



North Carolina General Assembly
Legislative Ethics Committee

July 12, 2007

To: Members of the General Assembly

From: Senator Dan Clodfelter and Representative Rick Glazier, Cochairs of the
Legislative Ethics Committee

A handwritten signature in black ink, appearing to be "Dan Clodfelter" or "Rick Glazier", written over the "From:" line.

Re: **Ethical Principle and Guideline 8: False Certification For Local Bill**
Filing During Short Session.

The Legislative Ethics Committee (Committee) has been asked to investigate ethical issues arising from the execution and filing of local bill certifications during the Short Sessions of the General Assembly. These local bill eligibility requirements are usually set forth in the Long Session's adjournment resolution. These issues have not previously been addressed by the Committee, and no previous guidance or ethical principle and guideline has been issued. The Committee believes ethical standards do apply in this situation, and legislators should receive guidance on the filing of local bill certifications.

The typical adjournment resolution specifies local bill eligibility in part in the following way:

"During the regular session [Short Session] that reconvenes on _____, only the following matters may be considered:

- ...
- (4) Any local bill that has been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. _____, is introduced in the House of Representatives or filed for introduction in the Senate by _____, and is accompanied by a certificate signed by the principal sponsor stating that ... the bill is approved for introduction by each member of the House of Representatives and Senate whose district includes the area to which the bill applies."

(See Senate Joint Resolution 1184 of the 2005 Session)

To comply with the adjournment resolution, a member who wants to file a local bill must also file a "Local Bill Certification" with the member's respective Principal Clerk. The certification reads in part:



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"The undersigned, principal sponsor of the attached local bill, certifies that:

...

- (c) the bill is approved for introduction by each member of the House of Representatives and Senate whose district includes the area to which the bill applies."

The local bill certification requirement is a rule of procedure and not a rule of ethics. The jurisdiction of the Committee does not include the application and enforcement of rules of procedure of the houses. Issues arising from the application of rules of procedure are within the exclusive jurisdiction of the house of which the legislator is a member. An alleged violation of a rule of procedure is subject to a point of order which is subject to appeal to the House or Senate, which is debatable and requires a vote of the chamber.

However, knowingly submitting a falsified local bill certification would be a matter of ethics and would be within the jurisdiction of the Committee. G.S. 120-102(a)(5) authorizes the Committee to prepare ethical principles and guidelines to be used by legislators to identify potential prohibited behavior and to suggest rules of conduct that must be adhered to by legislators. The Committee issues this principle and guideline to advise legislators in filing local bill certifications.

Filing a local bill certification knowing the certification is false is unethical. Under the typical adjournment resolution and the local bill certification filed in compliance with the adjournment resolution, a legislator is presumed to truthfully certify that the bill is approved for introduction by each member of the House and Senate whose district includes the area to which the bill applies. Accordingly, a member filing a local bill certification has an affirmative duty to determine that the facts set forth in the certification are true, including the fact that the member has checked with each member of the local delegation affected and has been affirmatively told by the other members of the delegation that they approve the bill for introduction. The failure by the member to verify these facts before signing the certification makes the certification false, and the signing of a falsified certification is therefore unethical. Other legislators have a right to rely on the truthfulness of statements made on a local bill certification. A knowing violation of that trust constitutes an ethics violation.

Nothing in this Principle and Guideline applies to an alleged violation of any other rule of procedure.