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Date: 5/12/2014 10:02:37 PM
Subject: H. 3945 Ethics amendment
Attachments: Proposed Amendment - independent investigations with judges 5-12-14.docx

Rep. Bedingfield,

Per your conversation with Ted this afternoon, I have attached a revised version of the independent investigation amendment you had shown Ted on Thursday. The version I have attached is what we proposed to the House Republican Caucus last week but also includes judges under the oversight of the reconstituted State Ethics Commission.

A summary of the attached amendment and how it is different from the House Judiciary Committee amendment is provided below.

Are you available to meet tomorrow morning at your convenience to further discuss? We are also available for a call. You can reach me anytime at 803-665-0259.

Proposed Independent Investigation Amendment

- The amendment keeps the House andSenate ethics committees and Commission on Judicial Conduct but removes 2 of their current responsibilities – (1) toreceive complaints and (2) investigate complaints. Those 2 responsibilities are given to a reconstitutedState Ethics Commission.

- The new State Ethics Commission ismade up of 12 **appointees who are notsitting public officials or judges.**
  - 4appointed by the Gov (2 from each political party)
  - 4appointed by the General Assembly (2 from each body; 2 from each political party)
  - 4 appointed by the Supreme Court

- So if a complaint is filed against alegislator or judge it must be referred to the State Ethics Commission which willconduct the initial review and then conduct an investigation if warranted.

- After it conducts the investigation,the State Ethics Commission will determine if there is probable cause to find aviolation and then send a report to the appropriate legislative ethicscommittee or the Commission on Judicial Conduct. That report becomes a publicdocument after probable cause is found.

- For legislators: The House and Senate committees receivethe report and then from that point on the committees continue follow theprocess spelled out in current law –
  - Thecommittee will decide for themselves whether to find probable cause and if it doesn't, then it can dismiss;
  - ifit does find probable cause, it could issue an advisory opinion and seek compliance or hold a hearing and still dismiss or
  - ifit finds a violation, then it could issue sanctions or determine a technical violation occurred.

- For judges: The Commission on Judicial Conduct and the Supreme Court will receive the report from the State Ethics Commission and they will continue to follow the process spelled out in their rules (Rule 502 of SC Appellate Ct Rules)

- That's the framework of theproposal - The proposal is not complicated and accomplishes the targetedgoal making investigations independent, fair and transparent.

House Judiciary Committee proposal:

- Creates a new state agency called the Commission on Ethics Enforcement and Disclosure and also keeps the State Ethics Commission, the House and Senate Ethics Committees and the Commission on Judicial Conduct.
  - It is not necessary to create more government when the current State Ethics Commission has the staff and independence to carry out the goal of independence.
  - The current staff at the State Ethics Commission must be transferred to this new agency but no provision is made to staff the State Ethics Commission which still has responsibilities.

- The membership of the new enforcement agency is NOT independent because current legislators and judges would serve which is the current situation. The idea is to change the current framework.
  - Note: the 4 executive branch members must not be public officials and expressly prohibits them from serving. Current law also specifically prohibits public officials from serving on the current State Ethics Commission due to potential conflicts of interests arising. There is no basis for treating executive branch members different.

Thanks,

Swati

Sent from Windows Mail