



# North Carolina General Assembly Legislative Ethics Committee

## PUBLISHED EDITED ADVISORY OPINION OF THE LEGISLATIVE ETHICS COMMITTEE

AO-E-07-0002

### Legislator Participation in State Government Task Forces – G.S. 138A-31 and 138A-37

Approved by the Legislative Ethics Committee April 26, 2007

#### Question:

1. May a legislator, who is a member of a State governmental task force, take official legislative action, including introducing, advocating for, and voting on a bill requested by that State governmental task force?
2. May a legislator introduce an appropriations bill to fund a State government task force of which the legislator is a member?

#### Opinion:

Yes.

G.S. 138A-37(a) prohibits a legislator's participation in a "legislative action," as defined in G.S. 120C-100(5), if: (1) the "legislator, a member of the legislator's extended family, the legislator's client, or a business with which the legislator is associated" has an "economic interest in" the action, and (2) the "legislator concludes that an actual economic interest" exists and that the interest "would impair the legislator's independence of judgment." In reaching this conclusion, G.S. 138A-37(a) requires that the legislator consider: (a) whether "the legislator's judgment would be substantially influenced by the interest," and (b) "the need for the legislator's contribution" to the matter.

An "economic interest" is defined in G.S. 138A-3(11) as "matters" involving "a business with which associated or a nonprofit corporation or organization with which associated." This includes organizations operating in the State primarily for various listed purposes and "of which the person or any member of the person's immediate family is a director, officer, governing board member, employee, or independent contractor as of December 31 of the preceding year." G.S. 138A-3(24).

Of the task forces the legislator inquired about, one task force was created by statute, and the other was created by executive order. Both task forces are administered and funded by a State agency. Neither organization is a “business with which associated” or a “nonprofit with which associated.” They are State entities. Therefore the legislator's continued service on these task forces is not prohibited by G.S. 138A-37. It is also noted that both task forces are mandated by law or executive order to include members of the General Assembly. G.S. 138A-31(a) is also inapplicable to this situation, as it applies to official actions that would result in financial benefit to a legislator, a member of the legislator's family, or a business with which the legislator is associated.

The legislator also asked whether the legislator's introduction of an appropriations bill to fund either task force would be prohibited by Chapter 138A of the General Statutes. The answer to this question is no, since neither G.S. 138A-37 nor G.S. 138-31(a) apply to the legislator's membership on these task forces.

**Legislative Ethics Committee Note of Subsequent Legislative Action:**

**See S.L. 2007-247, Sec. 8 that amends the definition of nonprofit with which associated to exclude any entity created by the State or any political subdivision of the State.**

**See S.L. 2008-213, Sec. 48 and 84 that rewrite G.S. 138A-37 and parts of the applicable definitions in G.S. 138A-3.**