



HOUSE BILL 857: Letters of Character Ref. and LEC/SEC Study.

2021-2022 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	May 5, 2021
Introduced by:	Reps. Harrison, Mills, Faircloth	Prepared by:	Amy Darden Staff Attorney
Analysis of:	First Edition		

OVERVIEW: *House Bill 857 would do the following:*

- *Amend the State Government Ethics Act to permit a covered person to mention or allow another person to mention his or her public position for letters of character reference for both of the following:*
 - *Individuals seeking an internship, externship, fellowship, or other unpaid voluntary work program.*
 - *Individuals being nominated for an award recognizing public service to the State or one of its subdivisions.*
- *Require the Legislative Ethics Committee (LEC) and the State Ethics Commission (SEC) to conduct a study of ethical standards and their respective powers, duties, and functions.*

CURRENT LAW: In the absence of a statutory exception, the State Government Ethics Act provides in G.S. 138A-31(b) that a "covered person"¹ shall not mention or authorize another person to mention the covered person's public position in nongovernmental advertising that advances the private interest of the covered person or others. There are currently seven exceptions to this prohibition:

- Political advertising.
- News stories and articles.
- The inclusion of a covered person's public position in a directory or a biographical listing.
- The inclusion of a covered person's public position in an agenda or other document related to a meeting, conference, or similar event when the disclosure could reasonably be considered material by an individual attending the meeting, conference, or similar event.
- The inclusion of a covered person's public position in a charitable solicitation for a nonprofit business entity qualifying under 26 U.S.C. § 501(c)(3).
- The disclosure of a covered person's position to an existing or prospective customer, supplier, or client when the disclosure could reasonably be considered material by the customer, supplier, or client.
- A letter of character reference for any of the following:

¹ A covered person is "a legislator, public servant, or judicial officer, as identified by the [State Ethics] Commission under G.S. 138A-11." G.S. 138A-3(21).

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- A student seeking admittance to a school or institution of higher education.
- An individual seeking an academic scholarship.
- An individual seeking leniency upon sentencing by the courts, or other matters related to probation or parole.
- An individual seeking employment, at the request of that individual or in response to the inquiry of a potential employer as to the qualifications and character of that individual.

BILL ANALYSIS:

Section 1 of House Bill 857 would amend G.S. 138A-31(b)(7) to permit covered persons to mention or authorize others to mention the covered person's public position in a letter of character reference for individuals doing either of the following:

- Seeking an internship, externship, fellowship, or any other unpaid volunteer work program, at the request of that individual or in response to the inquiry of an organization offering the position as to the qualifications and character of that individual.
- Being nominated for an award recognizing public service to the State or one of its political subdivisions.

This section is effective when it becomes law and applies to letters written on or after that date.

Section 2 of the bill would require the LEC to study the ethical standards for legislators and the powers, duties, and functions of the LEC. The LEC must report its findings and recommendations to the 2022 Regular Session of the 2021 General Assembly no later than January 15, 2022.

Section 3 of the bill would require the SEC to study the ethical standards for legislators and public servants and the powers, duties, and functions of the SEC. The SEC must report its findings and recommendations to the 2022 Regular Session of the 2021 General Assembly no later than January 15, 2022.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective when it becomes law.