

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 328

Short Title: Athletic Associations Accountability Act. (Public)

Sponsors: Representatives Brody, Millis, Yarborough, and Boswell (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

March 14, 2017

A BILL TO BE ENTITLED

AN ACT TO DETERMINE WHETHER THE NCAA AND THE ACC HAVE VIOLATED THEIR TAX-EXEMPT STATUS BY ENGAGING IN POLITICAL OR LEGISLATIVE ACTIVITIES AND TO PROVIDE TRANSPARENCY RELATED TO THE STATE'S PARTICIPATION IN INTERCOLLEGIATE ATHLETIC ASSOCIATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall, in their official capacity and on behalf of the North Carolina General Assembly, file a tax-exempt organization complaint (referral) with the Department of the United States Treasury, Internal Revenue Service, against both the National Collegiate Athletic Association (NCAA) and the Atlantic Coast Conference (ACC), alleging that the organizations have engaged in excessive lobbying activities. Specifically, the NCAA and the ACC have exceeded the scope of their respective charters by using economic retaliation against the State of North Carolina for the purpose of forcing the General Assembly to adopt social legislation that is not connected to the core mission of either the NCAA or the ACC.

SECTION 2. Article 1 of Chapter 116 of the General Statutes is amended by adding a new Part to read:

"Part 3B. Participation in Intercollegiate Athletic Associations.

"§ 116-40.25. Legislative findings.

(a) The General Assembly finds the following:

- (1) The General Assembly historically has supported the athletic missions of the National Collegiate Athletic Association (NCAA) and the Atlantic Coast Conference (ACC) as stated in the constitutions, codes, and bylaws of the organizations.
- (2) The NCAA is a sports and entertainment business with revenues approaching one billion dollars (\$1,000,000,000).
- (3) The ACC is a member of the NCAA.
- (4) The NCAA and the ACC are subsidized by taxpayers through their 501(c)(3) tax exemption based on the educational benefits of the colleges and universities with which the organizations are affiliated.
- (5) The Internal Revenue Code prohibits an organization from qualifying for 501(c)(3) status if a substantial part of the organization's activities are spent attempting to influence legislation, commonly known as lobbying.



- 1 (6) The NCAA has threatened to exclude North Carolina from consideration to host
2 postseason tournament events if the Public Facilities Privacy and Security Act
3 of 2016 (HB 2) is not repealed.
- 4 (7) The ACC has threatened to exclude North Carolina from consideration to host
5 postseason tournament events if the Public Facilities Privacy and Security Act
6 of 2016 (HB 2) is not repealed.
- 7 (8) The NCAA has spent considerable funds to move athletic events scheduled to
8 take place in North Carolina to other states that have laws that are substantially
9 similar to the Public Facilities Privacy and Security Act of 2016 (HB 2).
- 10 (9) Exclusion from hosting NCAA collegiate athletic events can result in a loss of
11 revenue to the State.
- 12 (10) Exclusion from hosting ACC collegiate athletic events can result in a loss of
13 revenue to the State.
- 14 (b) Pursuant to the findings in subsection (a) of this section:
- 15 (1) The General Assembly continues to support the athletic missions of the NCAA
16 and the ACC as stated in the constitutions, codes, and bylaws of the
17 organizations.
- 18 (2) The taxpayers of North Carolina should not be required to support the NCAA's
19 and the ACC's lobbying efforts against duly enacted State law through the
20 organizations' continued status as 501(c)(3) tax-exempt organizations.
- 21 (3) The General Assembly will not relinquish its legislative authority over the
22 internal affairs of the State to either the NCAA or the ACC.

23 **"§ 116-40.26. Transparency; intercollegiate athletic associations.**

- 24 (a) Beginning April 15, 2017, and monthly thereafter, if a constituent institution
25 participates in any intercollegiate athletic association, the chancellor shall report all the following
26 information to the President and to the Board:
- 27 (1) The name and position of each employee, staff member, or faculty member
28 (including the chancellor) who either (i) holds an office with or (ii) serves on a
29 board, committee, commission, task force, or other working group organized or
30 operated by an intercollegiate athletic association.
- 31 (2) For each individual identified in subdivision (1) of this subsection, the date and
32 a brief description of the nature of each matter brought before the individual by
33 the intercollegiate athletic association. Nothing in this subdivision requires the
34 individual to disclose the details of a settlement or a personnel matter.
- 35 (3) For each matter identified in subdivision (2) of this subsection, the nature of
36 each decision made or vote cast by the individual on matters that will have or
37 could reasonably be anticipated to have an impact on the constituent institution.
38 This subdivision applies to verbal as well as recorded votes. By way of example
39 but not limitation, the nature of a vote includes for, against, abstain, or absent.
- 40 (4) If the individual identified in subdivision (1) of this subsection considers the
41 information requested under subdivision (2) or (3) of this subsection to be
42 confidential, the chancellor shall indicate the same in the report and shall
43 include the specific authority that is the basis for the confidentiality.
- 44 (b) If the President or any member of the Board has reason to believe a chancellor or any
45 employee, staff member, or faculty member is not complying with the reporting requirements of
46 subsection (a) of this section, the President or the member of the Board shall notify the chairs of
47 the Senate Appropriations Committee on Education/Higher Education and the chairs of the House
48 Education/Higher Education Appropriations Committee. The notification shall be written and
49 must be submitted within 30 days of the President or the member of the Board becoming aware of
50 the potential noncompliance.

1 (c) The information contained in the report required by subsection (a) of this section is not
2 confidential. The report required in subsection (a) of this section and any notification given
3 pursuant to subsection (b) of this section are public records as defined in G.S. 132-1.

4 (d) As used in this section, the term "intercollegiate athletic association" means the
5 National Collegiate Athletic Association and all member conferences."

6 **SECTION 3.** This act is effective when it becomes law.