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To: Haley, Nikki <govhaley@gov.sc.gov>
Pitts, Ted <TedPitts@gov.sc.gov>
Veldran, Katherine <KatherineVeldran@gov.sc.gov>
CC: Patel, Swati <SwatiPatel@gov.sc.gov>
Date: 5/6/2014 4:03:11 PM
Subject: RE: Notes from House Sub on H.3945, Ethics Reform

Today, full House Judiciary unanimously adopted the Subcommittee Amendment by voice vote and passed the bill to the floor. No other substantive amendments were proposed.

The following House members raised the following concerns or questions [comments by Whipper and Nanney highlighted below]:

- Murphy – needed clarification on income disclosure provision for dependent children;
- Whipper – wanted to be sure that the new structure fixed the “fox guarding the henhouse” issue, which Delleney insisted his Amendment did;** and asked questions about the electioneering provision;
- Sabb – needed clarification on how the 48 hour reporting rule prior to an election;
- Nanney – voiced concerns about sitting House members serving on the new commission against fellow House members, which Delleney insisted would not be a problem, because members could recuse themselves;**
- Tallon – wanted to be sure that no compensation (other than per diem and mileage) would be given to the new commission;
- Clemmons – wanted to be sure that the new structure did not violate the constitutional provision whereby legislators are to police themselves, which Delleney insisted that his Amendment was constitutionally proper.

Note: Delleney offered and the group adopted a small amendment splitting the effective dates – for structure (July 1, 2015) and for SEI changes (January 1, 2015). The original amendment had the effective date at July 1, 2015 for all provisions.

From: Schimsa, Rebecca
Sent: Thursday, May 01, 2014 3:15 PM
To: 'Haley, Nikki (govhaley@gov.sc.gov)'; Pitts, Ted; 'Katherineveldran@gov.sc.gov'
Cc: Patel, Swati
Subject: RE: Notes from House Sub on H.3945, Ethics Reform

Governor, Ted, and Katherine,

Today, **the Subcommittee passed H.3945** and will present its amendment to Full Judiciary on Tuesday. The Subcommittee is still finalizing language, and Patrick Dennis will email us a copy tomorrow. As soon as we receive the language, we will work on a complete detailed analysis of the bill. In the meantime, here are a few items covered in today's meeting:

- Adopted the “McLeod-Delleney Amendment” creating the “SC Commission on Ethics Enforcement and Disclosure” composed of (4) legislators; (4) gubernatorial appointees; and (4) Supreme Court appointees, which would receive complaints, investigate complaints, and issue public reports of probable cause for all members of the Legislative Branch, Executive Branch, and Judicial Branch (judges only; not attorneys). Those reports would be sent to the “appropriate supervisory office” (e.g. legislative ethics committees) to adjudicate and issue penalties.
- Adopted a series of campaign finance related provisions. Some items that may be of concern include a provision related to Leadership PACs and a provision altering the definition of political expenditures.

Thank you.

From: Schimsa, Rebecca
Sent: Wednesday, April 23, 2014 12:06 PM
To: 'Haley, Nikki (govhaley@gov.sc.gov)'; Pitts, Ted
Cc: Patel, Swati; 'Katherineveldran@gov.sc.gov'
Subject: RE: Notes from House Sub on H.3945, Ethics Reform

Governor and Ted,

Swati, Veldran, and I attended the fourth subcommittee meeting on Ethics Reform today. The Subcommittee took up a few various items that were left:

1. Requiring Recusals at all levels, including subcommittee and committee – Adopted House language, which is stronger than the Senate language, because the House version did not include an exception for procedural votes.
2. Restricting agency/department heads from fundraising – Adopted House language, which is more equitable than the Senate language, because the House version bars agency heads from fundraising for any candidate, whereas the Senate version only barred fundraising for constitutional officers.
3. Creating an Electioneering Provision – Adopted the House language, which amends the Senate language to comply with a recent Fourth Circuit case on the NC electioneering law.

All other matters, including penalties, use of campaign funds, blackout periods, campaign filing dates, etc, will be debated at the next meeting once amendments can be drafted. **Note that Rep. Bannister is proposing a broad, sweeping amendment to cover all criminal penalties for violations of the Ethics Act – Patrick Dennis provided us, Herb Hayden and Cathy Hazelwood, and Lynn Teague (League of Women Voters) with a copy so that we can review it.**

As an aside, Rep. Pope asked House staff to draft the section of the bill dealing with enforcement to be split into tiny sections (separating governance of the three branches and separating governance at each level of the process, including investigation, adjudication, etc) to give a Conference Committee more leeway to select parts of the House's version.

*****The next and final Subcommittee meeting is scheduled for next Thursday, May 1st upon House adjournment. The bill will then go to Full Judiciary on Tuesday, May 6th and could possibly be taken up on the House floor the following day or week.**

If you have any questions, please let us know.

Thank you.

From: Schimsa, Rebecca
Sent: Thursday, April 10, 2014 10:18 AM
To: 'Haley, Nikki (govhaley@gov.sc.gov)'; Pitts, Ted; 'Katherineveldran@gov.sc.gov'
Cc: Patel, Swati
Subject: RE: Notes from House Sub on H.3945, Ethics Reform

Governor, Ted, and Katherine,

Haley and I attended the third subcommittee meeting on the Ethics Reform Bill today. The Governor's letter was not discussed nor were any of the items in the letter – the Subcommittee only discussed a dozen miscellaneous provisions that were included in the Senate version but not in the House version. A summary of those provisions is below.

1. Prohibiting the State Ethics Commission from having regulatory authority – Adopted Senate language.
2. Prohibiting Electioneering (mass communications prior to an election) – Holding to draft new language.
3. Regulating Independent Expenditures – Holding to draft new language.

4. Regulating Consultants – REJECTED.
5. Prohibiting Paid Endorsements – REJECTED.
6. Requiring the submission of Bank Statements – Holding to draft new language.
7. Prohibiting federal campaigns contributing to state campaigns – REJECTED.
8. Penalties: Requiring reimbursements for investigations – REJECTED.
9. Penalties: Recovery of anything received in breach of the Ethics Act – REJECTED.
10. Penalties: Permissible recovery of funds converted in breach of the Ethics Act – Holding to draft new language.

House staff will draft new language and circulate to members for comment. The next meeting is scheduled to be in two weeks, on Wednesday, April 23rd.

Thank you.

From: Schimsa, Rebecca
Sent: Tuesday, April 08, 2014 6:03 PM
To: 'Haley, Nikki (govhaley@gov.sc.gov)'; Pitts, Ted; 'Katherineveldran@gov.sc.gov'
Cc: Patel, Swati
Subject: RE: Notes from House Sub on H.3945, Ethics Reform

Governor, Ted, and Katherine,

This afternoon, Swati and I attended the second Subcommittee meeting on the Ethics Reform Bill. Almost every member had the Governor's letter in front of them during the meeting, and it was referenced by Reps. Pope and Hamilton more than once to inquire whether provisions being discussed would meet the Governor's standard. Three topics were covered during the meeting:

(1) INDEPENDENT INVESTIGATIONS: The Subcommittee adopted Chairman Delleney's amendment, **an entirely new proposal**. Here is a brief overview:

- The amendment creates a new entity, the "Committee on Ethics Enforcement and Disclosure" and abolishes all current ethics entities (i.e. State Ethics Commission, House and Senate Ethics Committees, and Commission on Judicial Conduct).
- The new Committee will be composed of 12 appointed members: (2) by the House; (2) by the Senate; (4) by the Governor; and (4) by the Supreme Court.
- The new Committee will oversee members of all three branches of government as it relates to ethics violations, including receiving complaints, investigations, adjudication, and sentencing. (Our understanding is that the new Committee will have two sets of rules: The Ethics Act for the Executive and Legislative Branches; and the Rules on Judicial Conduct for the Judicial Branch.)

Obviously, there were discussions of constitutional concerns with this structure as it relates to the judiciary as well as concerns about whether the Senate would even consider adopting a structure like this. ****Due to these concerns, we will certainly be vetting this provision further.****

(2) INCOME DISCLOSURES: The Subcommittee adopted the Senate version of income disclosures, which is stronger than the House version. Recall that this includes all sources of private income and specific sources from lobbyist's principals, governmental entities, or a source regulated by the filer's level of government. (Reps. Pope and McLeod made this motion.)

(3) LEADERSHIP PACs: The Subcommittee adopted the Senate version relating to non-candidate committees (Leadership PACs), because it is thought to be stronger than the House version. (Rep. Quinn made this motion.)

The next meeting will be held this Thursday.

Thank you,

Rebecca

From: Schimsa, Rebecca
Sent: Thursday, April 03, 2014 2:57 PM
To: 'Haley, Nikki; Pitts, Ted; 'Katherineveldran@gov.sc.gov'
Cc: Patel, Swati
Subject: Notes from House Sub on H.3945, Ethics Reform

Governor, Ted, and Katherine,

Swati and I attended the House Con Laws Subcommittee today, which met on H. 3945, the Ethics Reform Bill. Below are highlights from the meeting.

OVERVIEW: Chairman Delleney charged the Subcommittee to cover four “big ticket items”: (1) Structure; (2) Enforcement; (3) Income Disclosures; and (4) Penalties. House Staff prepared a side-by-side using the McMaster-Medlock Report and the GOP Caucus Recommendations as a guide.

ACTION TAKEN: Rep. Bannister suggested to go through the bill to quickly adopt/delete items that had great consensus, which are listed below. All other items were passed over for later discussion.

- Items Adopted:
 - Intellectual Property Rights (MM #11); and
 - Debt Retirement (GOP Caucus).
- Items Deleted: (Rationale: These items were NOT included in either the House or Senate versions.)
 - Ballot Fix (MM #1; S.2);
 - Fiduciary Positions (MM #3);
 - Two-Year prohibition for legislators to elect those they represent (MM #5);
 - ***Requirement for legislators to report fees when the State is an opposing party (MM #7);
 - Use of State Plane for press conferences (MM #10);
 - Mail and Wire Fraud (MM#17);
 - Requirement to pay ethics fines before running for office (GOP Caucus);
 - Disclosure by lobbyists of any income received from a lobbyist principal (GOP Caucus);
 - Increase in campaign contribution limits to \$5,000 statewide (GOP Caucus).

GENERAL DISCUSSION: Reps. McLeod and Pope commented that there is a need for independent investigations. Reps. Quinn and Pope asked staff to seek feedback from the State Ethics Commission and Senate Ethics Committee for any “small” technical changes that would be helpful fixes. Rep. Quinn offered to remove the local lobbying provision, which he thought might be a sticking point that would hold up the entire bill – this provision was passed over (MM #12).

ADDITIONAL MEETINGS: Chairman Delleney scheduled three additional meetings: Next Tuesday after Full Judiciary; Next Thursday upon Adjournment; and Wednesday, April 23rd at 10:00 a.m. They decided to debate two of the big ticket items, Structure and Enforcement, on Tuesday.

Thank you.

Rebecca S. Schimsa
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