House, provided the allegations are related to the former candidate’s bid for the House;

(v) officers and employees of the House;

(vi) staff and independent contractors of a House legislative caucus committee.

Only sworn written complaints or charges may be considered;

(b) to file a complaint upon concurrence of at least four members of the House Ethics Committee when alleged violations are identified;

(c) for purposes of this Rule, unethical conduct may include, but is not limited to, a:

(i) violation of Chapter 13, Title 8;

(ii) violation of Chapter 17, Title 2; or

(iii) breach of this Rule by a person designated in a.(1)(a) above or as designated by statute;

(2) to investigate these complaints and charges and, if warranted, to report the results of these investigations to the House with recommendations for further appropriate action as authorized by law;

(3) upon request of any member, officer, or employee of the House to render advisory opinions with regard to legislative ethics when, in their judgment, these opinions would serve the public interest, and to act as an advisory body to the House and to individual members of or candidates for the House on questions pertaining to the disclosure and filing requirements;

(4) to make available annually to the House a compilation of the principles provided in advisory opinions rendered;

(5) to administer or recommend appropriate sanctions or dismiss charges;

(6) to ascertain whether a person has failed to comply fully and accurately with the disclosure requirements of Chapter 13, Title 8 and promptly notify the person to file the necessary notices and reports to satisfy the requirements; and

(7) to recommend a rule or statutory change relating to ethics as the committee deems appropriate.

b. All papers, documents, complaints, charges, requests for advisory opinions, and any other material required to be filed with or received by the committee are strictly confidential prior to a finding of probable cause, or a waiver of confidentiality by the respondent. No persons involved with a complaint before the committee, including complainant, respondent, counsel, counsel’s secretaries, committee members and staff, and investigators shall mention the existence of any proceeding nor disclose any information pertaining to it, unless otherwise permitted by the Rules. Disclosure of confidential information must be punished in a manner provided by the Ethics, Government Accountability, and Campaign Reform Act. If the House Ethics Committee finds that a person has violated the provisions of this subsection, it must report its findings to the Attorney General.

c. Information that must be made public following a finding of probable cause or waiver of confidentiality by the respondent is: (1) the complaint;

(2) the response by the respondent;

(3) any exhibits introduced at a public hearing, subject to redaction of information of a personal nature when public disclosure would constitute unreasonable invasion of personal privacy; and

(4) the final order issued by the committee.

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

(1) A certified copy of the sworn statement of charges against the respondent must be given to him or her within ten days of the time the statement of charges is received by the Chairman of the Ethics Committee. The respondent has the right to file a response to the complaint within fifteen calendar days after receipt of the complaint and to face and cross examine his accusers and the witnesses against him at any hearing called by the Ethics Committee. All hearings following a finding of probable cause must be conducted in open session. The Ethics Committee must call a hearing if a majority of the membership of the Ethics Committee feels that the charges have merit or if the respondent formally requests a hearing.

(2) No complaint may be accepted by the Ethics Committee concerning a member of or candidate for the House during the fifty‑day period before an election in which the member or candidate is participating. During this fifty‑day time period, a person may petition the court of common pleas alleging the violations complained of pursuant to the provisions of Section 8‑13‑530. Action on a complaint filed against a member or candidate which was received more than fifty days before the election but which cannot be disposed of or dismissed by the Ethics Committee at least thirty days before the election must be postponed until after the election.

(3) 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 the Attorney General. 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. The subpoena must be signed by the Chairman of the House Ethics Committee.

(4) No complaint shall be accepted which is filed later than four years after the violation is alleged to have occurred.

e. All ethics committee investigations and records relating to the preliminary investigation are confidential unless otherwise permitted by the Rules.

(1) If the Ethics Committee finds that probable cause exists to support an alleged violation after a preliminary investigation, as appropriate, it shall:

(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.

(2) If the Ethics Committee renders an advisory opinion and the respondent fails to comply, the committee must convene a formal hearing on the matter within thirty days of the respondent’s failure to comply.

(3) 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. The Committee must 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. All hearings must be conducted in open session.

(4) After the hearing, the Ethics Committee shall determine its findings of fact. If the Committee, based on competent and substantial evidence, finds the respondent has violated Chapter 13, Title 8, or Chapter 17, Title 2, or violated this Rule, it shall:

(a) administer a public reprimand;

(b) 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;

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

(d) recommend expulsion of the member;

(e) in the case of an alleged criminal violation, refer the matter to the Attorney General for investigation; or

(f) require a combination of subitems (a) through (e), as necessary and appropriate.

If the Ethics Committee finds the respondent has not violated a statutory provision or Rule or engaged in unethical behavior, it shall dismiss the charges.

(5) The Ethics Committee shall report its findings in writing to the Speaker of the House. If the Committee finds a violation of a statutory provision or Rule or finds unethical behavior, the report must be accompanied by an order of punishment that is supported and signed by a majority of the Ethics Committee members.

(6) The respondent has ten calendar days from the date of the notification of the Ethics Committee’s action to appeal the action to the full House.

(7) No Ethics Committee member may participate in any matter in which he is involved as a respondent.

(8) Upon receipt of a recommendation of expulsion or an appeal from an order of the Ethics Committee, the Speaker of the House shall call the House into open session at a time to be determined at his discretion to consider the action of the Ethics Committee. The House shall either sustain or overrule the Ethics Committee’s action or order other action consistent with these Rules as otherwise permitted by statute. The consideration and results of a House Ethics Committee report are a matter of public record.

(9) No member may vote on the question of his expulsion from the House.

(10) Failure to fully comply with a final ethics order is a separate violation that may be considered by the Ethics Committee.

f. If the House Ethics Committee finds the respondent has failed to file or was late in filing a required statement of economic interest or campaign disclosure report, the House Ethics Committee must order the respondent to pay a fine according to the provisions in Section 8‑13‑1510.

g. The House Ethics Committee may, in its discretion, determine that errors or omissions on statements of economic interests and campaign disclosure reports are inadvertent and unintentional and not an effort to violate a requirement of Chapter 13, Title 8 and may be handled as technical violations not subject to the provisions of Chapter 13, Title 8 pertaining to ethical violations. The House Ethics Committee may assess a penalty for technical violations not exceeding fifty dollars.

h. The Speaker of the House, and the House Ethics Committee on behalf of the entire House, may receive:

(1) certified copies of any indictment or information for a felony or offense against the election laws filed or returned against any member of the House;

(2) certified copies of any plea of guilty or nolo contendere to the felony entered by any member of the House;

(3) certified copies of any conviction of a member for a felony; and

(4) certified copies of any opinion, order, or judgment of any court, state or federal, trial or appellate, relating to any of the aforementioned matters.”

‑‑‑‑XX‑‑‑‑