

March 31, 2009

H 961. PAY TO PLAY REGULATION. Filed 3/31/09. *TO PREVENT CONFLICT OF INTEREST AND ITS APPEARANCE INVOLVING POLITICAL CONTRIBUTIONS BY STATE CONTRACTORS.*

Adds new section G.S. 163-278.13D prohibiting any entity affiliated with a vendor that has a contract in excess of \$25,000 with any department, institution, or agency of state government subject to state purchasing and contracting laws from contributing to a relevant political campaign during the contract. Likewise prohibits any campaign from knowingly accepting a contribution during the contract. Defines a relevant political campaign as one involving a candidate (or political committee controlled by the candidate) for the office with the authority to award the contract. Provides that the law does not apply if contributions by all entities affiliated with the vendor to all political campaigns during the contract do not exceed \$1,000. Delegates to the State Board of Election authority to adopt reporting procedures necessary to enforce the law, violation of which is a Class 2 misdemeanor. Effective January 1, 2010, and applicable to contributions made on or after that date.

Intro. by Glazier, Stam, Ross, Goodwin

GS 163

April 15, 2009

H 961. PAY TO PLAY REGULATION. Filed 3/31/09. House committee substitute makes the following changes to 1st edition. Modifies the proposed definition of *contribution* to provide that a contribution is (1) *made* during the term of the contract if it is dated, pledged, or delivered on or after the first day of the term of the contract, but not later than the last day of the term of the contract (was, during the contract) or if the entity affiliated with the vendor pledges during the term of the contract to deliver the contribution after the last day of the term of the contract (was, pledged to be delivered during the contract or at a later time) and (2) *accepted* during the term of the contract if the relevant political campaign (was, contributee) receives the contribution on or after the first day of the contract but not later than the last day of the term of the contract (was, during the contract) and does not return it within 10 days or the relevant political campaign agrees on or after the first day of the term of the contract to receive the contribution after the last day of the term of the contract (was, at a later time). Deletes that the contribution is accepted if a check or other instrument is dated during the contract. Deletes the definition for *during the contract*. Adds that an *entity affiliated with a vendor* may be an officer, director, member or manager of the vendor if the vendor is an incorporated business or may be a limited liability company (deletes an officer or director of a vendor from this category), as well as a partner or general manager, if the vendor is an unincorporated business entity, or any political committee of which the vendor is the parent entity as provided in GS 163-278.19. Adds a definition for *Office with authority to award contract* to mean any of the principal offices or departments listed in GS 143A-11 (Principal departments). Adds to the definition of *relevant political campaign* an officer holding the office with authority to award the contract or a political committee controlled by an officer holding the office with the authority to award the contract.

Replaces the term *goods* with *supplies, materials, equipment, or other tangible personal property* in the provision setting the contract amount limitations. Provides that no relevant political campaign shall knowingly accept a contribution during the term of the contract from an entity affiliated with a vendor that has entered into a contract for supplies, material, equipment, other tangible personal property, or services *in excess of \$25,000* with any of the principal offices or departments listed in GS 143A-11 and subject to Article 3 of GS Chapter 143. Provides that subsection (b) does not apply if contributions by all entities affiliated with the vendor to the relevant (was, state) political campaign during the term of contract do not exceed \$1,000. Also makes technical and conforming changes.

Changes the effective date to December 1, 2009 (was, January 1, 2010).

May 12, 2009

H 961. PAY TO PLAY REGULATION. Filed 3/31/09. House committee substitute makes the following changes to 2nd edition. Adds a provision in proposed GS 163-278.13D stating that a contribution will not be deemed to have been made if the vendor or affiliated entity discovers the

contribution within two months, the contribution exceeds \$1,000, and the vendor or entity obtains a return of it within 60 days of its discovery. Adds language clarifying the meaning of *director of a vendor* and *an advisory director*.

June 22, 2010

H 961. GOV'T ETHICS AND CAMPAIGN REFORM ACT OF 2010 (NEW). Filed 3/31/09. Senate committee substitute deletes provisions of 3rd edition and replaces with *AN ACT TO STRENGTHEN PUBLIC CONFIDENCE IN THE ELECTION PROCESS FOR COUNCIL OF STATE OFFICES THAT REGULATE INDIVIDUALS AND BUSINESSES IN THIS STATE; TO PROVIDE LIMITS ON THE TRADING OF INFLUENCE OR POSITION FOR GAIN; TO INCREASE THE PUNISHMENT FOR MAKING CAMPAIGN CONTRIBUTIONS IN THE NAME OF ANOTHER; TO INCREASE ACCESSIBILITY TO INFORMATION RELATED TO CANDIDATE CAMPAIGN COMMITTEES; TO STRENGTHEN PUBLIC CONFIDENCE IN GOVERNMENT BY INCREASING THE REVOLVING DOOR PERIOD AND APPLICABILITY; TO STRENGTHEN TRANSPARENCY OF GOVERNMENT THROUGH ADDITIONAL DISCLOSURES BY PUBLIC SERVANTS; TO INCREASE ACCOUNTABILITY OF PUBLIC SERVANTS, APPOINTEES OF THE GOVERNOR, AND STATE EMPLOYEES BY PERMITTING THE GOVERNOR TO ADOPT MINIMUM STANDARDS OF ETHICAL CONDUCT; TO STRENGTHEN TRANSPARENCY OF GOVERNMENT THROUGH INCREASING ACCESSIBILITY TO PUBLIC RECORDS; TO MAKE TECHNICAL CHANGES; AND TO MAKE OTHER CHANGES.*

The Voter-Owned Elections Act. Amends GS 163-278.95 to make the Voter-Owned Elections Fund (Fund) available to candidates for the Council of State offices of Secretary of State and Treasurer, and Commissioner of Agriculture and Commissioner of Labor, in elections to be held in 2012 and thereafter, and to candidates for the office of Attorney General in elections held in 2016 and thereafter. Currently, the Fund is available to candidates for the offices of Auditor, Superintendent of Public Instruction, and Commissioner of Insurance. Clarifies that the purpose of the Voter-Owned Elections Act is to ensure fair elections for elected offices that implement and provide oversight on the regulation or investigation of individuals, businesses, or government in North Carolina, and to minimize corruption and its appearance within those offices. Amends definitions in GS 163-278.96 to provide that a write-in candidate authorized under GS 163-123 is not eligible to become a certified candidate. Amends *maximum qualifying contributions* to mean (1) \$100 times the minimum number of registered voters required to make a qualifying contribution under GS 163-278.98(b) (support of candidacy) (was, 100 times the filing fee) for the office sought if the candidate has no primary (was, an uncontested primary) and (2) \$200 times the minimum number of registered voters required to make a qualifying contribution (was, 200 times the filing fee) for the office sought. Amends *qualifying contribution* to mean a contribution between \$10 and \$200 in the form prescribed for noncash monetary contributions in GS 163-278.14(b) (was, in the form of check or money order) that is made by an individual who is a registered voter in this state at the time the report under GS 163.278.98(c) (relating to record of qualifying contributions by a participating candidate) is submitted (was, made by any registered voter in the state), and that also fulfills the retained requirement. Makes other conforming changes. Effective October 1, 2010.

Source of Funding. Increases by \$5 various fees or establishes a new fee in the following statutes and directs that \$5 or other designated amount be paid into the Fund, or directs that \$5 from a current fee be paid into the Fund: GS 55A-1-22 (\$5 from fees for non-profit organizations filing with the NC Secretary of State); GS 57C-1-22 (\$5 from fees for limited liability companies filing with the NC Secretary of State); GS 58-33-125(c) (\$5 from fees applicable to agents, brokers, limited representatives, adjusters, motor vehicle damage appraisers, and surplus lines providers); GS 78A-37(b) (\$5 from fees applicable to dealers and salesmen); GS 95-110.5(20) and GS 95-69.11(11) (\$5 from certain fees established by Commissioner of Labor); *new* GS 106-22(18) (directs the Board or Commissioner of Agriculture, where either is lessor, to pay 5% of every rental agreement to the Fund); and *new* GS 147-69.2(e) (charges .02% on each fund held by the State Treasurer that consists of non-tax revenue, excluding funds holding monies for pensions and retirement, escheats, general fund, federal funds, and bond funds, to be paid to the Fund). Makes conforming change to GS 163-278.97 to add the sources of funding and makes an

additional conforming change. Also transfers \$2.50 of each \$3 allocation under GS 105-159.2 (Public Campaign Fund) to the Fund on a monthly basis during the period from January 1, 2011 through December 31, 2012. Directs the State Board of Elections (Board) to determine available funds, as required under GS 163-278.99(b) as enacted by the section, on either October 1, 2010, or within 30 days of receiving preclearance under the Voting Rights Act of 1965, whichever occurs first. Makes the above provisions effect October 1, 2010.

Fund Participation and Administration. Amends GS 163-278.98 to require that participating candidates obtain qualifying contributions from at least 900 (was, 750) registered voters in the state, and from an additional 100 registered voters in the state for each \$100,000 that the grant amount for the office under GS 163-278.99(b)(4) (fund distribution for contested general elections) exceeds \$300,000, provided that multiple contributions from the same individual to the same candidate will not count as more than one qualifying contribution. Further amends the section to require that qualifying contributions be equal to at least \$20 times the minimum number of qualifying contributions (was, 25 times the filing fee), but must not exceed the maximum qualifying contributions defined in GS 163-278.96(10), provided that no payment, gift, anything of value, or the opportunity to win anything of value will be given in exchange for a qualifying contribution. Limits multiple contributions from the same contributor to the same candidate to \$200 during the period from a candidate's declaration of intent through the end of the qualifying period, with the exception of personal and family contributions. Treats up to \$200 of a contribution from the candidate's family member as a qualifying contribution if it meets those requirements. Amends GS 163-278.99 (Fund distributions) to provide that no later than August 1 of the second year before an election (was, by August 1, 2011 and no less frequently than every four years thereafter), the Board distributes a determined amount of funds as follows: (1) no funds are distributed to certified candidates with no primary (was, uncontested primaries); and (2) distributes to certified candidates in contested general elections the average amount of campaign-related expenditures made *in the general election* by all candidates who won the immediately preceding three general elections for that office, *rounded to the nearest \$1,000*, but not less than \$300,000. Specifies that expenditures are made in the general election, for the purposes of this provision, if they must be reported on the third and fourth quarterly reports. Retains current provisions for contested primaries and uncontested general elections. Removes language rounding Fund distributions to the nearest \$100. Amends GS 163-278.99B(b) to limit total matching funds before the date of the primary (was, in a contested primary) to an amount equal to the maximum qualifying contributions for a contested primary candidate. Makes matching funds available to a certified candidate with an opponent in the primary or to a certified candidate who is clearly referred to in expenditures reportable under GS 163-278.99A made in opposition to that candidate. Makes a conforming change. Enacts new subsection (f) to GS 163-278.99B to prohibit matching funds as a result of an expenditure that supports or opposes all candidates for the same office. Also prohibits matching funds as a result of an electioneering communication that the Board determines is an appeal to vote for or against all candidates for the same office. Enacts new GS 163-278.99D.1 to direct the Board, with the advice of the Advisory Council for the Public Campaign Fund (Advisory Council), to administer the Voter-Owned Elections Act (Act), and requires the Advisory Council to issue a report by March 1, 2013 and every two years thereafter that evaluates and makes recommendations on the Act's implementation, and that also addresses activities that could undermine the Act, including spending that appears to target candidates receiving money from the Fund that does not constitute an independent expenditure. Establishes an appeals process, providing that the initial decision on an issue concerning qualification, certification, or distribution of funds will be made by the Executive Director of the Board, and the procedure to challenge that decision is as follows. (1) An individual or entity aggrieved by the decision may appeal, in writing, to the full Board within three business days of the decision. (2) The Board must hold a hearing within five business days after a proper appeal and after due notice is provided; requires the appellant to prove, by clear and convincing evidence, that the decision was improper; and directs the Board to rule on the appeal within three days. Further directs the Board, with the Advisory Council, to adopt procedures and issue opinions for the Act's administration, as detailed. Amends GS 163-278.99E to limit the entire Voter Guide entry for a candidate to 250 words (was, limited to 50 words for

endorsements and 150 words for statements). Makes other conforming and clarifying changes. Makes the above provisions effective October 1, 2010.

Addition of Attorney General to publicly-funded offices. Effective July 1, 2015, adds the office of the Attorney General to the list under GS 163-278.96(12).

Exchanging Influence or Positions for Gain. Amends GS 126-14 to make it unlawful for an individual, as defined, to coerce a person, as described, to support or contribute to a political candidate, a political committee, or a political party by threatening discipline or promising preferential treatment with regard to that person's business with the individual's State office or to that person's activities regulated by the individual's State office. Makes other technical changes. Amends GS 14-234(a) to add that no public officer or employee may solicit or receive any gift, favor, reward, service, or promise of reward, including a promise of future employment in exchange for preferential treatment related to awarding a contract. Effective December 1, 2010, and applies to offenses committed on or after that date.

Amends GS 163-278.22(7) to authorize the Board to hire or contract with a special investigator to investigate occurrences under the Voter-Owned Elections Act.

Criminal Penalties. Amends GS 163-278.27 to make a person or individual who intentionally violates GS 163-278.14(a) (prohibiting contributions in the name of another and anonymous contributions) or GS 163-278.19(a) (prohibiting described contributions from corporations and other professional entities), when the unlawful contributions total more than \$10,000 per election, guilty of a Class I felony. Amends GS 163-278.14(a) (prohibiting anonymous contributions) to provide that the subsection does not apply to any contribution by an individual with the lawful authority to act on another's behalf. Effective December 1, 2010, and applies to offenses committed on or after that date.

Grants and Contracts Database. Directs the Board to create a database for the public to use to search for information related to political campaigns. Enacts new GS 143C-2-5 to direct the Governor to require the Office of State Budget and Management (OSBM), with the support of Information Technology Services, to build and maintain a database and website on state spending for grants and contracts. Requires specified parties to conduct a monthly review of all state contracts and grants administered by their respective departments, and directs all state offices, subject to the Governor's authority, to link to NC OpenBook on their agency websites and to facilitate contract and grant searches from their websites. Directs specified offices to provide OSBM information on state contracts necessary for the database and website, and to update the information at least every 30 days. Further directs OSBM to work with certain offices to incorporate data on grants into the database and website. Requires all awarded state contracts and grants in excess of \$10,000 to be included in the database and website, and requires the inclusion of additional listed information.

State Government Ethics Act. Amends GS 138A-3(30), adding offices and officers to the list of individuals defined as *public servants* under the State Government Ethics Act (Ethics Act). Amends GS 143B-478 to apply the Ethics Act to the Governor's Crime Commission. Amends GS 138A-22 to require a covered person holding elected office or a former covered person who held elected office subject to the Ethics Act to file a statement of economic interest, according to three described instances. Amends GS 138A-24 to provide that any statement of economic interest must be on a form prescribed by the State Ethics Commission (Commission) (was, prescribed by the Commission and sworn to by the filing person). Requires the form to also include the name of each associated business where the filing person or filing person's immediate family is an employee, director, officer, partner, proprietor, or member or manager. Removes, from required inclusion on the form, a list of all nonpublicly owned businesses of which the filing person and the filing person's immediate family is an officer, employee, director, partner, owner, or member or manager of a limited liability company. Adds that the form must include the name of each nonpublicly owned company or business entity, including interests in *sole proprietorships*, among other listed formats. Removes references to *sworn* certification from GS 138A-24(c). Recodifies GS 138A-24(a)(2)i (requiring information on the statement of economic interest related to contracts with specified businesses or companies) as GS 138A-24(a)(14) and makes conforming changes thereto. Makes the provisions related to economic interest statements effective January 1, 2011, and applicable to statements of economic interest filed on or after that date. Amends GS 138A-41 to authorize the Governor to adopt additional and supplemental ethics standards

applicable to any appointee of the Governor, and which will be published in the North Carolina Register. Also authorizes the Governor to adopt minimum ethics standards applicable to any employee of a state agency.

Makes technical changes to GS 120C-303(a), GS 138A-32(c), and GS 138A-32(d1), effective December 1, 2010.

Amends GS 120C-101(c) to make a rule adopted by the State Ethics Commission under the subsection applicable prospectively, and makes an adopted rule that does not comply with the subsection's procedural requirements null, void and without effect. Defines *rule* for the purposes of the subsection.

Lobbying. Amends GS 120C-100(a)(10) to remove *payment for services* and associated language; makes a conforming change to GS 120C-100(a)(11k) and GS 120C-300 (prohibiting contingency fees). Also clarifies that a lobbyist is an individual who engages in lobbying *for payment*. Amends GS 120C-100(a)(11) to provide that a lobbyist principal is the person or governmental unit on whose behalf the lobbyist lobbies *and who makes payment for the lobbying*. When a lobbyist is paid by a firm or other retained entity, the principal is the person or governmental unit *who makes payment* and whose interests are represented. Makes clarifying changes to GS 120C-305 (prohibits use of lobbyist's cash or credit), and applies GS 120C-303 (prohibits gifts by lobbyists and lobbyist principals) to that section. Amends GS 120C-403 to require that each lobbyist principal file a quarterly report within 15 (was, 10) business days after the end of the reporting period, and that the report include the name of each person or governmental unit not otherwise registered as a lobbyist principal for whom the lobbyist principal directs or permits the lobbyist to lobby, whether for payment or not. Further requires each lobbyist principal to annually report in the last report of the registration period the total of all payments for lobbying and other activities as described. Provides applicable guidelines for lobbyist principals' reports. Makes technical and clarifying changes to GS 120C-100(a)(9), GS 120C-100(a)(13), GS 120C-400, GS 120C-402(b), GS 120C-404(b)(1), GS 120C-501(e), GS 120C-800(a), GS 138A-3(1), GS 138A-3(15), GS 138A-13(f), GS 138A-24(a)(8), and GS 138A-32(e)(10). Makes the above provisions effective January 1, 2011, and applies to offenses committed on or after that date, and to reports filed on or after that date.

Restrictions on Lobbyist Registration. Amends GS 120C-304(a) to prohibit a legislator or former legislator from registering as a lobbyist under GS Chapter 120C while in office or within one year after leaving office (was, before the later of close of session in which the legislator served or six months), and makes a conforming change to GS 120C-304(b). Amends GS 120C-304(c) to prohibit an employee of any state agency (was, a public servant or former public servant) from lobbying the state agency that previously employed the former employee (was, register as a lobbyist) within one year (was, six months) after voluntary separation or termination for cause from employment with that agency. Amends GS 120C-200 to require that former employees of a state agency registering as a lobbyist must indicate with which state agency they were employed in the registration. Effective October 1, 2010, and applies to individuals leaving office or employment on or after that date.

Public Records. Amends the following statutes to make the amount of *each* salary increase or decrease and promotion, demotion, transfer, suspension, separation, or other classification change (was, most recent) for employees in various agencies and departments subject to inspection, and makes additional technical, organizational and clarifying changes: GS 126-23 (state employee personnel records); GS 115C-320 (local boards of education); GS 115D-28 (community college employee personnel records); GS 122C-158(b) (employees under the Mental Health, Developmental Disabilities, and Substance Abuse Act); GS 153A-98(b) (county employees); GS 160A-168(b) (city employees); and GS 162A-6.1(b) (water and sewer authority employees). Effective October 1, 2010.

Amends GS 120C-600 to require the Secretary of State to publish annual statistics on complaints received and systematic reviews conducted under the section, including described components. Makes the levy of all civil fines, including the amount of the fine and the identity of the person or governmental unit against whom it was levied, a public record. Amends GS 120C-601 to require the State Ethics Commission to publish annual statistics on complaints, including described components.

Enacts new GS 7A-38.3E to provide guidelines governing the mediation of public record disputes. Directs that mediation of a public records dispute be initiated by filing a request for mediation with the clerk of the superior court in the county in which the action may be brought. Provides for voluntary mediation, allowing the parties to a public records dispute under GS Chapter 132 to agree at any time prior to filing a civil action under GS Chapter 132 to mediation under the proposed new section. Requires mandatory mediation after a party files a civil action in a public records dispute under GS Chapter 132. Requires that mandatory mediation be initiated no later than 30 days from the timing of the filing of responsive pleadings with the clerk in the county where the action is filed.

Directs the Administrative Office of the Courts to prescribe a form to request mediation. Provides criteria for service of the mediation form by certified mail with return receipt requested by the filing party. Specifies guidelines for the selection of a mediator and provides for the appointment of a mediator by the senior resident superior court judge when the parties cannot agree on the selection of the mediator.

Directs that except as expressly provided in this proposed statute, the mediation procedure is to be conducted under the provisions for mediated settlement of civil cases in GS 7A-38.1 and GS 7A-38.2 and the rules and standards adopted pursuant to those sections. Also provides that the NC Supreme Court may adopt additional rules and standards to implement the proposed section and may include an exemption from the provisions of GS 7A-38.1 for cases in which mediation was attempted under this section.

Permits parties to agree to waive mediation with a written notice informing the mediator of the desire for a waiver. Provides that there will be no costs to the parties if all of the parties waive mediation before the initial mediation meeting.

Upon the conclusion of mediation or the waiver of mediation, directs the mediator to prepare a certification stating that mediation has concluded or has been waived. Specifies that the certification must include the general result of the mediation. Directs the mediator to file an original of the certification with the clerk and provide a copy to each party.

Provides criteria for the tolling of time periods relating to the filing of a claim or taking other actions regarding a public records dispute. Also provides that nothing in the proposed section is to be construed to limit a party's right to seek injunctive or other relief.

Makes conforming change to GS 7A-38.2(a) to add mediators and other neutral persons certified or otherwise qualified under new GS 7A-38.3E to those for whom the state Supreme Court may adopt standards of conduct.

Amends GS 132-9 to provide that a person seeking access to public records must comply with new GS 7A-38.3E prior to the court's issuance of an order compelling disclosure or copying. Permits the court to allow attorneys' fees to a party seeking disclosure of public records who substantially prevails (was, permitted attorneys' fees to the prevailing party, unless the agency acted with substantial justification or the award of fees would be unjust). Provides three exemptions under which the court may not assess attorneys' fees against a governmental body or unit. Effective October 1, 2010.

Amends GS 138A-14(b) to require the Commission to offer (was, make) ethics presentations. Recodifies GS 138A-24(c2) as GS 138A-22(c2). Amends the catchline of GS 138A-37 to read "legislator participation in legislative (was official) actions."

Amends GS 138A-38 to clarify that the permitted participation exception applies when a public servant (was, public servant judicial employee) or someone appointed by the public servant to act in the public servant's stead are the only persons with legal authority to take an official action and the public servant provides written disclosure of the circumstances and nature of the conflict of interest.

Makes technical corrections to GS 138A-38(a), GS 120-104(c), and GS 120C-800(b).
Effective when the act becomes law, unless otherwise indicated.

June 22, 2010

H 961. GOV'T ETHICS AND CAMPAIGN REFORM ACT OF 2010. Filed 3/31/09. Senate committee substitute makes the following changes to 4th edition.

Sets a filing fee of \$205 (was, \$200) for the filing of an annual report with the Secretary of State under GS 57C-1-22(a)(25).

Clarifies that of the fees charged under GS 95-110.5 (20) (regarding the safe operation of lifting devices and equipment), an additional \$5 is to be paid into the North Carolina Voter-Owned Elections Fund for distribution in accordance with Article 22J of Chapter 163. Also clarifies that of the fees charged under GS 95-69.11(11) (regarding the safe operation of boilers and pressure vessels) an additional \$5 is to be paid into the North Carolina Voter-Owned Elections Fund for distribution in accordance with Article 22J of Chapter 163.

Amends new subdivision (18) to GS 106-22 to clarify that the provisions apply to every rental agreement for real property where the Board of Agriculture (Board) or the Commissioner of Agriculture (Commissioner) is the lessor. Directs the Board or Commissioner that is acting as the lessor of real property to charge an additional 3% which is to be paid into the North Carolina Voter-Owned Elections Fund for distribution in accordance with Article 22J of Chapter 163 (was, directed the Board or Commissioner to pay 5% of the rental agreement into the Voter-Owned Elections Fund).

Clarifies in 120C-100(a)(11) that when a lobbyist is paid by an entity retained by a person or governmental unit for lobbying, the principal is the one whose interest the lobbyist represents.

Amends GS 120C-304(c) to clarify that no public servant or former public servant as defined in GS 138A-3(30)c may register as a lobbyist within one year after separation. Further provides that no other state employee may register as a lobbyist under Chapter 120C and lobby the state agency that previously employed the former employee within one year after the voluntary separation or separation for cause by the employee.

Amends proposed GS 7A-38.3E(h) to provide that nothing in GS 7A-38.3E is to be construed to prohibit a party who is seeking production of public records from seeking injunctive or other relief, including seeking the production of public records before any scheduled mediation.

Makes additional clarifying changes and technical corrections.

July 2, 2010

H 961. GOV'T ETHICS AND CAMPAIGN REFORM ACT OF 2010. Filed 3/31/09. Senate committee substitute makes the following changes to 5th edition.

Deletes Sections 1 and 2 of the act, which extended the Voter-Owned Elections Act and Voter-Owned Elections Fund to candidates for the Council of State offices of Secretary of State, Treasurer, Commissioner of Agriculture, Commissioner of Labor, and the office of Attorney General, provided funding for those campaigns, and made additional changes to the Voter-Owned Elections Act.

Adds new section to amend GS 14-217 (bribery of officials) to apply the prohibitions in that section also to persons who have filed notice of candidacy for or been nominated for a covered office (currently the statute applies to office holders only). Further amends the section to declare that a thing of value or personal advantage will include a campaign contribution made or received under Article 22A of GS Chapter 163 (regulating campaign contributions and expenditures). Effective December 1, 2010.

Amends GS 120C-304 to remove the one year waiting period for certain lobbyist registrations, as previously amended, and revert to the original six months period. Makes a conforming change to GS 120C-200.

Adds new section amending GS 150B-38(a) to apply the contested case provisions under the Administrative Procedure Act to the State Board of Elections (Board) when the Board investigates or audits campaign violations.

Amends GS 138A-22 to remove the provision requiring the filing of a statement of economic interest by a deceased covered person's estate.

Amends GS 138A-24(a) (concerning statements of economic interest) to require that statements also indicate whether the filing person engaged in specified activities during the preceding calendar year, provided that the requirement only applies to certain filing persons. Effective January 1, 2012.

Amends GS 120C-403 to require that the report filed by each lobbyist principal include the name of each person or governmental unit not otherwise registered as a lobbyist principal for

whom the lobbyist principal directs (was, directs or permits) the lobbyist to lobby, whether for pay or not. Also adds that if the lobbyist principal is an association or other organization, the lobbyist principal will not be required to report any individual member of the association or other organization for which the lobbyist is directed to lobby by that lobbyist principal.

Further amends the following statutes to provide that the description of the reason for the action is public record and to clarify that information on specified disciplinary actions for employees within the previous five years (was, for an unlimited timeframe) will be subject to inspection: GS 126-23 (state employee personnel records); GS 115C-320 (local boards of education); GS 115D-28 (community college employee personnel records); GS 122C-158(b) (employees under the Mental Health, Developmental Disabilities, and Substance Abuse Act); GS 153A-98(b) (county employees); GS 160A-168(b) (city employees); and GS 162A-6.1(b) (water and sewer authority employees).

Adds new section directing the Legislative Ethics Committee to study the need for additional regulation of campaign contributions to state officials and candidates by persons doing business with or regulated by those state offices. Provides detailed study guidelines, and requires the Committee to report its findings and recommendations to the 2011 Regular Session of the General Assembly on or before April 1, 2011.

Makes other technical, clarifying, and conforming changes, and reorganizes the act's sections. Makes conforming changes to the title.

July 6, 2010

H 961. GOV'T ETHICS AND CAMPAIGN REFORM ACT OF 2010. Filed 3/31/09. Senate amendments make the following changes to 6th edition.

Amendment #1 adds a new section to direct \$91,541 in recurring funds and \$2,250 in nonrecurring funds to fund employment positions and operating expenses to respond to customer service queries regarding state ethics law compliance and any additional ethics rules or standards implemented by the Governor. Amends GS 138A-32(d1) to prohibit a public servant from accepting a gift (1) knowing that it was indirectly from a person described in one of the three categories under (d) (was, the person must meet all three of the categories) and (2) that the person described in one of those categories intended for the ultimate gift recipient to be a public servant. Makes additional clarifying and technical changes.

Amendment #2 adds new subsection (e) to GS 132-9 (access to public records) to prohibit a court from assessing attorneys' fees against a public hospital if the court finds that the action was brought by or on behalf of a competing health care provider for obtaining information to be used to gain a competitive advantage.

July 10, 2010

H 961. GOV'T ETHICS AND CAMPAIGN REFORM ACT OF 2010. Filed 3/31/09. Conference report recommends the following changes to 7th edition to reconcile matters in controversy.

Deletes amendment to GS 163-278.22(7), which authorized the State Board of Elections to hire or contract with a special investigator to investigate occurrences under the Voter Owned Elections Act. Deletes proposed changes to GS 120C-304(a).

Adds a new section to enact GS 120C-502 to require that each employee of a governmental unit whose principal duties include lobbying, in practice or in description, must register and file reports under GS Chapter 120C. Directs the Secretary of State to treat these individuals as liaison personnel for publication purposes, and also applies gift prohibitions. Makes a conforming change to GS 120C-700(3). Effective January 1, 2011.

Amends proposed GS 143C-2-5 to direct the Governor to require the Office of State Budget and Management (OSBM), with the support of Information Technology Services, to build and maintain a database and website on state spending for grants and contracts, *designated NC OpenBook*.

Amends GS 138A-24(a) (contents for statements of economic interest) to require that each statement also include a list of all contributions, as defined, with a cumulative total of more than \$1,000 during the preceding calendar year by the filing person, as detailed; also requires a statement indicating whether the filing person engaged in each of the listed activities during the

preceding calendar year, as detailed, and applicable only to certain filing persons. Makes other technical and clarifying changes.

Amends the following statutes to provide that (1) the date and general description of the reasons for each promotion and (2) the date and type of each dismissal, suspension, or demotion for disciplinary reasons, with a copy of the written notice of dismissal with explanation attached (was, date, type and general description of the reasons for each promotion, demotion, and disciplinary suspension within the previous five years), will be subject to inspection: GS 126-23 (state employee personnel records); GS 115C-320 (local boards of education); GS 115D-28 (community college employee personnel records); GS 122C-158(b) (employees under the Mental Health, Developmental Disabilities, and Substance Abuse Act); GS 153A-98(b) (county employees); GS 160A-168(b) (city employees); and GS 162A-6.1(b) (water and sewer authority employees).

Adds a new section amending GS 120C-700 to exempt anything of value given or received in connection with seeking or hosting a national convention of a political party from the provisions of GS Chapter 120C.

Adds a new section amending GS 138A-12(c)(1) to add that a sworn complaint may be filed under that section alleging a violation of GS Chapter 138A, GS Chapter 120, or GS 126-14 (promise or threat to obtain political contribution or support), or the criminal law in the performance of that individual's official duties. Amends GS 138A-12(c)(5) to require the State Personnel Commission (Commission) to send the complaint to the alleged individual and employing entity within 10 business days (was, 30) of the filing. Amends GS 138A-12(d) to direct the Commission to initiate an inquiry into a complaint within 10 business days (was, 60) of the filing. Amends GS 138A-12(f) to direct the Commission to conclude its preliminary inquiry within 20 days, and to dismiss the complaint following the inquiry if the Commission determines that the complaint is frivolous or brought in bad faith, or falls into another category under current law. Makes technical changes to GS 138A-12(b)(2), and makes conforming changes to GS 120-103.1(c) (directing the Legislative Ethics Committee to investigate complaints within 10 business days) and GS 120-103.1(c1) (directing the Legislative Ethics Committee to conclude its preliminary inquiries within 20 business days). Amends GS 138A-12(c)(3) to decrease the time within which the Commission may request additional information from seven to five days.

Adds a new section amending GS 120-132 to clarify that, *except as provided*, no present or former legislative employee may disclose (was, be required to disclose) any information acquired, while employed or retained by the State, from any location of the state legislative buildings and grounds or other location, as provided under the current law. Provides that a present or former legislative employee may disclose information acquired under the section that would be reflected in the official public record or was otherwise publicly disseminated. Also provides that, subject to GS 120-9 (speech and debate clause), GS 120-133 (redistricting communications), and the common law of legislative privilege and immunity, a judge may compel disclosure of acquired information if, in the judge's opinion, disclosure is necessary to the proper administration of justice. Effective October 1, 2010.

Establishes the ten-member Public Funding of Council of State Elections Commission and directs the Commission to study a specified list of related issues. Describes the five Commission members to be appointed by the Speaker of the House and the five members to be appointed by the President Pro Tempore of the Senate. Instructs the Commission to report its results and recommendations to the 2011 General Assembly by March 1, 2011.

Makes other technical, clarifying, and conforming changes, and makes conforming changes to the title.

August 12, 2010

SL 2010-169 (H 961). GOVERNMENT ETHICS AND CAMPAIGN REFORM ACT OF 2010.
AN ACT TO CLARIFY THE CRIMINAL STATUTES ON SELF-DEALING; TO CREATE THE PUBLIC FUNDING OF COUNCIL OF STATE ELECTIONS COMMISSION; TO INCREASE THE PUNISHMENT FOR MAKING CAMPAIGN CONTRIBUTIONS IN THE NAME OF ANOTHER; TO INCREASE ACCESSIBILITY TO INFORMATION RELATED TO CANDIDATE CAMPAIGN COMMITTEES AND TO INFORMATION RELATED TO STATE CONTRACTS AND GRANTS;

TO STRENGTHEN PUBLIC CONFIDENCE IN GOVERNMENT BY CHANGING THE REVOLVING DOOR PERIOD AND APPLICABILITY; TO CODIFY CERTAIN POSITIONS IN STATE GOVERNMENT AS A PUBLIC SERVANT UNDER THE STATE GOVERNMENT ETHICS ACT; TO STRENGTHEN TRANSPARENCY OF GOVERNMENT THROUGH ADDITIONAL DISCLOSURES BY PUBLIC SERVANTS, INCLUDING CAMPAIGN CONTRIBUTIONS PRIOR TO APPOINTMENT; TO INCREASE ACCOUNTABILITY OF PUBLIC SERVANTS, APPOINTEES OF THE GOVERNOR, AND STATE EMPLOYEES BY PERMITTING THE GOVERNOR TO ADOPT MINIMUM STANDARDS OF ETHICAL CONDUCT; TO CLARIFY THE INDIRECT GIFT BAN AND CLARIFY REPORTING BY LOBBYIST PRINCIPALS; TO STRENGTHEN TRANSPARENCY OF GOVERNMENT THROUGH INCREASING AND CLARIFYING ACCESSIBILITY TO LEGISLATIVE RECORDS AND OTHER PUBLIC RECORDS; TO MAKE TECHNICAL CHANGES TO THE ETHICS LAW; AND TO EXPEDITE REVIEW OF PRELIMINARY INVESTIGATIONS OF ALLEGATIONS OF WRONGDOING UNDER CHAPTERS 120 AND 138A OF THE GENERAL STATUTES. Summarized in *Daily Bulletin* 6/22/10, 7/2/10, 7/6/10, and 7/10/10. Enacted August 2, 2010. Effective August 2, 2010, except as otherwise provided.