

_____ offers the following
substitute to SB 234:

A BILL TO BE ENTITLED
AN ACT

1 To enact the "Corruption Prevention Act;" to provide a short title; to amend Title 45 of the
2 Official Code of Georgia Annotated, relating to public officers and employees, so as to
3 change the procedures relating to the indictment of certain public officials; to amend Code
4 Section 17-7-52 of the Official Code of Georgia Annotated, relating to the procedure for
5 indictment of a peace officer for crime in performance of duties, so as to include former
6 peace officers; to provide for related matters; 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 This Act shall be known and may be cited as the "Corruption Prevention Act."

11 **SECTION 2.**

12 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
13 is amended by striking Code Section 45-11-4, relating to malpractice, partiality, neglect of
14 duties, conduct unbecoming office, or demanding more cost than that to which entitled, and
15 inserting in lieu thereof a new Code Section 45-11-4 to read as follows:

16 "45-11-4.

17 (a) As used in this Code section, the term:

18 (1) 'County officer' shall mean any elected county officer, including the judge of the
19 probate court, clerk of the superior court, tax receiver, tax collector, and tax
20 commissioner where such office has replaced the tax receiver and tax collector, and any
21 county commissioner.

22 (2) 'Municipal officer' shall mean any mayor or elected member of any municipal
23 governing authority.

24 (3) 'Public officer' shall mean a county officer, a municipal officer, and state officials as
25 provided in Code Section 45-15-11.

1 ~~(b) Any elected county officer, including the judge of the probate court, clerk of the~~
 2 ~~superior court, tax receiver, tax collector, and tax commissioner, where the office has~~
 3 ~~replaced the tax receiver and tax collector, any member of any board of commissioners, or~~
 4 ~~any mayor or member of any municipal governing authority, presently or formerly holding~~
 5 ~~such office, who shall be charged with malpractice~~ A public officer may be charged under
 6 this Code section for:

7 (1) Malpractice, misfeasance, or malfeasance in office; ~~or with~~

8 (2) Using ~~using~~ oppression or tyrannical partiality in the administration or under the
 9 color of his or her office; ~~or~~;

10 (3) When ~~when~~ required by law, ~~with~~ willfully refusing or failing to preside in or hold
 11 his or her court at the regular terms thereof, or when it is his or her duty under the law to
 12 do so; ~~or with~~

13 (4) Using ~~using~~ any other deliberate ~~or illegal~~ means to delay or avoid the due course or
 14 proceeding of law; or ~~with any other illegal conduct in the performance or administration~~
 15 ~~of the office which is unbecoming the character of a public officer; or who shall~~

16 (5) Willfully ~~willfully~~ and knowingly ~~demand~~ demanding more cost than he or she is
 17 entitled to by law in the administration and under color of his or her office ~~may be~~
 18 ~~indicted.~~

19 (c) A conviction for violating subsection (b) of this Code section shall be punished as for
 20 a misdemeanor and the accused shall be removed from office.

21 (d) This Code section shall only apply to a public officer charged under subsection (b) of
 22 this Code section. This Code section shall not apply when a public officer is charged with
 23 any other crime alleged to have occurred while such official was in the performance of an
 24 official duty.

25 (e) This Code section shall only apply to a public officer holding office at the time of
 26 indictment and not to former office holders.

27 (f) The Any indictment brought pursuant to subsection (b) of this Code section shall
 28 specially set forth the merits of the complaint against the accused public officer. A copy
 29 of the proposed bill of indictment shall be served on the accused public officer at least 15
 30 days before it is presented to the grand jury.

31 (g) The accused shall have the right to appear before the grand jury to make such sworn
 32 statement as he or she shall desire at the conclusion of the presentation of the state's
 33 evidence. The accused shall not be subject to examination, either direct or cross, and shall
 34 not have the right individually or through his or her counsel to examine the state's
 35 witnesses. The accused and his or her counsel shall have the right to be present during the
 36 presentation of all evidence and alleged statements of the accused on the proposed
 37 indictment, presentment, or accusation, after which he the accused and his or her counsel

1 shall retire instanter from the grand jury room to permit the grand jury to deliberate upon
2 the indictment.

3 (h) At any time during the presentation of evidence or during deliberations, the grand jury
4 may amend the indictment or instruct the district attorney to cause a new indictment to be
5 drawn as in any other case. In such case, a copy of the amendment or new indictment, if
6 it relates to the accused public official, shall be provided to the accused public official and
7 his or her counsel.

8 (i) If a true bill is returned by the grand jury, the indictment shall, as in other cases, be
9 published in open court and shall be placed on the superior court criminal docket of cases
10 to be tried by a petit jury. If the accused is convicted, he shall be punished by a fine or by
11 imprisonment, or both, at the discretion of the court; and, if still in office, he shall be
12 removed from office."

13 SECTION 3.

14 Said title is further amended by striking Code Section 45-15-11, relating to rights of state
15 official before grand jury when charged with misfeasance or malfeasance, and inserting in
16 lieu thereof a new Code Section 45-15-11 to read as follows:

17 "45-15-11.

18 Before an indictment charging any state official with ~~misfeasance or malfeasance in office~~
19 violating subsection (b) of Code Section 45-11-4 is presented to a grand jury, ~~the rights~~
20 ~~provided in Code Section 45-11-4 shall be afforded said official and the district attorney~~
21 of the county where the grand jury will convene shall notify the Attorney General of such
22 contemplated action."

23 SECTION 4.

24 Code Section 17-7-52 of the Official Code of Georgia Annotated, relating to the procedure
25 for indictment of a peace officer for crime in performance of duties, is amended by striking
26 subsection (a) and inserting in lieu thereof the following:

27 "(a) Before an indictment against a present or former peace officer charging the officer
28 with a crime which is alleged to have occurred while he or she was in the performance of
29 his or her duties is returned by a grand jury, the officer shall be notified of the
30 contemplated action by the district attorney of the county wherein the grand jury shall
31 convene and the officer shall be afforded the rights provided in Code Section 45-11-4."

32 SECTION 5.

33 This Act shall become effective upon approval by the Governor or upon its becoming law
34 without such approval. Sections 2 and 4 shall apply only to crimes committed on or after the

1 effective date of this Act. Section 3 shall apply to crimes committed before, on, and after the
2 effective date of this Act.

3 **SECTION 6.**

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