

Senate Bill 231

By: Senators Perdue of the 18th, Johnson of the 1st, Stephens of the 51st, Cable of the 27th and Price of the 56th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics
2 in government, so as to define certain terms; to prohibit certain communications to and
3 appearances before state departments, agencies, and boards by former public officers of the
4 State of Georgia; to prohibit certain communications to and appearances before members of
5 the General Assembly by former members of the General Assembly; to provide for
6 exceptions; to provide for criminal and civil penalties; to provide for an effective date and
7 applicability; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in
11 government, is amended by adding at the end thereof a new article, to be designated as
12 Article 5, to read as follows:

13 "ARTICLE 5

14 21-5-90.

15 As used in this article, the term:

16 (1) 'Participated' means an action taken as a public officer through decision, approval,
17 disapproval, recommendation, the rendering of advice, investigation, or other such action.

18 (2) 'Particular matter' includes any investigation, application, request for a ruling or
19 determination, rulemaking, contract, controversy, claim, contested case, or other
20 proceeding.

21 (3) 'Public officer' means every constitutional officer; every elected state official; the
22 executive head of every state department or agency, whether elected or appointed; and
23 the executive director of each state board and the members thereof.

1 21-5-91.

2 Any person who is a public officer and who, after the termination of his or her service or
3 employment with the State of Georgia, knowingly makes, with the intent to influence, any
4 communication to or appearance before any officer or employee of any department,
5 agency, or board of the State of Georgia on behalf of any other person, except the State of
6 Georgia, in connection with a particular matter (1) in which the State of Georgia is a party
7 or has a direct and substantial interest, (2) in which the person participated personally and
8 substantially as a public officer, and (3) which involved a specific party or parties at the
9 time of such participation shall be punished as provided in Code Section 21-5-96.

10 21-5-92.

11 Any person who is a public officer and who, within two years after the termination of his
12 or her service or employment with the State of Georgia, knowingly makes, with the intent
13 to influence, any communication to or appearance before any officer or employee of any
14 department, agency, or board of the State of Georgia on behalf of any other person, except
15 the State of Georgia, in connection with a particular matter (1) in which the State of
16 Georgia is a party or has a direct and substantial interest, (2) which such person knows or
17 reasonably should know was actually pending under his or her official responsibility as a
18 public officer within a period of one year before the termination of his or her service or
19 employment with the State of Georgia, and (3) which involved a specific party or parties
20 at the time it was so pending shall be punished as provided in Code Section 21-5-96.

21 21-5-93.

22 Any person who is a public officer and who, within one year after the termination of his
23 or her service or employment with the State of Georgia, knowingly makes, with the intent
24 to influence, any communication to or appearance before any officer or employee of the
25 department, agency, or board in which such person served within one year before such
26 termination on behalf of any other person, except the State of Georgia, in connection with
27 any matter on which such person seeks official action by any officer or employee of such
28 department, agency, or board shall be punished as provided in Code Section 21-5-96.

29 21-5-94.

30 Any person who is a member of the General Assembly and who, within one year after that
31 person leaves office, knowingly makes, with the intent to influence, any communication
32 to or appearance before any member of the General Assembly on behalf of any other
33 person, other than the State of Georgia, in connection with any matter on which such
34 former member of the General Assembly seeks action by a member of the General

1 Assembly in his or her official capacity shall be punished as provided in Code Section
2 21-5-96.

3 21-5-95.

4 (a) The restrictions contained in this article shall not apply to acts done in carrying out
5 official duties on behalf of the State of Georgia or as an official or employee of a political
6 subdivision thereof.

7 (b) The restrictions contained in Code Sections 21-5-93 and 21-5-94 shall not prevent an
8 individual from making or providing a statement, which is based on the individual's own
9 special knowledge in the particular area that is the subject of the statement, if no
10 compensation is thereby received.

11 (c) The restrictions contained in Code Sections 21-5-91 through 21-5-93 shall not apply
12 with respect to the making of communications solely for the purpose of furnishing
13 scientific or technological information, if such communications are made under procedures
14 acceptable to the department, agency, or board concerned or if the head of the department,
15 agency, or board concerned with the particular matter makes a certification that the former
16 public officer has outstanding qualifications in a scientific, technological, or other technical
17 discipline, and is acting with respect to a particular matter which requires such
18 qualification, and that the interest of the State of Georgia would be served by the
19 participation of the former public officer.

20 (d) Nothing in this article shall prevent an individual from giving testimony under oath or
21 from making statements required to be made under penalty of perjury; provided, however,
22 that a former public officer who is subject to the restrictions contained in Code Section
23 21-5-91 with respect to a particular matter may not, except pursuant to court order, serve
24 as an expert witness for any other person, except the State of Georgia, in that matter.

25 (e) The restrictions contained in Code Sections 21-5-93 and 21-5-94 shall not apply to a
26 communication or appearance made solely on behalf of a candidate for state, federal, or
27 local office in his or her capacity as a candidate or as a representative of a candidate or a
28 political party.

29 21-5-96.

30 (a) Notwithstanding the provisions of Code Section 21-5-9, any person who violates a
31 restriction contained in Code Section 21-5-91, 21-5-92, 21-5-93, or 21-5-94 shall be
32 imprisoned for not more than one year or fined in an amount not to exceed \$1,000.00, or
33 both, and any person who willfully violates a restriction contained in Code Section
34 21-5-91, 21-5-92, 21-5-93, or 21-5-94 shall be imprisoned for not more than five years or
35 fined in an amount not to exceed \$5,000.00, or both. Each communication or appearance

1 in violation of Code Section 21-5-91, 21-5-92, 21-5-93, or 21-5-94 shall constitute a
2 separate offense.

3 (b) In addition to any other penalty provided in this chapter, the Attorney General may
4 bring a civil action in superior court against any person who violates Code Section 21-5-91,
5 21-5-92, 21-5-93, or 21-5-94 and, upon proof of such conduct by a preponderance of the
6 evidence, such person shall be subject to a civil penalty of not more than \$10,000.00 for
7 each violation or the amount of compensation which the person received or was offered for
8 the prohibited conduct, whichever amount is greater. Venue for such an action shall be as
9 provided in Code Section 21-5-8."

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SECTION 2.

11 This Act shall become effective on July 1, 2001, and shall apply to persons whose service
12 or employment with the State of Georgia terminates on or after that date.

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SECTION 3.

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