

The Senate Ethics Committee offered the following substitute to SB 109:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 21 of the Official Code of Georgia Annotated, relating to elections, and Title
2 45 of the Official Code of Georgia Annotated, relating to public officers and employees, so
3 as to provide for ethics reforms; to change certain provisions regarding public officials'
4 conduct and lobbyist disclosure; to change certain provisions regarding definitions; to
5 provide for additional filing and disclosure requirements; to provide for additional eligibility
6 requirements regarding certain public offices; to provide for related matters; to provide an
7 effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended by
11 striking Code Section 21-5-70, relating to definitions regarding public officials' conduct and
12 lobbyist disclosure, and inserting in its place a new Code Section 21-5-70 to read as follows:
13 "21-5-70.

14 As used in this article, the term:

15 (1) 'Expenditure':

16 (A) Means a purchase, payment, distribution, loan, advance, deposit, or conveyance
17 of money or anything of value made for the purpose of influencing the actions of any
18 public officer or public employee;

19 (B) Includes any other form of payment when such can be reasonably construed as
20 designed to encourage or influence a public officer;

21 (C) Includes any gratuitous transfer, payment, subscription, advance, or deposit of
22 money, services, or anything of value, unless consideration of equal or greater value is
23 received;

24 (D) Notwithstanding division (x) of subparagraph (E) of this paragraph, includes food
25 or beverage consumed at a single meal or event by a public officer or public employee
26 or a member of the immediate family of such public officer or public employee; and

1 (E) The term shall not include:

- 2 (i) The value of personal services performed by persons who serve voluntarily
3 without compensation from any source;
- 4 (ii) A gift received from a member of the public officer's immediate family;
- 5 (iii) Legal compensation or expense reimbursement provided public employees and
6 public officers in the performance of their duties;
- 7 (iv) Promotional items generally distributed to the general public or to public officers
8 and food and beverages produced in Georgia;
- 9 (v) An award, plaque, certificate, memento, or similar item given in recognition of
10 the recipient's civic, charitable, political, professional, or public service;
- 11 (vi) Legitimate salary, benefits, fees, commissions, or expenses associated with a
12 recipient's nonpublic business, employment, trade, or profession;
- 13 (vii) Food, beverages, and registration at group events to which all members of an
14 agency, as defined in paragraph (1) of subsection (a) of Code Section 21-5-30.2, are
15 invited. An agency shall include the Georgia House of Representatives, the Georgia
16 Senate, committees and subcommittees of such bodies, and the governing body of
17 each political subdivision of this state;
- 18 (viii) Campaign contributions or expenditures reported as required by Article 2 of
19 this chapter;
- 20 (ix) A commercially reasonable loan made in the ordinary course of business; or
- 21 (x) Food, beverage, or expenses afforded public officers, members of their immediate
22 families, or others that are associated with normal and customary business or social
23 functions or activities.

24 (2) 'Filed' means the delivery to the State Ethics Commission, as specified in this article,
25 of a document that satisfies the requirements of this article. A document is considered
26 delivered when it is placed in the United States mail within the required filing time,
27 properly addressed to the State Ethics Commission, as specified in this article, with
28 adequate postage affixed.

29 (3) 'Identifiable group of public officers' means a description that is specifically
30 determinable by available public records.

31 (4) 'Immediate family' means a spouse or child.

32 (5) 'Lobbying' means the activity of a lobbyist while acting in that capacity.

33 (6) 'Lobbyist' means:

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

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

6 (C) Any natural person who as an ~~employee~~ agent of the executive branch or judicial
 7 branch of state government engages in any activity covered under subparagraph (A) of
 8 this paragraph, but the term 'lobbyist' shall not include a full-time employee of the
 9 executive or judicial branch acting within the scope of such person's full-time
 10 employment;

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

16 (E) Any natural person who makes a total expenditure of more than \$250.00 in a
 17 calendar year, not including the person's own travel, food, lodging expenses, or
 18 informational material to promote or oppose the passage of any ordinance or resolution
 19 by a public officer specified under subparagraph (F) or (G) of paragraph (15) of Code
 20 Section 21-5-3, or any committee of such public officers or the approval or veto of any
 21 such ordinance or resolution; or

22 ~~(F) Any natural person who as an employee of the executive branch or judicial branch~~
 23 ~~of local government engages in any activity covered under subparagraph (D) of this~~
 24 ~~paragraph~~ Any person who, for compensation, either individually or as an employee
 25 of another person, undertakes to promote or oppose the awarding of a contract to a
 26 particular vendor or vendors by any branch of state government or any agency,
 27 authority, board, bureau, commission, or department thereof; or

28 (G) Any natural person who makes a total expenditure of more than \$250.00 in a
 29 calendar year, not including the person's own travel, food, lodging expenses, or
 30 informational material to promote or oppose the awarding of a contract to a particular
 31 vendor or vendors by any branch of state government or any agency, authority, board,
 32 bureau, commission, or department thereof;

33 provided, however, that the definition of 'lobbyist' set forth in subparagraphs (F) and (G)
 34 of this paragraph shall not include: (i) any natural person who owns a substantial interest
 35 in the vendor for which such person undertakes to promote or oppose the awarding of any
 36 contract by any branch of state government or any agency, authority, board, bureau,
 37 commission, or department thereof; or (ii) any natural person who in any calendar year

1 undertakes to promote or oppose the awarding of any contract or contracts to a particular
 2 vendor or vendors by any branch of state government or any agency, authority, board,
 3 bureau, commission, or department thereof where the amount of such contract or
 4 contracts does not exceed \$50,000.00 for a single transaction or \$100,000.00 in the
 5 aggregate.

6 (7) 'Public officer' means ~~those public officers specified under subparagraphs (A)~~
 7 ~~through (G) of paragraph (15) of Code Section 21-5-3, as amended, except as otherwise~~
 8 ~~provided in this article~~ every constitutional officer, elected state official, elected or
 9 appointed executive head of every state department or agency, member of the General
 10 Assembly, executive director and member of each state board, authority, or commission,
 11 elected county official, elected member of a local board of education, and elected
 12 municipal official.

13 (8) 'Substantial interest' means the direct or indirect ownership of more than 25 percent
 14 of the assets or stock of any vendor.

15 (9) 'Vendor' means any person who sells to or contracts with any branch of state
 16 government or any agency, authority, board, bureau, commission, or department thereof."

17 SECTION 2.

18 Said title is further amended by striking Code Section 21-5-73, relating to disclosure reports,
 19 and inserting in its place a new Code Section 21-5-73 to read as follows:

20 "21-5-73.

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

24 (b) A person who is a lobbyist pursuant to subparagraph (A), (B), or (C) of paragraph (6)
 25 of Code Section 21-5-70 shall file a monthly disclosure report, current through the end of
 26 the preceding month, shall be filed on or before the fifth day of any month while the
 27 General Assembly is in session.

28 (c) A person who is a lobbyist pursuant to subparagraph (D) or (E) of paragraph (6) of
 29 Code Section 21-5-70 shall: (1) file a disclosure report, current through the end of the
 30 preceding month, on or before the fifth day of May, September, and January of each year
 31 instead of the reports otherwise required by ~~subsection (c)~~ subsections (b) and (d) of this
 32 Code section ~~and the first sentence of this subsection;~~ and (2) file such report with the
 33 commission, file a copy of such report with the election superintendent of each county
 34 involved if the report contains any expenditures relating to county or county school district
 35 affairs, and file a copy of such report with the municipal clerk (or if there is no municipal
 36 clerk, with the chief executive officer of the municipality) of each municipality involved

1 if the report contains any expenditures relating to municipal affairs or independent school
2 district affairs.

3 ~~(c)~~(d) A person who is a lobbyist pursuant to subparagraph (A), (B), (C), (F), or (G) of
4 paragraph (6) of Code Section 21-5-70 shall file a disclosure report, current through the end
5 of the period ending on July 31 and December 31 of each year, shall be filed on or before
6 August 5 and January 5 of each year.

7 ~~(d)~~(e) Reports filed by lobbyists shall be verified and shall include:

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

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

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

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

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

23 (2) The names of any members of the immediate family of a public officer employed by
24 or whose professional services are paid for by the lobbyist during the reporting period;
25 and

26 (3) For those who are lobbyists within the meaning of subparagraph (F) or (G) of
27 paragraph (6) of Code Section 21-5-70, the name of any vendor or vendors for which the
28 lobbyist undertook to promote or oppose the awarding of a contract or contracts by any
29 branch of state government or any agency, authority, board, bureau, commission or
30 department thereof along with a description of such contract or contracts and the
31 monetary amount of such contract or contracts.

32 (f) The reports required by this article shall be in addition to any reports required under
33 Code Section 45-1-6, relating to required reports by state vendors of gifts to state
34 employees. Compliance with this Code section shall not excuse noncompliance with that
35 Code section, and compliance with that Code section shall not excuse noncompliance with
36 this Code section, notwithstanding the fact that in some cases the same information may
37 be required to be disclosed under both Code sections."

SECTION 3.

Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended by adding a new Code section at the end of Article 3 of Chapter 12, relating to appointments and vacancies, to be designated Code Section 45-12-61, to read as follows:

"45-12-61.

(a) As used in this Code section, the terms 'campaign committee,' 'contribution,' and 'expenditure' shall have the meanings set forth in Code Section 21-5-3.

(b) No person shall be eligible for appointment to fill a vacancy on the Supreme Court, the Court of Appeals, the superior courts, or the state courts if such person has made a contribution to or expenditure on behalf of the Governor or the Governor's campaign committee either: (1) in the 30 day period preceding the vacancy, unless the person requests and is provided a refund of such contribution or reimbursement for such expenditure; or (2) on or after the date the vacancy occurs."

SECTION 4.

This Act shall become effective on July 1, 2003.

SECTION 5.

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