

Senate Bill 31

By: Senators Stephens of the 51st, Lee of the 29th and Crotts of the 17th

**AS PASSED SENATE**

**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 candidates for the General Assembly who file a declaration of intent to accept campaign contributions to receive and choose to sign a pledge to engage in ethical campaigning; to provide for actions for slander and libel and the commission's authority over such activity; 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,~~

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

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

18 (d) Any person who:

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

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

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

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

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

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

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

(h) In any matter pending before the commission, if a member of the commission has made or caused to be made a contribution in the current or immediately preceding election cycle to any respondent, any other party to the complaint, any candidate who opposed the respondent in any election in the current or immediately preceding election cycle, or the campaign committee of any of the foregoing, that member shall recuse himself or herself from consideration of the matter. The commission may, upon motion, order the recusal of a member."

## SECTION 2.

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

"21-5-33.

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

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

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

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

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

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

(D) For use in future campaigns for only that elective office for which those contributions were received. With respect to contributions held on January 1, 1992, or received thereafter, in the event the candidate, campaign committee, or public officer

1 holding elective office has not designated, prior to receiving contributions to which this  
2 Code section is applicable, the office for which campaign contributions are received  
3 thereby, those contributions shall be deemed to have been received for the elective  
4 office which the candidate held at the time the contributions were received or, if the  
5 candidate did not then hold elective office, those contributions shall be deemed to have  
6 been received for that elective office for which that person was a candidate most  
7 recently following the receipt of such contributions; or

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

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

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

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

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

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

36 (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 3.1.**

Said title is further amended by adding a new article to the end of Chapter 5 to read as follows:

**"ARTICLE 5**

21-5-80.

Any candidate for the General Assembly who files a declaration of intent to accept campaign contributions pursuant to subsection (g) of Code Section 21-5-30 shall be issued a pledge to engage in ethical campaigning by the Secretary of State as set forth in Code Section 21-5-81.

21-5-81.

The text of the pledge shall read as follows:

**PLEDGE TO ENGAGE IN ETHICAL CAMPAIGNING**

Realizing that the principles of morality, honesty, and civility are essential to the integrity of the democratic process, I pledge to conduct a campaign consistent with these principles. I will refrain from campaign practices that in any way detract from the honorable pursuit of elective office. I shall not use or permit the use of character defamation, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life, nor shall I use or permit on my behalf misleading or untrue advertisements.

1	_____	_____
2	Name of Candidate	Name of Witness
3	_____	_____
4	Signature	Notary public's signature and seal
5	_____	
6	Date	

7 21-5-82.

8 Each candidate for the General Assembly who has filed the intention to accept campaign  
 9 contributions shall acknowledge receipt of the pledge set forth in Code Section 21-5-81  
 10 either by returning the pledge with his or her signature which has been witnessed and  
 11 notarized or by returning a signed affidavit stating that he or she has received the pledge.  
 12 The pledge shall be in effect for two years from the date of signing unless a candidate  
 13 writes to the Secretary of State's office and requests that his or her pledge be revoked.

14 21-5-83.

15 The Secretary of State's office shall maintain on its website a list of candidates which  
 16 indicates candidates who have signed the pledge or acknowledged the pledge in accordance  
 17 with Code Section 21-5-82 or who have neither signed nor acknowledged the pledge.

18 21-5-84.

19 A registered voter may initiate a complaint pursuant to Code Section 21-5-7 against a  
 20 candidate who is running for the General Assembly in his or her district for alleged  
 21 violations of Code Section 21-5-82. The commission may issue an order after appropriate  
 22 proceedings as provided for by this chapter and penalize the person who violates Code  
 23 Section 21-5-82 by making public its conclusion as set forth in paragraph (15) of  
 24 subsection (b) of Code Section 21-5-6."

25 21-5-85.

26 (a) A candidate is liable for any slander or libel, as defined and provided for in Chapter 5  
 27 of Title 51, committed by a campaign committee that is controlled by that candidate if the  
 28 candidate willfully and knowingly directs or permits the libel or slander.

29 (b) In addition to the action provided for in this Code section, the commission may issue  
 30 an order after appropriate proceedings as provided for by this chapter, requiring the  
 31 candidate whose committee committed the libel or slander to be fined as set forth in

1 subparagraph (b)(14)(C) of Code Section 21-5-6 and may also make public its conclusion  
2 as provided in paragraph (15) of subsection (b) of Code Section 21-5-6."

#### 3 **SECTION 4.**

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

7 "42-2-15.

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

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

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

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

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

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

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

#### 28 **SECTION 5.**

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

32 "42-9-17.

33 (a) It shall be unlawful for members of the General Assembly or any other state elected  
34 or appointed official to ~~accept any compensation for appearing~~ appear before the board in  
35 on behalf of a person under the jurisdiction of the board ~~and for seeking~~ or advocate for

1 a decision on behalf of ~~the~~ such person. Nothing in this Code section shall be construed so  
2 as to prohibit:

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

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

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

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

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

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

## 22 SECTION 6.

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