

Senate Bill 109

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

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 the provisions relating to the filing of financial  
 4 disclosure statements, the persons required to file financial disclosure statements, and the  
 5 contents thereof; to require the filing of such statements by electronic means; to change  
 6 certain provisions regarding public officials' conduct and lobbyist disclosure; to change  
 7 certain provisions regarding definitions; to provide for additional filing and disclosure  
 8 requirements; to provide for additional eligibility requirements regarding certain public  
 9 offices; to provide for related matters; to provide an effective date; to repeal conflicting laws;  
 10 and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended by  
 14 striking subsection (b) and adding a new subsection to Code Section 21-5-50, relating to  
 15 filing of financial disclosure statements by public officers and candidates for public office,  
 16 as follows:

17 “(b) A financial disclosure statement shall be in the form specified by the commission and  
 18 shall identify:

19 (1) Each monetary fee or honorarium of ~~\$101.00 or less~~ which is accepted by a public  
 20 officer from speaking engagements, participation in seminars, discussion panels, or other  
 21 activities which ~~directly~~ relate to the official duties of the public officer or the office of  
 22 the public officer, with a statement identifying the fee or honorarium accepted and the  
 23 person from whom it was accepted;

24 (2) Each monetary fee or honorarium of more than \$101.00 which is accepted by a  
 25 public officer who holds office on a full-time basis from speaking engagements,  
 26 participation in seminars, discussion panels, or other activities that is not related to the

1 official duties of the public officer or the office of the public officer, with a statement  
 2 identifying the fee or honorarium accepted and the person or entity from whom it was  
 3 accepted;

4 ~~(2)~~(3) All fiduciary positions held by the candidate for public office or the public officer,  
 5 with a statement of the title of each such position, the name and address of the business  
 6 entity, and the principal activity of the business entity;

7 ~~(3)~~(4) The name, address, and principal activity of any business entity and the office held  
 8 by and the duties of the candidate for public office or public officer within such business  
 9 entity as of December 31 of the covered year in which such candidate or officer has a  
 10 direct ownership interest which interest:

11 (A) Is more than ~~10~~ 5 percent of the total interests in such business; or

12 (B) Has a net fair market value of more than \$20,000.00;

13 ~~(4)~~(5) Each tract of real property in which the candidate for public office or public  
 14 officer has a direct ownership interest or purchase option as of December 31 of the  
 15 covered year when that interest has a ~~net~~ fair market value in excess of \$20,000.00. As  
 16 used in this paragraph, the term '~~net~~ fair market' value means the appraised value of the  
 17 property for ad valorem tax purposes ~~less any indebtedness thereon~~. The disclosure shall  
 18 contain the county and state and general ~~location therein where the property is located~~  
 19 description of the property;

20 (6) The filer's occupation, employer, and the principal activity and address of such  
 21 employer;

22 (7) If he or she has actual knowledge of such ownership interest or knowledge of facts  
 23 which would put a reasonable and prudent person on notice of such ownership interest,  
 24 the filer shall name any business or subsidiary thereof in Georgia in which the filer's  
 25 spouse or children, siblings, and parents, jointly or severally, own a direct ownership  
 26 interest which interest:

27 (A) Is more than 5 percent of the total interests in such business; or

28 (B) Has a net fair market value of more than \$20,000.00

29 or in which the filer's spouse or any child, sibling, or parent serves as an officer, director,  
 30 equitable partner, trustee, or consultant;

31 (8) If the filer or his or her spouse has engaged in a business in a fiduciary position  
 32 during the last reporting year which provides legal, investment, accounting, medical or  
 33 health related, real estate, banking, insurance, educational, farming, engineering,  
 34 architectural, construction, or other professional services or consultations, then the filing  
 35 party shall report each category from which the gross income received from all combined  
 36 clients in such category exceeds \$10,000.00. Such categories shall be established by rule  
 37 of the commission and may include a stock investment portfolio, electric utilities, gas

1 utilities, telephone utilities, water utilities, cable television companies, intrastate  
 2 transportation companies, pipeline companies, oil or gas exploration companies or both,  
 3 oil and gas retail companies, banks, savings and loan associations, loan or finance  
 4 companies or both, manufacturing firms, mining companies, life insurance companies,  
 5 casualty insurance companies, other insurance companies, retail companies, beer, wine,  
 6 or liquor companies or distributors or any combination thereof, trade associations,  
 7 professional associations, governmental associations, associations of public employees  
 8 or public officials, and counties;

9 ~~(5)~~(9) All annual payments in excess of \$20,000.00 received by the public officer or any  
 10 business entity identified in ~~paragraph (3)~~ paragraph (4) of this subsection from the state,  
 11 any agency, department, commission, or authority created by the state, and authorized  
 12 and exempted from disclosure under Code Section 45-10-25, and the agency, department,  
 13 commission, or authority making the payments, and the general nature of the  
 14 consideration rendered for the source of the payments; and

15 ~~(6)~~(10) No form prescribed by the commission shall require more information or specify  
 16 more than provided in the several paragraphs of this Code section with respect to what  
 17 is required to be disclosed.

18 (d) Beginning January 1, 2005, all state-wide elected officials and members of the General  
 19 Assembly financial disclosure statements. Prior to such date electronic filing of financial  
 20 disclosure statements by such persons is permitted and encouraged but not required."

## 21 SECTION 2.

22 Said title is further amended by striking Code Section 21-5-70, relating to definitions  
 23 regarding public officials' conduct and lobbyist disclosure, and inserting in its place a new  
 24 Code Section 21-5-70 to read as follows:

25 "21-5-70.

26 As used in this article, the term:

27 (1) 'Expenditure':

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

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

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

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

4 (E) The term shall not include:

5 (i) The value of personal services performed by persons who serve voluntarily  
 6 without compensation from any source;

7 (ii) A gift received from a member of the public officer's immediate family;

8 (iii) Legal compensation or expense reimbursement provided public employees and  
 9 public officers in the performance of their duties;

10 (iv) Promotional items generally distributed to the general public or to public officers  
 11 and food and beverages produced in Georgia;

12 (v) An award, plaque, certificate, memento, or similar item given in recognition of  
 13 the recipient's civic, charitable, political, professional, or public service;

14 (vi) Legitimate salary, benefits, fees, commissions, or expenses associated with a  
 15 recipient's nonpublic business, employment, trade, or profession;

16 (vii) Food, beverages, and registration at group events to which all members of an  
 17 agency, as defined in paragraph (1) of subsection (a) of Code Section 21-5-30.2, are  
 18 invited. An agency shall include the Georgia House of Representatives, the Georgia  
 19 Senate, committees and subcommittees of such bodies, and the governing body of  
 20 each political subdivision of this state;

21 (viii) Campaign contributions or expenditures reported as required by Article 2 of  
 22 this chapter;

23 (ix) A commercially reasonable loan made in the ordinary course of business; or

24 (x) Food, beverage, or expenses afforded public officers, members of their immediate  
 25 families, or others that are associated with normal and customary business or social  
 26 functions or activities.

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

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

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

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

36 (6) 'Lobbyist' means:

1 (A) Any natural person who, for compensation, either individually or as an employee  
 2 of another person, undertakes to promote or oppose the passage of any legislation by  
 3 the General Assembly, or any committee thereof, or the approval or veto of legislation  
 4 by the Governor;

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

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

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

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

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

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

1 provided, however, that the definition of 'lobbyist' set forth in subparagraphs (F) and (G)  
 2 of this paragraph shall not include: (i) any natural person who owns a substantial interest  
 3 in the vendor for which such person undertakes to promote or oppose the awarding of any  
 4 contract by any branch of state government or any agency, authority, board, bureau,  
 5 commission, or department thereof; or (ii) any natural person who in any calendar year  
 6 undertakes to promote or oppose the awarding of any contract or contracts to a particular  
 7 vendor or vendors by any branch of state government or any agency, authority, board,  
 8 bureau, commission, or department thereof where the amount of such contract or  
 9 contracts does not exceed \$50,000.00 for a single transaction or \$100,000.00 in the  
 10 aggregate.

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

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

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

### 22 SECTION 3.

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

25 "21-5-73.

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

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

33 (c) A person who is a lobbyist pursuant to subparagraph (D) or (E) of paragraph (6) of  
 34 Code Section 21-5-70 shall: (1) file a disclosure report, current through the end of the  
 35 preceding month, on or before the fifth day of May, September, and January of each year  
 36 instead of the reports otherwise required by ~~subsection (c)~~ subsections (b) and (d) of this

1 Code section ~~and the first sentence of this subsection~~; and (2) file such report with the  
 2 commission, file a copy of such report with the election superintendent of each county  
 3 involved if the report contains any expenditures relating to county or county school district  
 4 affairs, and file a copy of such report with the municipal clerk (or if there is no municipal  
 5 clerk, with the chief executive officer of the municipality) of each municipality involved  
 6 if the report contains any expenditures relating to municipal affairs or independent school  
 7 district affairs.

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

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

13 (1) A description of all expenditures, as defined in Code Section 21-5-70, or the value  
 14 thereof made by the lobbyist or employees of the lobbyist on behalf or for the benefit of  
 15 a public officer or a public officer's staff member. The description of each reported  
 16 expenditure shall include:

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

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

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

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

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

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

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

7 **SECTION 4.**

8 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
9 is amended by adding a new Code section at the end of Article 3 of Chapter 12, relating to  
10 appointments and vacancies, to be designated Code Section 45-12-61, to read as follows:  
11 "45-12-61.

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

14 (b) No person shall be eligible for appointment to fill a vacancy on any board, council, or  
15 commission or on the Supreme Court, the Court of Appeals, the superior courts, or the state  
16 courts if the person has made a contribution to or expenditure on behalf of the Governor  
17 or the Governor's campaign committee in the previous 90 days."

18 **SECTION 5.**

19 This Act shall become effective on July 1, 2003.

20 **SECTION 6.**

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