

MINUTES
LEGISLATIVE ETHICS COMMITTEE
February 10, 2012 MEETING
{Approved: July 11, 2012}

The Legislative Ethics Committee (RSA 14-B:2) met on Friday, February 10, 2012, at 11:00 A.M. in Room 104 of the Legislative Office Building. The following members were present: Attorney Brian M. Quirk, Vice Chairman, Representative Janet G. Wall, Representative Jordan G. Ulery, and Mr. John F. Quinlan. Chairman Martin L. Gross, Senator Amanda A. Merrill, and Senator Fenton Groen were unable to attend. Also present was the Committee's Executive Administrator, Richard M. Lambert. In Chairman Gross's absence, Vice Chairman Quirk chaired the meeting. The Committee's meeting consisted of the following items:

ITEM #1

Consideration and Adoption of *Agenda*.

Following review, Representative Wall moved to adopt the proposed *Agenda*. Vice Chairman Quirk seconded the motion and the Committee voted 4 to 0 to adopt the *Agenda*.

ITEM #2

Consideration of the draft *Minutes* from the Committee's meeting held on January 5, 2012.

Following review, Representative Wall moved to adopt the *Minutes* as drafted. Mr. Quinlan seconded the motion and the Committee voted 4 to 0 to adopt the *Minutes*.

ITEM #3

Ratification of the adoption of Advisory Opinion 2012-1 and Interpretive Ruling 2012-1.

Mr. Quinlan moved to ratify Advisory Opinion 2012-1 and Interpretive Ruling 2012-1. Representative Wall seconded the motion and the Committee voted 4 to 0 in favor of the motion.

ITEM #4

Review of 2012 Financial Disclosure Forms.

Vice Chairman Quirk:

"By statute, the Legislative Ethics Committee is required to review the Financial Disclosure Forms submitted by the legislators and then file them with the Secretary of State on or before February 15th. Rich has set forth, I believe, a memo to us on this and it appears from the memo that everyone has filed a completed form by today's date, except for 4 members. Is that still the status?"

Mr. Lambert:

"That is, Mr. Chairman."

Vice Chairman Quirk:

"So we have the forms here and does anyone wish to review the forms in detail? Seeing no one, does anyone have any comments or discussion regarding the memo by Rich, the Executive Administrator, concerning the financial forms?"

Representative Wall:

"Mr. Chairman, I have reviewed the forms thoroughly. I have also been very much aware of the volume of work that Rich has had to do in terms of rounding up everyone to file their forms. So that the Committee knows, Rich sits in the anteroom many, many days during House sessions very graciously corralling people to fill out their forms. And announcements have been made by Representative Ulery on the floor numerous times. Annually we have this discussion in terms of how we can make this process more effective and efficient, and it seems to be that the best way is to remind members on the floor and to have Rich there, but we still have members who drag their feet, and to this day I haven't come up with any more efficient way to handle the process. I do know it

takes a tremendous amount of Rich's time. And some members still don't seem to understand the importance of getting this done. And, as I said prior to the meeting, there were members who didn't think it was serious, and I don't know how to get that point across. And I'm open to suggestions."

Mr. Lambert:

"Mr. Chairman, concerning the 4 people who haven't filed, Representative Frank Case is very ill."

Representative Wall:

"I heard that he probably won't be coming back."

Mr. Lambert:

"Yes, and I've been told that Representative Champagne is out of the state. I don't know if that is as compelling a reason. I understand that Representative Karen Hutchinson has had some illness. I'm not sure if she's back or not. The [House] Majority Office and the Speaker's Office have directly tried to call or contact everyone on this list as we got down close to and beyond the January 20 deadline. I've been told that Representative Beattie does not appear in the legislature in the sessions or for committee work."

Vice Chairman Quirk:

"Okay, I appreciate that summary and I appreciate the comments from Representative Wall. What the practice is that we've done in the past is, with respect to the individuals who have not completed the forms or have filed defective forms, written them a letter from the Executive Administrator communicating to them that they are late and requesting them to file a form within 7 days of the letter. I suggest that we move forward with that procedure. It's been effective in the past. And would anyone like to discuss this? Seeing none, I think we should vote on approving the memo from the report from Richard Lambert."

Representative Wall moved to approve the memo. Mr. Quinlan seconded the motion and the Committee voted 4 to 0 in favor of the motion.

Vice Chairman Quirk:

"Next we should move to transmit the properly-filed forms to the Secretary of State before the deadline?"

Representative Wall moved to transmit the forms to the Secretary of State's Office. Mr. Quinlan seconded the motion and the Committee voted 4 to 0 in favor of the motion.

Vice Chairman Quirk:

"And finally, I put up for consideration the filing of letters to the 4 individuals who have yet to file a 2012 Financial Disclosure Form reminding them of the requirement and instructing them to file within 7 days of the letter. Discussion?"

Representative Ulery:

"We've done this over and over. I've been involved in this 2 times now. Representative Wall has been involved in it several times more than that. And we always have a problem. Let's make it public."

Representative Wall:

"The only thing I could think of is, I know that we've revised the form before and I do know that we all receive volumes of paper on a daily basis, and sometimes people inadvertently overlook forms that have to be filled out. I do realize that many members still don't know that this needs to be done annually, but I can't help wondering given the number of comments I received this year from members ... On the back side of the form, near the bottom, it talks about the penalty of RSA 14-B:10, and I think it's appropriate to have it there, but just because of the frustration with so many members who have not taken it really seriously until they have had repeated reminders, I wonder if there's any way ... of making that penalty ... more visible [by placing it] on the front [of the form]."

Representative Ulery:

"In the case of the individuals who have not filed, the excuse before a criminal action as a misdemeanor would take place as for illness, would that forestall any criminal action being taken against Representative Case or Representative Hutchinson?"

Vice Chairman Quirk:

"It depends on the judge. Technically an illness could be a reason not to file. Here I think the points are very well taken and the 2 representatives here have filled out the forms as well as 391 other members of the House and all 24 members of the Senate. Here we have 4 individuals that have not yet filed. I would be comfortable in the first instance writing a letter reminding them out of courtesy and then if we don't receive the forms within 7 days, I am open to further recommendations, suggestions, as to how to best handle it, rather than public notification. And last year we talked about a letter highlighting the misdemeanor penalty to them. Here the vast majority of people have taken this obligation and requirement seriously and filled out the forms in a timely manner, and here 4 people have not. We hear that 2 have some issues, perhaps with sickness, which may be a valid reason. One is out of state and the other person has not appeared for some time. So, is there any discussion?"

Representative Ulery:

"If the letter were to say 'within 7 days a referral to the Attorney General's Office for prosecution will take place' I think is more appropriate than 'you have to have them in here within 7 days or we're going to postpone it again.'"

Vice Chairman Quirk:

"Any discussion?"

Representative Wall:

"I agree with the steps you've outlined at this time."

Vice Chairman Quirk:

"Any discussion about the inclusion of some language that says if the forms are not returned that a referral, I would tweak that language somewhat to say, 'a referral may be made to the Attorney General's Office'?"

Mr. Quinlan:

"That sounds good to me."

Representative Wall offered to contact Representative Case's wife to ask her if he will be coming back to the legislature and to talk with her about the Committee's letter.

After further brief discussion, Vice Chairman Quirk stated: "Considering that we could be making the referral to the Attorney General's Office, if we put it in the letter, and it's been suggested we should put something in the letter that we may refer the matter to the Attorney General's Office, we would have the discretion to do so. We would want to consider all facts and circumstances before making such a referral. And at that later time we could have a discussion as to whether that would occur."

Mr. Lambert:

"In the statute it does say that the Committee shall initiate a complaint against anyone who has not filed, although the Committee has never done so."

Vice Chairman Quirk:

"And so I think we could point that out in the letter, in the wording, by stating we are obligated to make a referral, that we wanted to make you aware of your failure to file before doing so to give you time to rectify it. ... So I believe that what we have is a motion to send letters to the 4 members of the House who have not yet filed the 2012 Financial Disclosure Form. The letter will

reference the fact that they are untimely in their filing. It will further reference that we are providing them with notice so that they will need to file the form within 7 days, and we will highlight in the letter that if they fail to do so, the statute obligates us to make a referral to the appropriate law enforcement agency."

Representative Wall:

"Do we mean 7 days of the date of the letter or 7 days from when it's received?"

Vice Chairman Quirk:

"I will say 7 days from receipt of the letter."

Representative Ulery:

"I would like to suggest that we send the letters in certified mail so we have a date certain on receipt."

Vice Chairman Quirk:

"I think that's a good suggestion."

Representative Wall:

"Will another form be sent with the letter?"

Vice Chairman Quirk:

"Yes."

Mr. Quinlan moved to send a letter, as described, to the 4 members of the House who had not yet filed a 2012 Financial Disclosure Form. Vice Chairman Quirk seconded the motion and the Committee voted 4 to 0 in favor of the motion.

ITEM #5

New Business

{There was no new business.}

The Committee's meeting adjourned at approximately 11:40 A.M. The Committee's next meeting will be at the call of the Chair.

{Prepared by: Richard M. Lambert, Executive Administrator}