

The Senate Ethics Committee offered the following substitute to SB 31:

A BILL TO BE ENTITLED
AN ACT

To amend Title 21 of the Official Code of Georgia Annotated, relating to elections, and Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, so as to provide for ethics reforms; to change provisions relative to the State Ethics Commission; to change provisions relative to disposition of campaign contributions; to change provisions relative to acceptance of campaign contributions during legislative sessions; to provide for limitations relative to appearances before the Board of Corrections or the Department of Corrections by members of the General Assembly or state elected or appointed officials; to provide for criminal penalties; to change provisions relative to appearances before the Board of Pardons and Paroles by members of the General Assembly or state elected or appointed officials; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended by striking Code Section 21-5-4, relating to the State Ethics Commission, and inserting in its place a new Code Section 21-5-4 to read as follows.

"21-5-4.

(a) Those members serving on the State ~~Campaign and Financial Disclosure~~ Ethics Commission prior to ~~March 1, 1987~~, July 1, 2003, shall serve for a term of office which expires ~~March 1, 1987~~ July 1, 2003.

(b) There is created the State Ethics Commission, with such duties and powers as are set forth in this chapter. ~~The commission shall be a successor to the State Campaign and Financial Disclosure Commission in all matters pending before the State Campaign and Financial Disclosure Commission on March 1, 1987, and may continue to investigate, prosecute, and act upon all such matters.~~ The commission shall be governed by five members appointed as follows: three members, not more than two of whom shall be from the same political party, shall be appointed by the Governor, two for terms of three years

1 and one for a term of two years; one member shall be appointed by the Lieutenant
 2 Governor for a term of four years; and one member shall be appointed by the Speaker of
 3 the House of Representatives for a term of four years. The ~~initial~~ new members shall take
 4 office on ~~March 2, 1987~~ July 2, 2003. Upon the expiration of a member's term of office,
 5 a new member, appointed in the same manner as the member whose term of office expired
 6 as provided in this subsection, shall become a member of the commission and shall serve
 7 for a term of four years and until such member's successor is duly appointed and qualified.
 8 If a vacancy occurs in the membership of the commission, a new member shall be
 9 appointed to the unexpired term of office by the state official who appointed the vacating
 10 member. Members of the commission shall not serve for more than one complete term of
 11 office; provided, however, that the members of the State ~~Campaign and Financial~~
 12 ~~Disclosure~~ Ethics Commission serving on ~~March 1, 1987~~, July 1, 2003, shall be eligible for
 13 ~~appointment~~ reappointment as ~~initial~~ new members of the State Ethics Commission.

14 (c) All members of the commission shall be residents of this state.

15 (d) Any person who:

16 (1) Has qualified to run for any federal, state, or local public office within a period of
 17 five years prior to such person's appointment;

18 (2) Has held any federal, state, or local public office within a period of five years prior
 19 to such person's appointment; or

20 (3) Serves as an officer of any political party, whether such office is elective or
 21 appointive and whether such office exists on a local, state, or national level

22 shall be ineligible to serve as a member of the commission.

23 (e) The commission shall elect a chairperson, a vice chairperson, and other officers as it
 24 deems necessary. The members shall not be compensated for their services but they shall
 25 be reimbursed in an amount equal to the per diem received by the General Assembly for
 26 each day or portion thereof spent in serving as members of the commission. They shall be
 27 paid their necessary traveling expenses while engaged in the business of the commission.

28 (f) A majority of the members of the commission constitutes a quorum for the transaction
 29 of business. The vote of at least a majority of the members present at any meeting at which
 30 a quorum is present is necessary for any action to be taken by the commission. No vacancy
 31 in the membership of the commission impairs the right of a quorum to exercise all rights
 32 and perform all duties of the commission.

33 (g) Meetings of the members of the commission shall be held at the call of the chairperson
 34 or whenever any two members so request

35 (h) In any matter pending before the commission, if a member of the commission has
 36 made or caused to be made a contribution in the current or immediately preceding election
 37 cycle to any respondent, any other party to the complaint, any candidate who opposed the

1 respondent in any election in the current or immediately preceding election cycle, or the
2 campaign committee of any of the foregoing, that member shall recuse himself or herself
3 from consideration of the matter. The commission may, upon motion, order the recusal of
4 a member."

5 SECTION 2.

6 Said title is further amended by striking Code Section 21-5-33, relating to disposition of
7 campaign contributions, and inserting in lieu thereof the following:

8 "21-5-33.

9 (a)(1) Contributions to a candidate, a campaign committee, or a public officer holding
10 elective office and any proceeds from investing such contributions shall be utilized only
11 to defray ordinary and necessary expenses, which may include any loan of money from
12 a candidate or public officer holding elective office to the campaign committee of such
13 candidate or such public officer, incurred in connection with such candidate's campaign
14 for elective office or such public officer's fulfillment or retention of such office.

15 (2) Contributions to a candidate, campaign committee, or a public officer holding
16 elective office and any proceeds from investing such contributions shall not be loaned by
17 a candidate, campaign committee, or public officer to any other person, party, body,
18 organization, association, campaign committee, candidate, or other entity in any manner.

19 (b)(1) All contributions received by a candidate or such candidate's campaign committee
20 or a public officer holding elective office in excess of those necessary to defray expenses
21 pursuant to subsection (a) of this Code section and as determined by such candidate or
22 such public officer may only be used as follows:

23 (A) As contributions to any charitable organization described in 26 U.S.C. 170(c) as
24 said federal statute exists on March 1, 1986, and which additionally shall include
25 educational, eleemosynary, and nonprofit organizations;

26 (B) Except as otherwise provided in subparagraph (D) of this paragraph, for transferral
27 without limitation to any national, state, or local ~~committee of any political party or to~~
28 ~~any candidate~~;

29 (C) For transferral without limitation to persons making such contributions, not to
30 exceed the total amount cumulatively contributed by each such transferee;

31 (D) For use in future campaigns for only that elective office for which those
32 contributions were received. With respect to contributions held on January 1, 1992, or
33 received thereafter, in the event the candidate, campaign committee, or public officer
34 holding elective office has not designated, prior to receiving contributions to which this
35 Code section is applicable, the office for which campaign contributions are received
36 thereby, those contributions shall be deemed to have been received for the elective

1 office which the candidate held at the time the contributions were received or, if the
2 candidate did not then hold elective office, those contributions shall be deemed to have
3 been received for that elective office for which that person was a candidate most
4 recently following the receipt of such contributions; or

5 (E) For repayment of any prior campaign obligations incurred as a candidate.

6 (2) Any candidate or public officer holding elective office may provide in the will of
7 such candidate or such public officer that the contributions shall be spent in any of the
8 authorized manners upon the death of such candidate or such public officer; and, in the
9 absence of any such direction in the probated will of such candidate or such public
10 officer, the contributions shall be paid to the treasury of the state party with which such
11 candidate or such public officer was affiliated in such candidate's or such public officer's
12 last election or elective office after the payment of any expenses pursuant to subsection
13 (a) of this Code section. Notwithstanding any other provisions of this paragraph, the
14 personal representative or executor of the estate shall be allowed to use or pay out funds
15 in the campaign account in any manner authorized in subparagraphs (A) through (E) of
16 paragraph (1) of this subsection.

17 (c) Contributions and interest thereon, if any, shall not constitute personal assets of such
18 candidate or such public officer.

19 (d)(1) Contributions received by a campaign committee designed to bring about the
20 recall of a public officer holding elective office or to oppose the recall of a public officer
21 holding elective office or any person or to bring about the approval or rejection by the
22 voters of any proposed constitutional amendment, a state-wide referendum, or a proposed
23 question which is to appear on the ballot in any county or municipal election and any
24 proceeds derived from investing such contributions shall be utilized only to defray
25 ordinary and necessary expenses associated with influencing the voters on such issue.

26 (2) All contributions received by a campaign committee as provided in paragraph (1) of
27 this subsection in excess of those necessary to defray expenses relative to the influencing
28 of voters on such issue as determined by the campaign committee may only be used as
29 follows:

30 (A) Contributions to any charitable organization described in 26 U.S.C. 170(c) as such
31 federal statute exists on March 1, 1986, and which additionally shall include
32 educational, eleemosynary, and nonprofit organizations; or

33 (B) For repayment on a pro rata basis to persons making such contributions."

SECTION 3.

Said title is further amended by striking Code Section 21-5-35, relating to acceptance of campaign contributions during legislative sessions, and inserting in lieu thereof the following:

"21-5-35.

(a) No member of the General Assembly or that member's campaign committee or public officer elected state wide or campaign committee of such public officer shall accept or solicit a contribution or a pledge of a contribution during a legislative session.

(b) Subsection (a) of this Code section shall not apply to:

(1) The receipt of a contribution which is returned with reasonable promptness to the donor or the donor's agent;

(2) The receipt and acceptance during a legislative session of a contribution consisting of proceeds from a dinner, luncheon, rally, or similar fundraising event held prior to the legislative session; or

(3) A judicial officer elected state wide or campaign committee of such judicial officer."

SECTION 4.

Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended by adding a new Code section immediately following Code Section 42-2-14, to be designated Code Section 42-2-15, to read as follows:

"42-2-15.

(a) It shall be unlawful for members of the General Assembly or any other state elected or appointed official to appear before the board or department on behalf of a person under the jurisdiction of the board or department or advocate for a decision on behalf of such person. Nothing in this Code section shall be construed so as to prohibit:

(1) Members of the General Assembly or state elected or appointed officials from appearing before the board or department when their official duties require them to do so;

(2) Members of the General Assembly or state elected or appointed officials from requesting information from the board or department;

(3) Members of the General Assembly or state elected or appointed officials from forwarding correspondence or communications received from third parties to the board or department, so long as the correspondence or communications are forwarded in substantially the same form in which they were received;

(4) Members of the General Assembly who are lawyers representing probationers from appearing before the board or department in connection with a probation revocation hearing; or

(5) The Attorney General, assistant attorney general, judge, district attorney, assistant district attorney, solicitor-general, assistant solicitor-general, or public defender while acting in his or her official capacity.

(b) Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor."

SECTION 5.

Said title is further amended by striking Code Section 42-9-17, relative to appearances before the Board of Pardons and Paroles by members of the General Assembly or state elected or appointed officials, and inserting in lieu thereof the following:

"42-9-17.

(a) It shall be unlawful for members of the General Assembly or any other state elected or appointed official to ~~accept any compensation for appearing~~ appear before the board ~~in~~ on behalf of a person under the jurisdiction of the board ~~and for seeking or advocate for~~ a decision on behalf of ~~the~~ such person. Nothing in this Code section shall be construed so as to prohibit:

(1) Members of the General Assembly or state elected or appointed officials from appearing before the board when their official duties require them to do so; ~~or~~

(2) Members of the General Assembly or state elected or appointed officials from requesting information from ~~and presenting information to the board on behalf of~~ constituents when no compensation, gift, favor, or anything of value is accepted, either ~~directly or indirectly, for such services;~~

(3) Members of the General Assembly or state elected or appointed officials from forwarding correspondence or communications received from third parties to the board, so long as the correspondence or communications are forwarded in substantially the same form in which they were received; or

(4) The Attorney General, assistant attorney general, judge, district attorney, assistant district attorney, solicitor-general, assistant solicitor-general, or public defender while acting in his or her official capacity.

~~(b) Nothing in subsection (a) of this Code section shall be construed to apply to the acceptance of compensation, expenses, and allowances received by members of the General Assembly or any other state elected or appointed official for their duties as such members or officials.~~

~~(c)~~(b) Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor."

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SECTION 6.

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