

MINUTES
LEGISLATIVE ETHICS COMMITTEE
JULY 11, 2012 MEETING
{Approved: October 11, 2012}

The Legislative Ethics Committee (RSA 14-B:2) held a joint meeting with the Executive Branch Ethics Committee (RSA 21-G:29) on Wednesday, July 11, 2012, at 10:00 a.m. in Room 104 of the Legislative Office Building. The following members of the Legislative Ethics Committee (LEC) were present: Attorney Martin L. Gross, Chairman, Attorney Brian M. Quirk, Vice Chairman, Senator Amanda A. Merrill, Representative Janet G. Wall, Representative Jordan G. Ulery, and Mr. John F. Quinlan. Senator Fenton Groen was unable to attend.

The following members of the Executive Branch Ethics Committee (EBEC) were present: Attorney Joseph A. DiBrigida, Jr., Chairman, Alan W. Johnson, Attorney Patricia B. Quigley, and Attorney James A. Normand. Also present were: Kara-Lee Bean, EBEC Recording Secretary, and Richard M. Lambert, LEC Executive Administrator.

The Legislative Ethics Committee held a separate meeting at approximately 10:00 a.m. consisting of the following items:

ITEM #1

Consideration and Adoption of *Agenda*.

Following consideration, Vice Chairman Quirk moved to adopt the proposed *Agenda*. Mr. Quinlan seconded the motion and the Committee voted 4 to 0 in favor.

ITEM #2

Consideration of the draft *Minutes* from the Committee's meeting held on February 10, 2012.

Following review, Mr. Quinlan moved to adopt the *Minutes*. Vice Chairman Quirk seconded the motion and the Committee voted 4 to 0 in favor.

ITEM #3

Ratification of the adoption of Advisory Opinion 2012-2, Advisory Opinion 2012-3, and Interpretive Ruling 2012-2.

Chairman Gross summarized each of the opinions and following brief discussion on each, Mr. Quinlan moved to ratify the Committee's adoption of Advisory Opinion 2012-2, Senator Merrill seconded the motion and the Committee voted 4 to 0 in favor of the motion. Mr. Quinlan moved to ratify the Committee's adoption of Advisory Opinion 2012-3, Vice Chairman Quirk seconded the motion and the Committee voted 4 to 0 in favor of the motion. Vice Chairman Quirk moved to ratify the Committee's adoption of Interpretive Ruling 2012-2. Mr. Quinlan seconded the motion and the Committee voted 4 to 0 in favor of the motion.

{Representatives Wall and Ulery joined the Committee's meeting during its consideration of Item #4}

ITEM #4

Update regarding implementation of 2012 Ch. 126 (HB 1623 – Requiring Legislators' RSA 14-B Filings with the Secretary of State, and Declarations Intent filed with Senate and House Clerks, to be published on Committee's website).

Chairman Gross summarized the requirements of 2012, Chapter 126. Following brief discussion, the Committee determined that, in order to facilitate implementation of the new law, Chairman Gross should write a letter to the Secretary of State, House and Senate Chiefs of Staff, House and Senate Clerks, and the Manager of the General Court Information Systems asking them for assistance in implementation.

Senator Merrill moved to authorize Chairman Gross to send such a letter. Representative Ulery seconded the motion and the Committee voted 6 to 0 in favor of the motion.

ITEM #5

New business.

1) Chairman Gross informed the Committee about an inquiry from a legislator asking whether he could sell his legislative license plates. Chairman Gross noted that there are 2 provisions in the Ethics Guidelines saying that a legislator is not supposed to profit from his office, and observed that the legislator might be in violation of those provisions if he sold the plates for more than he paid for them. Chairman Gross said he asked Mr. Lambert to informally convey to the legislator that if he sold the plates at a profit he could be exposing himself to a complaint. Representative Ulery asked if the plates are this year's or last year's.

Mr. Lambert replied that they are this year's and explained that there had been a mistake when the plates were manufactured whereby the name of the committee on which the legislator serves was incorrectly written. This led the legislator to believe that the plates could become collector's items.

After further brief discussion, the Committee took no action.

2) Chairman Gross described a recent inquiry from House Speaker William L. O'Brien regarding whether there would be a potential violation of RSA 15-B or the Ethics Guidelines if some House members were to set up a fund to assist the family of Representative Richard Okerman with funeral expenses for their young daughter. Chairman Gross said that because there was an urgency to the inquiry he responded with an opinion that he specified was his own and not that of the full Committee. He said that his concern was that the fund should be set up in such a way that there would be no appearance that individuals, including lobbyists, were donating in order to curry favor with the legislator. He said that he thought that the fund was, in fact, set up the right way.

After further brief discussion, the Committee took no action.

ITEM #6

Scheduling of next meeting.

The Committee agreed to meet next at the call of the Chair.

The Committee recessed its meeting at approximately 10:32 a.m. to meet with the Executive Branch Ethics Committee.

The joint meeting consisted of the following:

ITEM #1

The 2 committees discussed ways in which they can keep each other better informed about each other's actions and the possibility of establishing a coordinated index of opinions.

{Please see the appended minutes of the joint meeting, as approved by the Executive Branch Ethics Committee.}

The joint meeting adjourned at approximately 11:32 a.m.

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

**NEW HAMPSHIRE EXECUTIVE BRANCH
ETHICS COMMITTEE
and
LEGISLATIVE ETHICS COMMITTEE**

JOINT MEETING

**LEGISLATIVE OFFICE BUILDING
ROOM 104**

**July 11, 2012
10:30 AM**

Meeting called to order by Legislative Ethics Committee Chairman Martin Gross.

Present: Chairman Joseph A. DiBrigida, Jr., Patricia Quigley, Alan Johnson and James Normand of the Executive Branch Ethics Committee; Chairman Martin L. Gross, Brian M. Quirk, Amanda Merrill, Janet G. Wall, John F. Quinlan, and Jordan G. Ulery of the Legislative Ethics Committee

Also Present: Executive Administrator Richard Lambert

- After introductions, Chairman Gross and Chairman DiBrigida expressed the purpose of this meeting was to come to a better understanding of what each committee does and the processes they follow.
- Chairman Gross expressed concern regarding the consistency of Executive Branch Ethics Committee (“EBEC”) and Legislative Ethics Committee (“LEC”) opinions, especially rulings regarding RSA 15-B. One way to avoid inconsistency is to have consistent and continuous information sharing. If the LEC wants to rule differently, that’s a decision they can make but if there is information sharing between the committees, the decision will not be made blindly.
- Senator Merrill mentioned prior legislation regarding EBEC membership and quorums and her prior sponsored legislation regarding disclosure/identity of complainants that was vetoed by Governor. Chairman DiBrigida recalls that the vetoed bill concerned members of EBEC participating in presidential campaigns. Ms. Quigley thought that the bill also dealt with the issue of what defines a quorum in certain circumstances which passed but was vetoed by Governor. In addition, Ms. Quigley also stated that Senator D’Allesandro introduced a bill this year that eliminated irrelevant language in the statute regarding initial appointments which was part of a longer bill that eliminated irrelevant language in various statutes. She believes it did pass.
- In order to ensure open communication and awareness, the LEC and the EBEC will distribute their respective future opinions to each other electronically.
- Representative Ulery queried the effect of LEC advisory opinions on executive branch employees, particularly in the overlap section of RSA 15-B, and whether there is a

need to formalize the relevance of LEC opinions on EBEC opinions. It was determined that an informal process is best.

- Mr. Normand discussed the limited jurisdiction of the EBEC and whether that limited jurisdiction was the intent of the legislators when first drafting the legislation for creation of the EBEC. Most executive branch employees are classified and the EBEC does not have jurisdiction over them. The State Employees Association has stated that ethics rules/committees already exist for classified employees.
- The Committees discussed the fact that conflicts of interest are absolutely prohibited for executive branch employees; however, they are not prohibited in the volunteer legislature.
- Whereas it is clear that RSA 15-B applies to both branches, the Committees discussed the law and the importance of each Committee staying well-informed on one another's decisions regarding RSA 15-B.
- The Committees discussed the small number of EBEC complaints/advisory opinions and, of that small number, how few complaints are within EBEC jurisdiction. Chairman DiBrigida explained that complaints are heard in non-public sessions and preliminary investigations are confidential. The Attorney General's Office conducts the investigations. Ms. Quigley stated that the EBEC has never had a public hearing.
- Chairman DiBrigida stated that EBEC members have discussed ways of publicizing EBEC's existence. In a later discussion Representative Wall asked how executive branch employees are informed regarding EBEC and what the requirements are. Ms. Quigley stated that the EBEC as a committee has not conducted any educational programs; however, the Attorney General's Office has conducted some educational sessions and issued brochures in the past. Chairman Gross suggested updating the brochures and including them with the package for new executive branch state officials within the EBEC jurisdiction. Mr. Normand suggested putting the information in the Secretary of State's packet for new board/commission members.
- The staff person from each Committee will work together to create a joint coordinated index of opinions.
- In response to a question regarding whether EBEC is pursuing any legislation, Chairman DiBrigida stated that a consensus has not been reached regarding whether to further pursue elections legislation. Chairman Gross questioned whether the Governor's veto of the prior elections bill would withstand constitutional scrutiny.
- Representative Ulery and possibly others would be interested in discussing legislation regarding modifications to RSA 15-B. He suggested scheduling a meeting to discuss the relevant LSR's presented in the next session.
- Meeting adjourned at 11:32 a.m.

Respectfully Submitted

Kara-Lee Bean
Recording Secretary