

House Bill 326

By: Representatives Holmes of the 53rd, Teper of the 61st, Stuckey of the 67th, Drenner of the 66th, Childers of the 13th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to
2 elections, so as to create a voluntary system of full impartial public financing for primary,
3 general, and runoff campaigns; to require participation in debates and the broadcast thereof;
4 to require reporting of independent campaign expenditures and disbursements for issue
5 advertisements; to establish a voter information commission; to provide for sources of
6 revenue; to establish a limit on contributions to political parties; to establish and set forth
7 powers and procedures for the State Elections Board; to provide for enforcement and
8 penalties; to provide for related matters; to provide an effective date; to repeal conflicting
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 (a) The General Assembly of Georgia finds and declares that the current system of
13 privately financed campaigns for election to state-wide and legislative offices undermines
14 democracy in Georgia in the following principal ways:

15 (1) It violates the democratic principal of "one person, one vote" and diminishes the
16 meaning of the right to vote by allowing large contributions to have a deleterious
17 influence on the political process.

18 (2) It violates the rights of all citizens to equal and meaningful participation in the
19 democratic process.

20 (3) It diminishes the free speech rights of nonwealthy voters and candidates whose
21 voices are drowned out by those who can afford to monopolize the arena of paid political
22 communications.

23 (4) It undermines the First Amendment right of voters and candidates to be heard in the
24 political process; it undermines the First Amendment right of voters to hear all

1 candidates' speech; and it undermines the core First Amendment value of open and
2 robust debate in the political process.

3 (5) It fuels the public perception of corruption and undermines public confidence in the
4 democratic process and democratic institutions.

5 (6) It diminishes elected officials' accountability to their constituents by compelling them
6 to be disproportionately accountable to the major contributors who finance their election
7 campaigns.

8 (7) It creates a danger of the perception of corruption by encouraging elected officials
9 to take money from private interests that are directly affected by governmental actions.

10 (8) It costs taxpayers millions of dollars for the legislative and regulatory decisions made
11 by elected officials on behalf of major campaign contributors.

12 (9) It drives up the cost of election campaigns, making it difficult for qualified candidates
13 without access to large contributors or personal fortunes to mount competitive campaigns.

14 (10) It disadvantages challengers because large campaign contributors tend to give their
15 money to incumbents, thus causing elections to be less competitive.

16 (11) It inhibits communication with the electorate by candidates without access to large
17 sums of campaign money.

18 (12) It burdens candidates with the incessant rigors of fundraising and this decreases the
19 time available to carry out their public responsibilities.

20 (b) The General Assembly of Georgia finds and declares that providing a voluntary clean
21 money campaign finance system for all primary, general, and runoff elections would
22 enhance democracy in Georgia in the following principal ways:

23 (1) It would help eliminate the deleterious influence of large contributions on the
24 political process, remove access to wealth as a major determinant of a citizen's influence
25 within the political process, and restore meaning to the principle of "one person, one
26 vote."

27 (2) It would help restore the rights of all citizens to equal and meaningful participation
28 in the democratic process.

29 (3) It would restore the free speech rights of nonwealthy candidates and voters by
30 providing candidates with the equal resources with which to communicate with the
31 voters.

32 (4) It would help restore the First Amendment right of voters and candidates to be heard
33 in the political process; it would help restore the First Amendment right of voters to hear
34 all candidates' speech; and it would help restore the core First Amendment value of open
35 and robust debate in the political process.

36 (5) It would diminish the public perception of corruption and strengthen public
37 confidence in the democratic process and democratic institutions.

1 (6) It would increase the accountability of elected officials to the constituents who elect
2 them.

3 (7) It would eliminate the danger of actual corruption caused by the private financing of
4 the election campaigns of public officials, thus restoring public confidence in the fairness
5 of the electoral and legislative processes.

6 (8) It would save taxpayers millions of dollars now wasted due to legislative and
7 regulatory decisions made on behalf of major campaign contributors.

8 (9) It would halt and reverse the escalating cost of elections.

9 (10) It would create a more level playing field for incumbents and challengers, create
10 genuine opportunities for qualified Georgians to run for state-wide or legislative office,
11 and encourage more competitive elections.

12 (11) It would facilitate communication with the electorate by candidates, regardless of
13 their access to large sums of campaign money.

14 (12) It would free candidates from the incessant rigors of raising money and allow them
15 more time to carry out their official duties.

16 (c) The General Assembly of Georgia further finds and declares that the unique factual
17 circumstances in the State of Georgia require that the provisions of this Act be enacted to
18 promote the compelling state interests listed in subsection (b) above. The Act's provisions
19 are designed to create a rough proportionality between the benefits and restrictions that
20 apply to participating candidates. However, it should be clear that the Act is not entirely
21 neutral. Participating candidates are deliberately favored to further the compelling state
22 interest of encouraging participation in the impartial public financing scheme.

23 **SECTION 2.**

24 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to elections, is
25 amended by inserting new Article 1A after Article 1 to read as follows:

26 "ARTICLE 1A

27 21-5-15.

28 As used in this article, the term:

29 (1) 'Allowable contribution' means a qualifying contribution or a seed money
30 contribution.

31 (2) 'Clean money qualifying period' means the period during which all prospective clean
32 money candidates are permitted to collect qualifying contributions in order to qualify for
33 clean money funding. For candidates for state-wide office, the period begins 180 days
34 prior to the beginning of the primary election campaign period and ends 30 days before

1 the beginning of the primary election campaign period. For candidates for all other
2 offices, the period begins 160 days before the beginning of the primary election campaign
3 period.

4 (3) 'Excess expenditure amount' means the amount of money spent or obligated to be
5 spent by a nonparticipating candidate in excess of the clean money amount available to
6 a participating candidate running for the same office.

7 (4) 'General election campaign period' means the period beginning the day after the
8 primary election and ending on the day of the general election.

9 (5) 'Immediate family' means the candidate's spouse and children.

10 (6) 'Independent candidate' means a candidate who does not represent a political party
11 that has been granted ballot status and holds a primary election or caucus to choose its
12 nominee for the general election.

13 (7) 'Mass mailings' means mailings of 200 or more identical or nearly identical pieces
14 of mail sent by candidates or elected officials to voters, residents, or postal box holders
15 within the jurisdiction that the candidates or elected officials are seeking to represent or
16 represent. Such mailings include substantially identical letters, newsletters, pamphlets,
17 brochures, or other written material. 'Mass mailings' does not include mailings made in
18 direct response to communications from persons or groups to whom the matter is mailed;
19 mailings to federal, state, or local government officials; or news releases to the
20 communications media.

21 (8) 'Minor party candidate' means a candidate who represents a political party that has
22 been granted ballot status and holds a caucus to choose its nominee for the general
23 election.

24 (9) 'Nonparticipating candidate' means a candidate who is on the ballot but has chosen
25 not to apply for clean money campaign funding or a candidate who is on the ballot but
26 has not satisfied the requirements for receiving clean money funding.

27 (10) 'Participating candidate' means a candidate who qualifies for clean money campaign
28 funding. Such candidates are eligible to receive clean money funding during primary,
29 general, and runoff election campaign periods according to the terms of this article.

30 (11) 'Party candidate' means a candidate who represents a political party that has been
31 granted ballot status and holds a primary election to choose its nominee for the general
32 election.

33 (12) 'Person' means an individual, proprietorship, firm, partnership, joint venture,
34 syndicate, business trust, company, corporation, limited liability company, association,
35 committee, or any other organization or group of persons acting in concert.

36 (13) 'Primary election campaign period' means the period beginning 90 days before the
37 primary election and ending on the day of the primary election.

1 (14) 'Qualifying contribution' means a \$5.00 contribution made to a candidate during the
2 clean money qualifying period by a registered voter who resides within the candidate's
3 electoral district or, for state-wide candidates, within the state, and who has not given
4 another qualifying contribution to that candidate during the current election cycle.

5 (15) 'Run-off election campaign period' means the period beginning the day after a
6 primary or general election that resulted in the need for a run-off primary or election and
7 ending on the day of the run-off primary or election.

8 (16) 'Seed money contribution' means a contribution to a prospective clean money
9 candidate of no more than \$100.00 made by an individual during the seed money period.
10 'Seed money contribution' does not include payments by a membership organization for
11 the costs of communications to its members; payments by a membership organization of
12 the purpose of facilitating the making of qualifying contributions; or volunteer activity,
13 including the payment of incidental expenses by volunteers.

14 (17) 'Seed money period' means the period beginning the day following the previous
15 general election for an office and ending on the last day of the clean money qualifying
16 period. This is the exploratory period during which candidates who wish to become
17 eligible for clean money funding for the next elections are permitted to raise and spend
18 a limited amount of seed money, in contributions of up to \$100.00 per individual, for the
19 purpose of 'testing the waters' and fulfilling the clean money eligibility requirements.

20 (18) 'Soft money' means money raised by political parties that is unregulated by state
21 law.

22 (19) 'State Elections Board' means the governmental agency authorized to administer and
23 enforce election laws under Chapter 2 of Title 21 of the Code.

24 (20) 'Volunteer activities' means:

25 (A) Services provided without compensation by individuals who volunteer a portion
26 or all of their time on behalf of a candidate or political committee;

27 (B) The use of real or personal property and the cost of invitations, food, and
28 beverages, voluntarily provided by an individual to a candidate in rendering voluntary
29 personal services for candidate related activities, if the cumulative value of these
30 activities by the individual on behalf of any candidate does not exceed \$50.00 with
31 respect to any election;

32 (C) The sale of any food or beverage by a vendor for use in a candidate's campaign at
33 a charge less than the normal comparable charge, if the charge to the candidate is at least
34 equal to the cost of the food and beverages to the vendor and if the cumulative value
35 of the food and beverages does not exceed \$50.00 with respect to any election; and

1 (D) Any unreimbursed travel expenses incurred and paid for by an individual who
2 volunteers personal services to a candidate, if the cumulative amount of these expenses
3 does not exceed \$50.00 with respect to any election.

4 21-5-16.

5 (a) A party candidate qualifies as a participating candidate for the primary election
6 campaign period:

7 (1) If the candidate files a declaration with the State Elections Board that the candidate
8 has complied and will comply with all of the requirements of this article, including the
9 requirement that, during the seed money period and the clean money qualifying period,
10 the candidate will not accept or spend private contributions from any source other than
11 seed money contributions or clean money qualifying contributions, except as provided
12 in this Code section; and

13 (2) If the candidate meets the following qualifying contribution requirements before the
14 close of the clean money qualifying period:

15 (A) A party candidate must collect at least the following number of qualifying
16 contributions:

17 (i) Candidates for the office of Governor: 6,000;

18 (ii) Candidates for state-wide offices other than Governor or Justice of the Supreme
19 Court or Judge of the Court of Appeals: 3,500;

20 (iii) Candidates for the office of state Senator: 500;

21 (iv) Candidates for the office of state Representative: 200; and

22 (B) Each qualifying contribution:

23 (i) Shall be acknowledged by a receipt to the contributor, with a copy to be kept by
24 the candidate and a third copy to be submitted to the State Elections Board. The
25 receipt shall indicate, by the contributor's signature, that the contributor understands
26 that the purpose of the contribution is to help the candidate qualify for clean money
27 campaign funding. The receipt shall include the contributor's signature, printed
28 name, home address, and telephone number, and the name of the candidate on whose
29 behalf the contribution is made; and

30 (ii) Shall be submitted, with a signed and completed receipt, to the State Elections
31 Board according to a schedule and procedure established by the State Elections
32 Board. A contribution submitted as a qualifying contribution that does not include a
33 signed and completed receipt shall not be counted as a qualifying contribution.

34 (b) A party candidate qualifies as a participating candidate for the general election
35 campaign period if:

1 (1) The candidate has met all of the applicable requirements and filed a declaration with
2 the State Elections Board that the candidate has fulfilled and will fulfill all of the
3 requirements of a participating candidate as provided in this article; and

4 (2) As a participating candidate during the primary election campaign period, the
5 candidate had the highest number of votes of the candidates contesting the primary
6 election from the candidate's respective party and won the party's nomination for the
7 office which the candidate was offering.

8 (c) A minor party candidate and an independent candidate qualifies as a participating
9 candidate for the general election campaign period:

10 (1) If the candidate files a declaration with the State Elections Board that the candidate
11 has complied and will comply with all of the requirements of this chapter, including the
12 requirement that, during the seed money period and the clean money qualifying period,
13 the candidate will not accept or spend private contributions from any source other than
14 seed money contributions and clean money qualifying contributions, except as provided
15 in this Code section; and

16 (2) If the candidate meets the following qualifying contribution requirements before the
17 close of the clean money qualifying period:

18 (A) A minor party candidate and an independent candidate shall collect the same
19 number of qualifying contributions as a party candidate shall collect of the same office;
20 and

21 (B) Each qualifying contribution:

22 (i) Shall be acknowledged by a receipt to the contributor, with a copy to be kept by
23 the candidate and a third copy to be submitted to the State Elections Board. The
24 receipt shall indicate, by the contributor's signature, that the contributor understands
25 that the purpose of the contribution is to help the candidate qualify for clean money
26 campaign funding. The receipt shall include the contributor's signature, printed
27 name, home address, and telephone number, and the name of the candidate on whose
28 behalf the contribution is made; and

29 (ii) Shall be submitted, with a signed and completed receipt, to the State Elections
30 Board according to a schedule and procedure established by the State Elections
31 Board. A contribution submitted as a qualifying contribution that does not include a
32 signed and completed receipt shall not be counted as a qualifying contribution.

33 (c) During the election cycle in effect on January 1, 2002, a candidate may be certified as
34 a participating candidate notwithstanding that the candidate accepted contributions or made
35 expenditures from private funds before such date which would, except for this subsection,
36 disqualify the candidate as a participating candidate; provided, that any private funds

1 accepted but not expended as of such date shall be returned to the contributor or submitted
2 to the State Elections Board for deposit in the clean money fund.

3 21-5-17.

4 (a) During the primary, general, and run-off election campaign periods, a participating
5 candidate who has voluntarily agreed to participate in and has become eligible for clean
6 money benefits shall not accept private contributions from any source other than the
7 candidate's political party as specified in Code Section 21-5-23. The term 'private
8 contributions' as used in this subsection specifically excludes volunteer activity, including
9 the payment of incidental expenses by volunteers, and nonpartisan and noncandidate
10 specific voter registration and get out the vote activities conducted by individuals and
11 organizations.

12 (b) No person shall make a contribution in the name of another person. A participating
13 candidate who knowingly receives a qualifying contribution or a seed money contribution
14 that is not from the person listed on the receipt required by Code Section 21-2-16 and this
15 Code section shall be liable to pay the State Elections Board the entire amount of the
16 laundered contribution, in addition to any penalties.

17 (c) During the primary, general, and run-off election campaign periods, a participating
18 candidate shall pay for all of his or her campaign expenditures, except petty cash
19 expenditures as defined in this article, by means of the candidate's clean election campaign
20 account, as authorized by Code Section 21-5-22.

21 (d) Eligible candidates shall furnish complete campaign records, including all records of
22 seed money contributions and qualifying contributions, to the State Elections Board at
23 regular filing times and on request by the State Elections Board. Candidates must cooperate
24 with any audit or examination by the State Elections Board.

25 (e) Personal funds contributed as seed money by a candidate seeking to become eligible
26 as a participating candidate or by adult members of the candidate's immediate family shall
27 not exceed the maximum of \$100.00 per contributor.

28 (f) Personal funds shall not be used to meet the qualifying contribution requirement except
29 that the candidate may accept a \$5.00 contribution from himself or herself and a \$5.00
30 contribution from his or her spouse, provided, that the candidate and the candidate's spouse
31 are registered voters who reside in the candidate's electoral district.

32 (g) The only private contributions a candidate seeking to become eligible for clean money
33 funding shall accept, other than qualifying contributions, are seed money contributions
34 contributed by individual adults prior to the end of the clean money qualifying period.

1 (h) A seed money contribution shall not exceed \$100.00 and the aggregate of seed money
2 contributions accepted by a candidate seeking to become eligible for clean money funding
3 shall not exceed:

4 (1) \$200,000.00 for candidates for the office of Governor;

5 (2) \$100,000.00 for candidates for state-wide offices other than Governor or Justice of
6 the Supreme Court or Judge of the Court of Appeals;

7 (3) \$8,000.00 for candidates for the office of state Senator; and

8 (4) \$4,000.00 for candidates for the office of state Representative.

9 (i) Receipts for seed money contributions of less than \$25.00 shall only include the
10 contributor's signature, printed name, and home address. Receipts for seed money
11 contributions of \$25.00 or more shall include the contributor's signature, printed name, and
12 street address and ZIP Code, telephone number, occupation, and name of employer.
13 Contributions shall not be accepted if the required disclosure information is not received.

14 (j) Seed money contributions shall be spent only during the clean money qualifying period.
15 Seed money shall not be spent during the primary, general, and run-off election campaign
16 periods.

17 (k) Within 72 hours after the close of the clean money qualifying period, candidates
18 seeking to become eligible for clean money funding shall fully electronically report in
19 compliance with the provisions of this chapter all seed money contributions and
20 expenditures to the State Elections Board and shall turn over any seed money contributions
21 raised by the candidate during the designated seed money period that exceeds the aggregate
22 seed money amount to the State Elections Board for deposit into the clean money fund.

23 (l) Participating candidates for state-wide constitutional office in contested races shall
24 participate in a one hour debate during a contested primary election, a one hour debate
25 during a contested general election, and a one hour debate during a run-off election.
26 Licensed broadcasters that receive support from the State of Georgia shall be required to
27 broadcast these debates publicly. Nonparticipating candidates for the same office whose
28 names appear on the ballot shall be invited to join the debates.

29 (m) All broadcast and print advertisements placed by participating candidates or their
30 committees shall include a clearly spoken or written statement indicating that the candidate
31 has approved of the contents of the advertisement.

32 (n) Not more than five days after a candidate applies for clean money benefits, the State
33 Elections Board shall certify whether the candidate is eligible for such benefits. Eligibility
34 can be revoked if the candidate violates the requirements of this article, in which case all
35 clean money funds shall be repaid. The candidate's request for certification shall be signed
36 by the candidate and the candidate's campaign treasurer under penalty of perjury. The State
37 Elections Board's fully explained and documented determination is final.

1 (o) A participating candidate who accepts any benefits during the primary election
2 campaign period shall comply with all the requirements of this article through the general
3 election campaign period regardless of whether the candidate continues to accept benefits.

4 21-5-18.

5 (a) Candidates who qualify for clean money funding for primary, general, and run-off
6 elections shall:

7 (1) Receive clean money funding from the State Elections Board for each primary or
8 election in the amount specified in this Code section. This funding may be used to
9 finance any and all campaign expenses as provided in this Code section;

10 (2) Receive media benefits as provided in Code Section 21-5-21;

11 (3) When any nonparticipating candidate discloses excess spending under Code Section
12 21-5-19 or when the nonparticipating candidate's disclosed spending, in conjunction with
13 independent expenditures reported under Code Section 21-2-20 or determined to be
14 subject to matching funds under Code Section 21-2-30, exceeds the distribution under
15 this Code section, the State Elections Board shall issue immediately to the participating
16 candidates an additional amount equivalent to the reported excess. That additional
17 amount, however, shall be reduced by any independent expenditures made in support of
18 the participating candidate or in opposition to the nonparticipating candidate reported
19 under Code Section 21-5-20 or determined to be subject to matching funds under
20 21-5-20. Matching funds are limited to two times the amount originally distributed under
21 this article; and

22 (4) Receive additional clean money funding to match any independent expenditure made
23 in opposition to their candidacies or on behalf of their opponents' candidacies, as
24 specified in Code Section 21-5-20.

25 (b) The maximum aggregate amount of additional funding a participating candidate shall
26 receive to match independent expenditures and the excess expenditures of nonparticipating
27 candidates shall be 200 percent of the full amount of clean money funding allocated to a
28 participating candidate for a particular primary, general, or run-off election campaign
29 period.

30 (c) An eligible party candidate shall receive the candidate's clean money funding for the
31 primary election campaign period on the date on which the State Elections Board certifies
32 the candidate as a participating candidate. This certification shall take place no later than
33 five days after the candidate has submitted the required number of qualifying contributions
34 and a declaration stating that the candidate has complied with all other requirements for
35 eligibility as a participating candidate but no earlier than the beginning of the primary
36 election campaign period.

1 (d) An eligible party candidate shall receive the candidate's clean money funding for the
2 general or run-off election campaign period within 48 hours after certification of the
3 primary or general election results.

4 (e) An eligible independent candidate shall receive the candidate's clean money funding
5 for the primary election campaign period on the date on which the State Elections Board
6 certifies the candidate as a participating candidate. This certification shall take place no
7 later than five days after the candidate has submitted the required number of qualifying
8 contributions and a declaration stating that the candidate has complied with all other
9 requirements for eligibility as a participating candidate but no earlier than the beginning
10 of the primary election campaign period.

11 (f) An eligible independent candidate shall receive the candidate's clean money funding
12 for a general or run-off election campaign period within 48 hours after certification of the
13 general election results.

14 (g) The amount of clean money funding for an eligible party candidate in a contested
15 primary election is based on the average amount spent by all candidates regardless of party,
16 as determined by the Secretary of State's office, during the previous two contested primary
17 elections for that office. The clean money amount for an eligible party candidate in an
18 uncontested primary election is 25 percent of the amount provided in a contested primary
19 election. In a contested general election, if an eligible party candidate or all of the
20 candidates of the candidate's party combined received at least 20 percent of the total
21 number of votes cast for all candidates seeking that office in the immediately preceding
22 primary election or in the previous general election, the candidate shall receive the full
23 amount of clean money funding for the general election, which is based on the average
24 amount spent during the previous two contested general elections for that office. In a
25 contested general election, if an eligible party candidate or all of the candidates of the
26 candidate's party combined received at least 5 percent, but less than 20 percent, of the total
27 number of votes cast for all candidates seeking that office in the immediately preceding
28 primary election or in the previous general election, the candidate shall receive a portion
29 of the full amount of clean money based on the ratio that their vote percentage is to 20
30 percent. The clean money amount for an eligible party candidate in an uncontested general
31 election is 10 percent of the amount provided in a contested general election for the same
32 office. The clean money amount for an eligible party candidate in an uncontested election
33 is 10 percent of the amount provided in a contested general election for the same office.
34 The clean money amount for an eligible party candidate in a run-off election is 25 percent
35 of the amount provided in the preceding primary or general election that resulted in the
36 need for a run-off election.

1 (h) The clean money amount of an eligible minor party candidate and an independent
2 candidate during a primary election campaign period is 25 percent of the amount received
3 by a party candidate in a contested primary election. The clean money amount for an
4 eligible minor party candidate or independent candidate in the general election is the same
5 as the full amount received by a party candidate in the general election.

6 (i) After the first cycle of clean money elections, the State Elections Board shall modify
7 all clean money amounts based on the rate of inflation or the cost-of-living (COLA) index.

8 (j) The clean money funding received by a participating candidate shall be used only for
9 the purpose of defraying that candidate's campaign related expenses during the particular
10 election campaign period for which the clean money funding was allotted. Clean money
11 funding shall not be used in violation of the law or to repay any personal, family, or
12 business loans, expenditures, or debts.

13 21-5-19.

14 (a) Nonparticipating candidates shall disclose excess expenditures as follows:

15 (1) If a nonparticipating candidate's total expenditures exceed the amount of clean
16 money funding allocated to the candidate's clean money opponent or opponents, the
17 candidate shall declare every excess expenditure amount which, in the aggregate, is more
18 than \$1,000.00 to the State Elections Board within 48 hours of making such expenditure.

19 (2) During the 20 day period before the end of the relevant campaign period, a
20 nonparticipating candidate shall declare to the State Elections Board each excess
21 expenditure amount over \$500.00 within 24 hours of making or obligating the
22 expenditure.

23 (3) The State Elections Board may make its own determination as to whether excess
24 expenditures have been made by nonparticipating candidates.

25 (b) All broadcast and print advertisements placed by nonparticipating candidates or their
26 campaign committees shall include a clearly spoken or written statement indicating that the
27 candidate has approved of the contents of the advertisement.

28 21-5-20.

29 (a) The following terms shall have the following meanings in this Code section:

30 (1) 'Coordination' means a payment made for a communication or anything of value that
31 is for the purpose of influencing the outcome of a state election and that is made:

32 (A) By a person in cooperation, consultation, or concert with, at the request or
33 suggestion of, or pursuant to a particular understanding with a candidate, a candidate's
34 authorized committee, or an agent acting on behalf of a candidate or authorized
35 committee;

1 (B) By a person for the dissemination, distribution, or republication, in whole or in
2 part, of any broadcast or any written, graphic, or other form of campaign material
3 prepared by a candidate, a candidate's authorized campaign committee, or an agent of
4 a candidate or authorized committee;

5 (C) Based on specific information about the candidate's plans, projects, or needs
6 provided to the person making the payment by the candidate or candidate's agent who
7 provides the information with a view toward having the payment made;

8 (D) By a person if, in the same election cycle in which the payment is made, the person
9 making the payment is serving or has served as a member, employee, fundraiser, or
10 agent of the candidate's authorized committee in an executive or policy-making
11 position;

12 (E) By a person if the person making the payment has served in any formal policy or
13 advisory position with the candidate's campaign or has participated in strategic or
14 policy-making discussions with the candidate's campaign relating to the candidate's
15 pursuit of nomination for election or election to a state office in the same election cycle
16 as the election cycle in which the payment is made; or

17 (F) By a person if the person making the payment retains the professional services of
18 an individual or person who, in a non ministerial capacity, has provided or is providing
19 campaign related services in the same election cycle to a candidate who is pursuing the
20 same nomination or election as any of the candidates to whom the communication
21 refers.

22 (2)(A) 'Express advocacy' means a communication that is made through a broadcast
23 medium, newspaper, magazine, billboard, mass mailing, or similar type of general
24 public communication or political advertising that:

25 (i) Advocates the election or defeat of a clearly identified candidate, including any
26 communication that contains a phrase such as 'vote for,' 'reelect,' 'support,' 'cast your
27 ballot for,' '(name of candidate) for (name of office),' '(name of candidate) in (year),'
28 'vote against,' 'defeat,' 'reject,' etc.; or

29 (ii) Contains campaign slogans or words that in context of the advertisement can have
30 no reasonable meaning other than to recommend the election or defeat of one or more
31 clearly identified candidates in that the advertisement refers to one or more clearly
32 defined candidates, targets the electorate for that election, costs at least \$400.00, and
33 occurs within 60 days before an election in which that candidate is running. The
34 person or group making the independent expenditure shall have a right to show why
35 the communication should not be considered an independent expenditure.

1 (B) 'Express advocacy' does not include:

2 (i) Any news story, commentary, or editorial by a broadcasting station, newspaper,
3 magazine, or other publication, provided such entity is not owned by or affiliated with
4 any candidate, candidate committee, or political party; or

5 (ii) A regularly published newsletter or other communication whose circulation is
6 limited to an organization's members, employees, shareholders, other affiliated
7 individuals, and those who request or purchase the internal publication.

8 (3) 'Independent expenditure' means an expenditure made by a person or group other
9 than a candidate or candidate's authorized committee that is made for a communication
10 that contains express advocacy and is made without the participation or cooperation of
11 and without coordination with a candidate or candidate committee.

12 (4) 'Professional services' means services in support of a candidate's pursuit of
13 nomination for election or election to public office such as polling, media advice, direct
14 mail, fund raising, or campaign research.

15 (b)(1) Any person or persons who make or obligate themselves to make an independent
16 expenditure during a primary, general, or run-off election campaign period which, in the
17 aggregate, exceeds \$500.00 for a campaign for the office of state Representative, \$750.00
18 for a campaign for the office of state Senator, or \$1,500.00 for a campaign for a
19 state-wide office shall report each expenditure within 48 hours to the State Elections
20 Board. The report to the State Elections Board shall include a statement, under penalty
21 of perjury, by the person or persons making the independent expenditure identifying the
22 candidate whom the independent expenditure is intended to help elect or defeat and
23 affirming that the expenditure is totally independent and involves no cooperation or
24 coordination with a candidate or a political party. The person or groups making
25 independent expenditures must identify all their contributors who contributed over
26 \$100.00 by name and address. An individual or organization may file a complaint with
27 the State Elections Board if the candidate or the organization believes that such a
28 statement is false. The State Elections Board shall make a prompt determination about
29 such a complaint.

30 (2) Any person or persons who make or obligate themselves to make an independent
31 expenditure during the last 20 days before the end of the relevant campaign period which,
32 in the aggregate, exceeds \$500.00 for a campaign for the office of state Representative,
33 \$750.00 for a campaign for the office of state Senator, or \$1,500.00 for a campaign for
34 a state-wide office shall report each expenditure within 24 hours to the State Elections
35 Board.

1 (c) For the purposes of this article, a candidate centered advertisement is a communication
2 through a broadcasting station, newspaper, magazine, outdoor advertising facility, mailing,
3 or any other type of general public political advertising:

4 (1) The purchase of which is not an independent expenditure or a contribution;

5 (2) That costs, in the aggregate, \$500.00 for a campaign for the office of state
6 Representative, \$750.00 for a campaign for the office of state Senator, or \$1,500.00 for
7 a campaign for a state-wide office;

8 (3) That contains the name or likeness of one or more candidates;

9 (4) That occurs 60 days before an election involving the candidate named in the
10 communication; and

11 (5) That recommends a position on a political issue.

12 (d) A person that makes or obligates himself or herself to purchase a candidate centered
13 advertisement shall file a report with the State Elections Board not later than 48 hours after
14 making or obligating himself or herself to make the disbursement containing the following
15 information:

16 (1) The amount of the disbursement;

17 (2) The name and address of the person making the disbursement; and

18 (3) The purpose of the candidate centered advertisement.

19 (e) Upon receiving a report that a candidate centered advertisement has been made or
20 obligated to be made and upon a determination that the advertisement can reasonably be
21 interpreted as having the effect of promoting the defeat of a participating candidate or the
22 election of that candidate's opponent, the State Elections Board shall immediately release
23 to that candidate additional clean money funding, equal in amount to the cost of the
24 advertisement.

25 21-5-21.

26 (a) The office of the Secretary of State shall establish and administer a nonpartisan voter
27 information commission consisting of Representatives of nonprofit organizations, political
28 parties, the media, and interested citizens. The voter information commission shall be
29 authorized to establish a voter information program for the purposes of providing voters
30 with election related information and fostering political dialogue and debate. The voter
31 information commission shall organize the publication and distribution of a voter
32 information guide that includes important information about candidates appearing on the
33 ballot including biographical material submitted by the candidates; whether candidates are
34 funding their campaigns with public money or private money, policy statements by the
35 candidates and their political parties on issues designated by the commission and other
36 issues; and, when pertinent, candidates' voting records. Publicly financed candidates are

1 allowed to place brief campaign statements in the state's voter information pamphlet at no
2 cost. Privately financed candidates, however, shall pay a pro rata cost to have their
3 statements appear in the pamphlet.

4 (b) All television and radio broadcast stations that receive funding from the State of
5 Georgia shall make available, as a condition of their continued funding, free coverage for
6 debates between and among candidates for state-wide constitutional office in contested
7 primary, general, and run-off elections. At a minimum, broadcasters shall broadcast and
8 participating candidates shall participate in a one hour debate during a contested primary
9 election, a one hour debate during a contested general election, and a one hour debate
10 during a run-off election. All participating candidates shall participate in the debates, and
11 all nonparticipating candidates for the same office whose names will appear on the ballot
12 must be invited to join the debates.

13 (c) The State Elections Board shall inform voters which candidates have qualified for and
14 accepted clean money funding by placing the following sentence below the name of each
15 participating candidate on the ballot: 'This candidate is participating in Georgia's voluntary
16 impartial full public financing program.'

17 21-5-22.

18 (a) A special, dedicated, nonlapsing clean money fund shall be established by the General
19 Assembly for the purpose of:

20 (1) Providing impartial public financing for the election campaigns of certified
21 participating candidates during primary, general, and run-off campaign periods; and

22 (2) Paying for the administrative and enforcement costs of the State Elections Board
23 related to this article.

24 (b)(1) The General Assembly is authorized to appropriate funds which, when added to
25 the revenue described in paragraph (2) of this subsection, will be sufficient to fully carry
26 out the activities outlined in this article. Such appropriated funds shall be deposited in the
27 clean money fund.

28 (2) Other sources of revenue to be deposited in the fund shall include:

29 (A) The qualifying contributions of candidates seeking to become certified as
30 participating candidates and candidates' excess qualifying contributions;

31 (B) The excess seed money contributions of candidates seeking to become certified as
32 participating candidates;

33 (C) Unspent funds distributed to any participating candidate who does not remain a
34 candidate until the primary, general, or run-off election for which they were distributed
35 or such funds that remain unspent by a participating candidate following the date of the
36 primary, general, or run-off election for which they were distributed;

1 (D) Fines levied by the State Elections Board and the State Ethics Commission against
2 candidates for violation of election, campaign financing, and ethics laws;

3 (E) Tax deductible, voluntary donations made directly to the clean money fund;

4 (F) Funds appropriated by the General Assembly;

5 (G) A \$5.00 state income tax check-off;

6 (H) Any interest generated by the fund; and

7 (I) Any other sources of revenue determined as necessary by the General Assembly.

8 (c)(1) Upon determination that a candidate has met all the requirements for becoming a
9 participating candidate as provided for in this article, the State Elections Board shall
10 deposit funds into a participating candidate's clean election campaign account to pay for
11 all campaign costs or expenses up to the amount of clean money funding the candidate
12 has received. The participating candidate is limited to one campaign account which shall
13 be the clean election campaign account. The clean election campaign account shall not
14 accept any money other than seed money, qualifying contributions, and the clean money
15 deposited by the state. The candidate and any person designated to withdraw money
16 from the fund must sign a statement under oath promising to comply with this article. All
17 expenditures from the fund must be reported. The report must include the full name,
18 address, nature of the goods and services purchased, and the amount of the payment.
19 Neither a participating candidate nor any other person on behalf of a participating
20 candidate shall pay campaign costs by cash, check, money order, loan, or by any financial
21 means besides the clean election campaign account, except as provided in this subsection.
22 The campaign may have a petty cash fund of not more than \$1,000.00 but cannot make
23 any payment in excess of \$100.00 from such fund. Records of all such expenditures shall
24 be maintained and reported to the State Elections Board.

25 21-5-23.

26 (a) Participating candidates may accept monetary or in-kind contributions from political
27 parties provided that the aggregate amount of such contributions from all political party
28 committees combined does not exceed the equivalent of 5 percent of the clean money
29 financing amount for that office. It shall be presumed that political party spending for
30 purposes other than those set forth in this subsection is an in-kind contribution to the
31 candidate. In-kind contributions made during a general election campaign period on behalf
32 of a group of the party's candidates shall not be considered an improper party contribution
33 or count against the 5 percent limit if such group includes at least 51 percent of the
34 candidates whose names will appear on the general election ballot in the political
35 subdivision represented by the party committee making such in-kind contributions.
36 Contributions made to and expenditures made by political parties during primary, general,

1 and run-off campaign periods shall be reported to the State Elections Board on the same
2 basis as contributions and expenditures made to or by candidates. Nothing in this article
3 shall prevent political party funds from being used for the general operating expenses of
4 the party; conventions; nominating and endorsing candidates; identifying, researching, and
5 developing the party's positions on issues; party platform activities; noncandidate specific
6 voter registration, noncandidate specific get out the vote drives; paying travel expenses for
7 noncandidate party leaders and staff; and other noncandidate specific party building
8 activities.

9 (b) Persons, partnerships, corporations, political parties, and political committees are
10 prohibited from making contributions of more than \$2,000.00 to any political party. These
11 restrictions apply regardless of how the money is used by the party.

12 21-5-24

13 (a) There is established a State Elections Board which shall consist of five members. One
14 member shall be selected by the House of Representatives, one member shall be selected
15 by the Senate, and two members shall be the nominees of the two political parties whose
16 candidates received the highest numbers of votes for governor at the preceding election for
17 that office who shall be appointed by the Governor. The Secretary of State shall be a
18 member of the State Elections Board and shall serve as chairperson. The chairperson shall
19 have the power to direct the staff of the State Elections Board and set agendas and policies.
20 No one shall be appointed to the State Elections Board who is a member of the General
21 Assembly or who, within the immediately preceding five years, has served as an official
22 for any organization or committee required to file with the State Elections Board under the
23 provisions of this article.

24 (b) After every primary, general, and run-off election, the State Elections Board may
25 conduct random audits and investigations to ensure compliance with this article. The
26 subjects of the audits and investigations shall be selected on the basis of impartial criteria
27 established by a vote of at least three members of the State Elections Board. The State
28 Elections Board may investigate anonymous complaints. Complainants may receive
29 'whistle blower' protection.

30 (c) The State Elections Board has the authority to seek injunctions and subpoenas if:

31 (1) There is a substantial likelihood that a violation of this article is occurring or is about
32 to occur;

33 (2) The failure to act expeditiously will result in irreparable harm to a party affected by
34 the potential violation;

35 (3) Expeditious action will not cause undue harm or prejudice to the rights of others; and

1 (4) The public interest would be best served by the issuance of an injunction or a
2 subpoena.

3 (d) The State Elections Board may impose civil penalties for violations of this article in
4 an amount not to exceed \$1,000.00 per violation. All such civil penalties shall be deposited
5 in to the clean money fund.

6 (e) The State Elections Board shall refer criminal prosecutions for violations of this article
7 to the Attorney General or the appropriate district attorney, as the case may be.

8 (f) The State Elections Board may participate fully in any actions filed under this article.

9 (g)(1) Citizens who believe that a candidate has violated the law may pursue a civil
10 action in a court of relevant jurisdiction, provided that such citizens have previously filed
11 a complaint regarding the same alleged violation with the State Elections Board and the
12 State Elections Board has failed to make a determination within 30 days of the filing of
13 the complaint.

14 (2) Any party which wins a civil action charging any violation of this article shall be
15 entitled to receive reasonable attorney's fees and court costs from the defendant party or
16 parties. If a court in which a civil action has been filed in accordance with this Code
17 section finds that the complaint in such action was frivolous or without cause, the court
18 may require the complainant to pay the costs of the State Elections Board, the court, and
19 the defendant parties.

20 (h) The actions of the State Elections Board may be reviewed by the Superior Court of
21 Fulton County. Petitions for review must be filed within 60 days after the action of the
22 State Elections Board which is the subject of the complaint.

23 (i) The State Elections Board shall report fully to the General Assembly after each election
24 cycle. The report shall include a detailed summary of all seed money contributions,
25 qualifying contributions, benefits received, and expenditures made by all participating
26 candidates. The report shall also include a summary and an evaluation of the State
27 Elections Board's activities and recommendations relating to the implementation,
28 administration, and enforcement of this article.

29 (j) Consistent with the provisions of this article and other applicable law, the State
30 Elections Board may adopt, amend, and rescind rules, regulations, and procedures
31 necessary to carry out the purposes and provisions of this article.

32 21-2-25.

33 (a) If a participating candidate spends or obligates himself or herself to spend more than
34 the clean money funding the candidate is given and if such is determined not to be an
35 amount that had or could have been expected to have a significant impact on the outcome
36 of the election, then the candidate shall repay to the clean money fund an amount equal to

1 such excess. If a participating candidate spends or obligates himself or herself to spend
2 more than the clean money funding the candidate is given and if such is determined to be
3 an amount that had or could have been expected to have a significant impact on the
4 outcome of the election, then the candidate shall repay to the clean money fund an amount
5 equal to ten times the value of the excess. An amount expected to have a significant impact
6 is more than 5 percent over the spending limit.

7 (b)(1) It is a violation of this article for candidates to knowingly accept more benefits
8 than those to which they are entitled, spend more than the amount of clean money
9 funding they have received, or misuse such benefits or clean money funding. If it is
10 determined that any violation was intentional and involved an amount that had or could
11 have been expected to have a significant impact on the outcome of the election, the
12 candidate may be fined up to \$25,000.00 or imprisoned for one to five years, or both. If
13 it is determined that the violation was intentional and involved an amount that had or
14 could have been expected to have a significant impact on the outcome of the election, and
15 if, in the judgment of the State Elections Board, the violation is believed to have
16 contributed to the violator winning the election, the State Elections Board may
17 recommend to the General Assembly that the results of the election be nullified and a
18 new election called.

19 (2) It is a violation of this article to provide false information to the State Elections
20 Board or to conceal or withhold information from the State Elections Board and the
21 penalty for such a violation is a fine of up to \$5,000.00 per violation or imprisonment for
22 one to five years, or both."

23 SECTION 3.

24 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
25 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
26 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full
27 force and effect as if the section, subsection, sentence, clause, or phrase so declared or
28 adjudged invalid or unconstitutional were not originally a part hereof. The General
29 Assembly declares that it would have passed the remaining parts of this Act if it had known
30 that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

31 SECTION 4.

32 For the purpose of appointing members of the State Elections Board, promulgating rules and
33 regulations, and developing forms, procedures, and systems to implement the provisions of
34 this Act, it shall become effective upon the signature of the Governor or upon its becoming
35 law without such approval; otherwise, this Act shall become effective on January 1, 2002.

1

SECTION 5.

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