

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 6

Committee Substitute Favorable 3/16/93

Committee Substitute #2 Favorable 4/7/93

Short Title: Obstructing Legislative Process.

(Public)

Sponsors:

Referred to:

January 28, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE IT UNLAWFUL TO OBSTRUCT THE LEGISLATIVE
3 INQUIRY PROCESS, TO INTERFERE WITH CONTRACTS OF THE
4 LEGISLATIVE BRANCH, AND TO EXCLUDE VIOLATORS FROM
5 GOVERNMENT PROCUREMENT PROGRAMS.

6 The General Assembly of North Carolina enacts:

7 Section 1. Chapter 120 of the General Statutes is amended by adding a new
8 Article to read:

9 **"ARTICLE 5B.**
10 **"INTERFERENCE WITH LEGISLATIVE PROCESS.**

11 **"§ 120-19.20. Obstruction of the legislative process.**

12 (a) It is a Class J felony for a person:

13 (1) Corruptly; and

14 (2) By bribery, threat, or force

15 to influence, obstruct, or impede, or endeavor to influence, obstruct, or impede, the due
16 and proper exercise of the power of inquiry under which any inquiry or investigation is
17 being had by either house, any committee of either house, any joint committee, any
18 committee, subcommittee, or commission established under this Chapter, or any
19 committee or subcommittee within the legislative branch.

20 (b) For the purposes of this section, a person acts corruptly if that person intends
21 to:

22 (1) Influence a person to violate a legal duty; or

1 (2) Obtain an improper advantage for that person or someone else
2 inconsistent with the rights and duties of others.

3 (c) Subsection (a) of this section shall not apply to acts or communications
4 protected by the Constitution of the United States or of this State.

5 **"§ 120-19.21. Interference with contract process.**

6 (a) It is a misdemeanor, punishable by imprisonment for not more than six
7 months, or fine of not more than ten thousand dollars (\$10,000), or both, for a person to
8 interfere with existing or prospective contractual relations between the General
9 Assembly and any person, if such conduct would be tortious interference.

10 (b) For the purpose of this section, 'General Assembly' means the Legislative
11 Services Office, the Legislative Research Commission, or any of its committees or
12 subcommittees, any committee, subcommittee, or commission established by this
13 Chapter, the House of Representatives, the Senate, the Legislative Services Office, or
14 any other board or commission within the legislative branch.

15 **"§ 120-19.22. Violators excluded from procurement process.**

16 (a) The Secretary of Administration shall suspend a person who has been
17 convicted of a violation of G.S. 120-19.21 from entering into any contract with the
18 State, or any of its agencies, boards, committees, councils, or commissions, including
19 The University of North Carolina, and any county, city, or other political subdivision of
20 the State. Suspension includes the individual violator and may include the following,
21 unless the suspension decision is limited by its terms:

22 (1) All divisions or other organizational elements of a business owned by
23 the violator;

24 (2) The partnership where a partner in a partnership is the violator for an
25 offense involving the business activities of the partnership;

26 (3) Corporations, or other entities, for which the individual violator was
27 acting as an agent; and

28 (4) Affiliates of the violator at the discretion of the Secretary of
29 Administration. Business concerns, organizations, or individuals are
30 affiliates of each other if either one controls or has the power to control
31 the other or a third party controls or has the power to control both
32 including, but not limited to, interlocking management or ownership,
33 identity of interests among family members or shared facilities,
34 equipment, or employees.

35 Suspension from contracting also extends to subcontracting with any contractor.

36 (b) Suspension shall be for a period of not less than six months nor more than
37 three years, based on the seriousness of the offense. The Secretary shall reverse the
38 suspension upon reversal of the conviction under G.S. 120-19.21.

39 (c) Prior to suspension under subsection (a) of this section, the Secretary shall
40 give a written notice of the proposed suspension to all parties to be suspended under
41 subsection (a) of this section which notice shall include the proposed period of
42 suspension. The Secretary shall allow the parties 30 days following mailing of the
43 notice to submit in writing information and argument in opposition to the proposed
44 period and scope of suspension. Following the expiration of this 30-day period, the

1 Secretary shall give notice of suspension to the parties. The notice shall include the
2 period of suspension. Suspension may be appealed pursuant to Article 3 of Chapter
3 150B of the General Statutes.

4 (d) Notice of proposed suspension and notice of suspension shall be given by
5 personal delivery or by placing of the notice in an official depository of the United
6 States Postal Service wrapped in a wrapper addressed to each of the parties at the latest
7 address given by them to the Secretary. If no address is given to the Secretary, notice
8 shall be mailed to the last known address of each of the parties which address shall be
9 ascertained with reasonable diligence by the Secretary.

10 **"§ 120-19.23. SBI to investigate.**

11 Upon the request of the Speaker of the House of Representatives or the President Pro
12 Tempore of the Senate, the State Bureau of Investigation shall investigate any alleged
13 violation of this Article."

14 Sec. 2. This act becomes effective October 1, 1993.