

Senate Bill 285

By: Senators Polak of the 42nd, Lee of the 29th, Jackson of the 50th, Golden of the 8th and Hecht of the 34th

**AS PASSED SENATE**

**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 provide for disclosure of transactions  
13 with political subdivisions; to provide for a definition; to change the date for the filing of  
14 such disclosure statements; to provide an effective date and for applicability; to repeal  
15 conflicting laws; and for other purposes.

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

17  
18 **SECTION 1.**

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

20 **SECTION 2.**

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

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

1 ~~on a real or hypothetical set of circumstances~~ within 30 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 related to the  
17 official duties of the public officer or the office of the public officer, with a statement  
18 identifying the fee or honorarium accepted and the person or entity from whom it was  
19 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) If he or she has actual knowledge of such ownership interest or knowledge of facts  
4 which would put a reasonable and prudent person on notice of such ownership interest,  
5 the filer shall name any business or subsidiary thereof in Georgia in which the filer's  
6 spouse or children, siblings, and parents, jointly or severally, own a direct ownership  
7 interest which interest:

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

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

10 or in which the filer's spouse or any child, sibling, or parent serves as an officer, director,  
11 equitable partner, trustee, or consultant;

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

27 ~~(5)~~(9) All annual payments in excess of \$20,000.00 received by the public officer or any  
28 business entity identified in ~~paragraph (3)~~ paragraph (4) of this subsection from the state,  
29 any agency, department, commission, or authority created by the state, and authorized  
30 and exempted from disclosure under Code Section 45-10-25, and the agency, department,  
31 commission, or authority making the payments, and the general nature of the  
32 consideration rendered for the source of the payments; and

33 ~~(6)~~(10) No form prescribed by the commission shall require more information or specify  
34 more than provided in the several paragraphs of this Code section with respect to what  
35 is required to be disclosed."

**SECTION 4.**

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

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

**SECTION 5.**

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

"(6) 'Lobbyist' means:

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

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

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

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

(E) Any natural person who makes a total expenditure of more than \$250.00 in a calendar year, not including the person's own travel, food, lodging expenses, or informational material to promote or oppose the passage of any ordinance or resolution by a public officer specified under subparagraph (F) or (G) of paragraph (15) of Code

1 Section 21-5-3, or any committee of such public officers, or the approval or veto of any  
2 such ordinance or resolution; or

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

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

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

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

## 21 SECTION 6.

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

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

## 27 SECTION 7.

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

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

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

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

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

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

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

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

#### 15 SECTION 8.

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

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

#### 24 SECTION 9.

25 Code Section 45-10-26 of the Official Code of Georgia Annotated, relating to yearly  
26 disclosure statements of public officials and employees concerning business transactions with  
27 the state, is amended by striking subsection (a) of said Code section and inserting in its place  
28 the following:

29 "(a) Except as provided in subsection (b) of this Code section, any public official or  
30 employee, whether for himself or herself or on behalf of any business, or any business in  
31 which such public official or employee or any member of his or her family has a substantial  
32 interest who transacts business with the state or any agency thereof or with any political  
33 subdivision of the state shall disclose such transactions. In addition, any business in which  
34 the children of any such public official has a substantial interest who transacts business

1 with the state or any agency or any political subdivision shall also disclose such  
 2 transactions, if the public official has actual knowledge of such ownership interest or  
 3 knowledge of facts which put a reasonable and prudent person on notice of such ownership.  
 4 Such disclosure shall be submitted ~~prior to January 31~~ not before the first day of January  
 5 nor later than July 1 of each year to the Secretary of State on such forms as he or she shall  
 6 prescribe and shall include an itemized list of the previous year's transactions with the  
 7 dollar amount of each transaction reported and totaled. Such disclosure statements shall be  
 8 public records. As used in this subsection, the term 'political subdivision' means the state  
 9 or any local subdivision of the state or public instrumentality or public corporate body  
 10 created by or under authority of state law, including, but not limited to, municipalities,  
 11 counties, school districts, special taxing districts, conservation districts, authorities, and any  
 12 other state or local public instrumentality or corporation which has the right to bring and  
 13 defend actions or to issue its bonds or other obligations as evidence of indebtedness under  
 14 any provision of law and also means any corporate or other entity which leases a public  
 15 improvement to such political subdivision; and the term also means the governing body of  
 16 such political subdivision and its members and officers in their official capacity."

17 **SECTION 10.**

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

20 **SECTION 11.**

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