

The Senate Ethics Committee offered the following substitute to SB 285:

A BILL TO BE ENTITLED
AN ACT

1 To be known as the "Financial Disclosure Reform Act of 2002"; to provide a short title; to
2 amend Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in
3 government, so as to provide for additional duties of the State Ethics Commission; to provide
4 for the timely issuance of advisory opinions by the State Ethics Commission; to change the
5 provisions relating to the filing of financial disclosure statements, the persons required to file
6 financial disclosure statements, and the contents thereof; to require the filing of such
7 statements by electronic means; to provide for lobbyist registration and reporting for persons
8 engaged in attempting to influence state purchasing; to define terms; to change the provisions
9 relating to lobbyist disclosure reports and the contents thereof; to provide for electronic filing
10 of lobbyist disclosure reports; to amend Code Section 45-10-26 of the Official Code of
11 Georgia Annotated, relating to yearly disclosure statements of public officials and employees
12 concerning business transactions with the state, so as to change the date for the filing of such
13 disclosure statements; to provide an effective date and for applicability; to repeal conflicting
14 laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:
16

17 **SECTION 1.**

18 This Act shall be known and may be cited as the "Financial Disclosure Reform Act of 2002."

19 **SECTION 2.**

20 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in
21 government, is amended by striking paragraph (13) of subsection (b) of Code Section 21-5-6,
22 relating to the powers and duties of the State Ethics Commission, and inserting in its place
23 the following:

24 "(13) To issue, upon request, and publish receipt of written requests based on real or
25 hypothetical circumstances, advisory opinions on the requirements of this chapter, ~~based~~

1 ~~on a real or hypothetical set of circumstances~~ within 60 days of receipt of each such
 2 request for advisory opinion;

3 SECTION 3.

4 Said chapter is further amended by striking subsection (b) of Code Section 21-5-50, relating
 5 to filing of financial disclosure statements by public officers and candidates for public office,
 6 and inserting in its place the following:

7 "(b) A financial disclosure statement shall be in the form specified by the commission and
 8 shall identify:

9 (1) Each monetary fee or honorarium ~~of \$101.00 or less~~ which is accepted by a public
 10 officer from speaking engagements, participation in seminars, discussion panels, or other
 11 activities which directly relate to the official duties of the public officer or the office of
 12 the public officer, with a statement identifying the fee or honorarium accepted and the
 13 person from whom it was accepted;

14 (2) Each monetary fee or honorarium of more than \$101.00 which is accepted by a
 15 public officer who holds office on a full-time basis from speaking engagements,
 16 participation in seminars, discussion panels, or other activities that is not directly related
 17 to the official duties of the public officer or the office of the public officer, with a
 18 statement identifying the fee or honorarium accepted and the person or entity from whom
 19 it was accepted;

20 ~~(2)~~(3) All fiduciary positions held by the candidate for public office or the public officer,
 21 with a statement of the title of each such position, the name and address of the business
 22 entity, and the principal activity of the business entity;

23 ~~(3)~~(4) The name, address, and principal activity of any business entity and the office held
 24 by and the duties of the candidate for public office or public officer within such business
 25 entity as of December 31 of the covered year in which such candidate or officer has a
 26 direct ownership interest which interest:

27 (A) Is more than ~~10~~ 5 percent of the total interests in such business; or

28 (B) Has a net fair market value of more than \$20,000.00;

29 ~~(4)~~(5) Each tract of real property in which the candidate for public office or public
 30 officer has a direct ownership interest or purchase option as of December 31 of the
 31 covered year when that interest has a ~~net~~ fair market value in excess of \$20,000.00. As
 32 used in this paragraph, the term '~~net~~ fair market' value means the appraised value of the
 33 property for ad valorem tax purposes ~~less any indebtedness thereon~~. The disclosure shall
 34 contain the county and state and general location ~~therein where the property is located~~
 35 description of the property;

1 (6) The filer's occupation, employer, and the principal activity and address of such
2 employer;

3 (7) The filer shall name any business or subsidiary thereof in which the filer's spouse or
4 children, siblings, and parents, jointly or severally, own 5 percent or more or in which the
5 filer's spouse or any child, sibling, or parent serves as an officer, director, equitable
6 partner, trustee, or consultant;

7 (8) If the filing public official or his or her spouse has engaged as an individual or
8 partner, but in a capacity other than as an employee, in a business during the last
9 reporting year which provides legal, investment, accounting, medical or health related,
10 real estate, banking, insurance, educational, farming, engineering, architectural,
11 construction, or other professional services or consultations, then the filing party shall
12 report each category from which the income received from all combined clients in such
13 category exceeds \$10,000.00. Such categories shall be established by rule of the
14 commission and may include a stock investment portfolio, electric utilities, gas utilities,
15 telephone utilities, water utilities, cable television companies, intrastate transportation
16 companies, pipeline companies, oil or gas exploration companies or both, oil and gas
17 retail companies, banks, savings and loan associations, loan or finance companies or both,
18 manufacturing firms, mining companies, life insurance companies, casualty insurance
19 companies, other insurance companies, retail companies, beer, wine, or liquor companies
20 or distributors or any combination thereof, trade associations, professional associations,
21 governmental associations, associations of public employees or public officials, and
22 counties;

23 (9) The name and address of any person or entity, other than one required to file a
24 disclosure report under Code Section 21-5-73, if such person has transacted business with
25 the state or has sought or seeks any administrative or legislative action by any state
26 official and which makes an expenditure exceeding \$101.00, excluding meals, in the
27 aggregate during a calendar year payable to or for the benefit of the candidate or public
28 officer or his or her spouse, together with a description, date, and amount of the
29 expenditure. The candidate or public officer shall exclude from the information required
30 by this paragraph any gifts to the candidate or public officer from his or her spouse,
31 parents, grandparents, siblings, or children or the spouse, parents, grandparents, siblings,
32 or children of any of them. For the purposes of this paragraph, the term 'expenditure'
33 shall have the meaning as provided in paragraph (1) of Code Section 21-5-70, excluding
34 division (x) of subparagraph (E) of said paragraph;

35 ~~(5)~~(10) All annual payments in excess of \$20,000.00 received by the public officer or
36 any business entity identified in paragraph ~~(3)~~ (4) of this subsection from the state, any

1 agency, department, commission, or authority created by the state, and authorized and
 2 exempted from disclosure under Code Section 45-10-25, and the agency, department,
 3 commission, or authority making the payments, and the general nature of the
 4 consideration rendered for the source of the payments; and

5 ~~(6)~~(11) No form prescribed by the commission shall require more information or specify
 6 more than provided in the several paragraphs of this Code section with respect to what
 7 is required to be disclosed."

8 **SECTION 4.**

9 Said chapter is further amended by adding to Code Section 21-5-50, relating to filing of
 10 financial disclosure statements by public officers and candidates for public office, a new
 11 subsection (d) to read as follows:

12 "(d) Beginning January 1, 2004, all state-wide elected officials and members of the
 13 General Assembly required to file financial disclosure statements shall use electronic
 14 means to file their financial disclosure statements. Prior to such date electronic filing of
 15 financial disclosure statements by such persons is permitted and encouraged but not
 16 required."

17 **SECTION 5.**

18 Said chapter is further amended by striking paragraphs (6) and (7) of Code Section 21-5-70,
 19 relating to definitions applicable to said article, and inserting in their place new paragraphs
 20 (6), (7), and (8) to read as follows:

21 "(6) 'Lobbyist' means:

22 (A) Any natural person who, for compensation, either individually or as an employee
 23 of another person, undertakes to promote or oppose the passage of any legislation by
 24 the General Assembly, or any committee thereof, or the approval or veto of legislation
 25 by the Governor;

26 (B) Any natural person who makes a total expenditure of more than \$250.00 in a
 27 calendar year, not including the person's own travel, food, lodging expenses, or
 28 informational material to promote or oppose the passage of any legislation by the
 29 General Assembly, or any committee thereof, or the approval or veto of legislation by
 30 the Governor;

31 (C) Any natural person who as an employee of the executive branch or judicial branch
 32 of state government engages in any activity covered under subparagraph (A) of this
 33 paragraph;

1 (D) Any natural person who, for compensation, either individually or as an employee
 2 of another person, undertakes to promote or oppose the passage of any ordinance or
 3 resolution by a public officer specified under subparagraph (F) or (G) of paragraph (15)
 4 of Code Section 21-5-3, or any committee of such public officers, or the approval or
 5 veto of any such ordinance or resolution;

6 (E) Any natural person who makes a total expenditure of more than \$250.00 in a
 7 calendar year, not including the person's own travel, food, lodging expenses, or
 8 informational material to promote or oppose the passage of any ordinance or resolution
 9 by a public officer specified under subparagraph (F) or (G) of paragraph (15) of Code
 10 Section 21-5-3, or any committee of such public officers, or the approval or veto of any
 11 such ordinance or resolution; or

12 (F) Any natural person who as an employee of the executive branch or judicial branch
 13 of local government engages in any activity covered under subparagraph (D) of this
 14 paragraph; or

15 (G) Any natural person who, for compensation, either individually or as an employee
 16 of another person undertakes to influence a public officer or public body in the
 17 selection of a vendor to supply any goods or services to any state agency but does not
 18 include a person solely on the basis that such person participates in preparing a written
 19 bid, written proposal, or other document relating to a potential sale to a state agency.

20 (7) 'Public officer' means those public officers specified under subparagraphs (A)
 21 through (G) of paragraph (15) of Code Section 21-5-3, as amended, except as otherwise
 22 provided in this article and also includes any public officer or employee who has any
 23 discretionary authority over, or is a member of a public body which has any discretionary
 24 authority over, the selection of a vendor to supply any goods or services to any state
 25 agency.

26 (8) 'State agency' means any agency, authority, department, board, bureau, commission,
 27 council, corporation, authority, entity, or instrumentality of the state but does not include
 28 a local political subdivision, such as a county, city, or local school district or an
 29 instrumentality of such a local political subdivision."

30 SECTION 6.

31 Said chapter is further amended by striking subsection (a) of Code Section 21-5-73, relating
 32 to lobbyist disclosure reports, and inserting in its place the following:

33 "(a) Each lobbyist registered under this article shall file disclosure reports as provided for
 34 in this Code section. Beginning January 1, 2004, such reports shall be filed by electronic
 35 means."

SECTION 7.

Said chapter is further amended by striking subsection (d) of Code Section 21-5-73, relating to lobbyist disclosure reports, and inserting in its place the following:

"(d) Reports filed by lobbyists shall be verified and shall include:

(1) A description of all expenditures, as defined in Code Section 21-5-70, or the value thereof made by the lobbyist, ~~or employees of the lobbyist,~~ or employer of the lobbyist on behalf or for the benefit of a public officer. The description of each reported expenditure shall include:

(A) The name and title of the public officer or, if the expenditure is simultaneously incurred for an identifiable group of public officers the individual identification of whom would be impractical, a general description of that identifiable group;

(B) The amount, date, and description of the expenditure;

(C) The provisions of Code Section 21-5-70 notwithstanding, aggregate expenditures described in divisions (1)(E)(vii) and (1)(E)(x) of Code Section 21-5-70 incurred during the reporting period; provided, however, expenses for travel and for food, beverage, and lodging in connection therewith afforded a public officer shall be reported in the same manner as under subparagraphs (A), (B), and (D) of this paragraph; and

(D) If applicable, the number of the bill, resolution, ordinance, or regulation pending before the governmental entity in support of or opposition to which the expenditure was made; and

(2) The names of any members of the immediate family of a public officer employed by or whose professional services are paid for by the lobbyist during the reporting period."

SECTION 8.

Said chapter is further amended by adding at the end of Code Section 21-5-73, relating to lobbyist disclosure reports, a new subsection (e) to read as follows:

"(e) The reports required by this Code section shall be in addition to any reports required under Code Section 45-1-6, relating to required reports by state vendors of gifts to state employees. Compliance with this Code section shall not excuse noncompliance with that Code section, and compliance with that Code section shall not excuse noncompliance with this Code section, notwithstanding the fact that in some cases the same information may be required to be disclosed under both Code sections."

SECTION 9.

Code Section 45-10-26 of the Official Code of Georgia Annotated, relating to yearly disclosure statements of public officials and employees concerning business transactions with

1 the state, is amended by striking subsection (a) of said Code section and inserting in its place
2 the following:

3 "(a) Except as provided in subsection (b) of this Code section, any public official or
4 employee, whether for himself or herself or on behalf of any business, or any business in
5 which such public official or employee or any member of his or her family has a substantial
6 interest who transacts business with the state or any agency thereof shall disclose such
7 transactions. Such disclosure shall be submitted ~~prior to January 31~~ not before the first day
8 of January nor later than July 1 of each year to the Secretary of State on such forms as he
9 or she shall prescribe and shall include an itemized list of the previous year's transactions
10 with the dollar amount of each transaction reported and totaled. Such disclosure statements
11 shall be public records."

12 **SECTION 10.**

13 This Act shall become effective on January 1, 2003, and apply to all reports due that year and
14 in subsequent years thereto.

15 **SECTION 11.**

16 All laws and parts of laws in conflict with this Act are repealed.