

CHAPTER 82
SB 250 – FINAL VERSION

15Apr2015... 1134h

2015 SESSION

15-1013
05/03

SENATE BILL **250**

AN ACT relative to the jurisdiction and voting procedures of the executive branch ethics committee.

SPONSORS: Sen. Lasky, Dist 13; Sen. Carson, Dist 14

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill extends the jurisdiction of the executive branch ethics committee to include complaints about executive branch officials who have left state service within 180 days; amends voting requirements to summarily dismiss a complaint; and clarifies that a unanimous vote of the committee means a unanimous vote of all those present.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to the jurisdiction and voting procedures of the executive branch ethics committee.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 82:1 Executive Branch Ethics Committee; Jurisdiction. Amend RSA 21-G:29, II to read as
2 follows:

3 II. The jurisdiction of the committee shall consist of matters arising under the executive
4 branch code of ethics, RSA 21-G:21-27, RSA 15-A, RSA 15-B, and rules or guidelines adopted
5 thereunder, as applied to ***current or former*** executive branch officials who are not classified
6 employees, ***provided that the committee may only consider a complaint against a former***
7 ***executive branch official if the complaint is filed no later than 180 days after the day the***
8 ***official resigned, retired, or otherwise left his or her position.***

9 82:2 Duties of the Executive Branch Ethics Committee. Amend RSA 21-G:30, II to read as
10 follows:

11 II. ***A quorum of 4 members shall be required for all actions of the committee.*** All
12 actions of the committee shall require an affirmative vote of 4 or more members of the committee
13 before becoming effective, except that a vote to summarily dismiss a complaint shall be ***by***
14 unanimous ***vote of all members present***, and a vote [~~to dismiss a complaint after only an internal~~
15 ~~review and no investigation shall be by an affirmative vote of no less than 5 members of the~~
16 ~~committee and a vote]~~ pursuant to RSA 21-G:31, VII shall require only a majority of the members
17 present and voting. The committee shall request to meet with the legislative ethics committee
18 established under RSA 14-B at least twice yearly to facilitate uniformity in the interpretation of
19 statutory provisions.

20 82:3 Complaints; Procedure. Amend RSA 21-G:31, I to read as follows:

21 I. Each complaint shall be submitted in writing and signed under oath by the complainant.
22 The sworn complaint shall be filed confidentially with the committee and shall contain the name and
23 address of the complainant. Before any other action is taken by the committee, the executive branch
24 official complained against shall be furnished with a copy of the complaint and a copy shall be sent to
25 each member of the committee for review. The committee may initiate a complaint on its own
26 motion against any individual the committee has reason to believe has violated any law, guideline,
27 rule, or regulation within the committee's jurisdiction. The committee shall promptly examine each
28 sworn complaint and:

29 (a) Upon first examination, if by a unanimous vote ***of all members present*** it

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1 determines that a complaint is frivolous, scurrilous, retaliatory in nature, or plainly not within the
2 committee’s jurisdiction, the committee may summarily discharge the complaint without further
3 meeting or proceeding. The committee shall notify the respondent and complainant in writing of its
4 action.

5 (b) For any complaint not summarily discharged, the committee shall conduct an initial
6 review to ascertain whether the committee has jurisdiction to consider the complaint or whether the
7 complaint is without merit or is unfounded. If the committee concludes ~~[by a recorded affirmative~~
8 ~~vote of no less than 5 members of the committee]~~ that the alleged conduct is not within the
9 committee’s jurisdiction, is without merit, or is unfounded, the committee shall dismiss the
10 complaint and shall report such conclusion to the complainant and to the executive branch official,
11 with an explanation of the basis of such determination.

12 82:4 Complaints; Procedure. Amend RSA 21-G:31, III(d) to read as follows:

13 (d) Based upon clear and convincing evidence, a violation occurred, and the violation was
14 of a serious nature so as to warrant formal ~~[disciplinary]~~ action. In the case of a finding of violation
15 by a *former* executive branch official, the committee may **issue a censure**. ***In the case of a***
16 ***finding of violation by a current executive branch official, the committee may issue a***
17 ***censure or*** recommend disciplinary action by the appropriate body, including but not limited to a
18 recommendation for disciplinary action by the executive branch official’s supervisor, removal from
19 office under RSA 4:1, or, in the case of the governor, executive council member, or other officer of the
20 state, impeachment or other appropriate action pursuant to part II, article 38 of the New Hampshire
21 constitution. In addition to any ~~[recommendation for disciplinary]~~ action ***taken*** under this
22 subparagraph, the committee may refer the case to the department of justice for criminal
23 prosecution. In the event that conduct may constitute both a criminal act and misconduct subject to
24 the jurisdiction of the committee, the committee may on its own motion or by motion of the attorney
25 general suspend its investigation or a pending hearing for the time period reasonably necessary to
26 avoid compromising a criminal prosecution.

27 82:5 Effective Date. This act shall take effect 60 days after its passage.

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29 Approved: June 2, 2015

30 Effective Date: August 1, 2015