

House Bill 102

By: Representatives Oliver of the 83rd, Benfield of the 85th, Ashe of the 56th, and Gardner of the 57th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 21 of the Official Code of Georgia Annotated, relating to elections, so as to
2 create a taxpayer funded method of financing certain judicial elections for certain candidates
3 who demonstrate public support and accept strict fund-raising and spending limitations; to
4 change certain provisions relating to the duty of the State Election Board; to change certain
5 provisions relating to the enforcement of Chapter 2 of said title, relating to elections and
6 primaries generally; to provide that the State Election Board enforce provisions relating to
7 the "Georgia Public Financing for Appellate Judicial Campaign Fund Act"; to provide for
8 a short title; to make legislative findings; to provide for definitions; to provide for a fund to
9 finance the election campaigns of certain judicial candidates; to provide for establishing the
10 fund and the mechanics of operating fund distribution, including qualifications of candidates,
11 timing of fund distribution, amount of fund distribution, method of fund distribution, and
12 restrictions on contributions and expenditures in order to obtain and continue to receive
13 public funding for campaigning; to provide for an advisory council for the fund; to provide
14 for appointments and terms of office for members of the advisory council; to provide for
15 appeals; to provide for rule making; to provide for public reporting of information; to provide
16 for voluntary contributions to the fund through the state income tax return; to provide for the
17 Department of Revenue's assistance in collecting contributions and transmitting them to the
18 fund; to change provisions relating to maximum allowable contributions; to provide for
19 related matters; to provide for an effective date; to repeal conflicting laws; and for other
20 purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended by
24 striking in its entirety Code Section 21-2-31, relating to duties of the State Election Board,
25 and inserting in lieu thereof the following:

1 "21-2-31.

2 It shall be the duty of the State Election Board:

3 (1) To supervise and coordinate the work of the office of the Secretary of State,
4 superintendents, registrars, deputy registrars, poll officers, and other officials so as to
5 obtain uniformity in their practices and proceedings and legality and purity in all
6 primaries and elections;

7 (2) To formulate, adopt, and promulgate such rules and regulations, consistent with law,
8 as will be conducive to the fair, legal, and orderly conduct of primaries and elections;
9 and, upon the adoption of each rule and regulation, the board shall promptly file certified
10 copies thereof with the Secretary of State and each superintendent;

11 (3) To publish and furnish to primary and election officials, from time to time, a
12 sufficient number of indexed copies of all primary and election laws and pertinent rules
13 and regulations then in force;

14 (4) To publish and distribute such explanatory pamphlets regarding the interpretation and
15 application of primary and election laws as in the opinion of the board should be
16 distributed to the electorate;

17 (5) To investigate, or authorize the Secretary of State to investigate, when necessary or
18 advisable the administration of primary and election laws and frauds and irregularities in
19 primaries and elections and to report violations of the primary and election laws either
20 to the Attorney General or the appropriate district attorney who shall be responsible for
21 further investigation and prosecution; and to investigate when necessary or advisable the
22 administration of and compliance with Chapter 2A of this title and to report violations of
23 Chapter 2A of this title either to the Attorney General or the appropriate district attorney
24 who shall be responsible for further investigation and prosecution. Nothing in this
25 paragraph shall be so construed as to require any complaining party to request an
26 investigation by the board before such party might proceed to seek any other remedy
27 available to that party under this chapter, Chapter 2A of this title, or any other provision
28 of law;

29 (6) To make such recommendations to the General Assembly as it may deem advisable
30 relative to the conduct and administration of primaries and elections;

31 (7) To promulgate rules and regulations to define uniform and nondiscriminatory
32 standards concerning what constitutes a vote and what will be counted as a vote for each
33 category of voting system used in this state;

34 (8) To formulate, adopt, and promulgate such rules and regulations, consistent with law,
35 as necessary for the administration of Chapter 2A of this title and file certified copies
36 thereof with the Secretary of State;

37 (9) To publish and furnish forms for use in the administration of Chapter 2A of this title;

1 ~~(8)~~(10) To employ such assistants as may be necessary; and
 2 ~~(9)~~(11) To take such other action, consistent with law, as the board may determine to be
 3 conducive to the fair, legal, and orderly conduct of primaries and elections, and in the
 4 administration of Chapter 2A of this title."

5 SECTION 2.

6 Said title is further amended by striking in its entirety Code Section 21-2-33.1, relating to the
 7 enforcement of Chapter 2 of Title 21, and inserting in lieu thereof the following:

8 "21-2-33.1.

9 (a) The State Election Board is vested with the power to issue orders, after the completion
 10 of appropriate proceedings, directing compliance with this chapter or Chapter 2A of this
 11 title or prohibiting the actual or threatened commission of any conduct constituting a
 12 violation of either chapter, which order may include a provision requiring the violator:

13 (1) To cease and desist from committing further violations;

14 (2) To pay a civil penalty not to exceed \$5,000.00 for each violation of this chapter or
 15 Chapter 2A of this title or for each failure to comply with any provision of this chapter
 16 or Chapter 2A of this title or of any rule or regulation promulgated under this chapter or
 17 Chapter 2A of this title. Such penalty may be assessed against an individual, a governing
 18 authority which employs or compensates an individual, or both, as the State Election
 19 Board deems appropriate;

20 (3) To publicly reprimand an individual or governing authority found to have committed
 21 a violation;

22 (4) To require that restitution be paid to a state, county, or city governing authority when
 23 it has suffered a monetary loss or damage as the result of a violation;

24 (5) To require individuals to attend training as specified by the board; and

25 (6) To assess investigative costs incurred by the board against an individual or the
 26 governing authority which employs or compensates an individual found to have
 27 committed a violation.

28 (b) A civil penalty shall not be assessed against any person except after notice and hearing
 29 as provided by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' In
 30 addition to the State Election Board, any contested case may be held before any
 31 representative of such board who has been selected and appointed by such board for such
 32 purpose. The amount of any civil penalty finally assessed shall be recoverable by a civil
 33 action brought in the name of the State Election Board. All moneys recovered pursuant to
 34 this Code section shall be deposited in the state treasury, except any moneys recovered
 35 pursuant to the enforcement of Chapter 2A of this title shall be deposited in the Georgia
 36 Public Financing for Appellate Judicial Campaign Fund.

1 (c) The Attorney General of this state shall, upon complaint by the State Election Board,
 2 or may, upon the Attorney General's own initiative if after examination of the complaint
 3 and evidence the Attorney General believes a violation has occurred, bring an action in the
 4 superior court in the name of the State Election Board for a temporary restraining order or
 5 other injunctive relief or for civil penalties assessed against any person violating any
 6 provision of this chapter or Chapter 2A of this title or any rule or regulation duly issued by
 7 the State Election Board.

8 (d) Any action brought by the Attorney General to enforce civil penalties assessed against
 9 any person for violating the provisions of this chapter or Chapter 2A of this title or any rule
 10 or regulation duly issued by the State Election Board or any order issued by the State
 11 Election Board ordering compliance or to cease and desist from further violations shall be
 12 brought in the superior court of the county of the residence of the party against whom relief
 13 is sought. Service of process shall lie in any jurisdiction within the state. In such actions,
 14 the superior court inquiry will be limited to whether notice was given by the State Election
 15 Board to the violator in compliance with the Constitution and the rules of procedure of
 16 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Upon satisfaction that
 17 notice was given and a hearing was held pursuant to Chapter 13 of Title 50, the 'Georgia
 18 Administrative Procedure Act,' the superior court shall enforce the orders of the State
 19 Election Board and the civil penalties assessed under this chapter or Chapter 2A of this title
 20 and the superior court shall not make independent inquiry as to whether the violations have
 21 occurred.

22 (e) In any action brought by the Attorney General to enforce any of the provisions of this
 23 chapter or Chapter 2A of this title or of any rule or regulation issued by the State Election
 24 Board, the judgment, if in favor of the State Election Board, shall provide that the
 25 defendant pay to the State Election Board the costs, including reasonable attorneys' fees,
 26 incurred by the State Election Board in the prosecution of such action."

27 SECTION 3.

28 Said title is further amended by inserting a new Chapter 2A to read as follows:

29 "CHAPTER 2A 30 ARTICLE 1

31 21-2A-1.

32 This chapter shall be known and may be cited as the 'Georgia Public Financing for
 33 Appellate Judicial Campaign Fund Act.'

1 21-2A-2.

2 The purpose of this chapter is to ensure the fairness of democratic elections in Georgia and
3 to protect the constitutional rights of voters and candidates from the detrimental effects of
4 increasingly large amounts of money being raised and spent to influence the outcome of
5 elections, those effects being especially problematic in elections of the judiciary, since
6 impartiality is uniquely important to the integrity and credibility of the courts. Accordingly,
7 this chapter establishes the Georgia Public Financing for Appellate Judicial Campaign
8 Fund as an alternative source of campaign financing for candidates who demonstrate public
9 support and voluntarily accept strict fund-raising and spending limits. This chapter is
10 applicable to candidates for Justice of the Supreme Court and Judge of the Court of
11 Appeals in elections to be held in 2006 and thereafter.

12 21-2A-3.

13 As used in this chapter, the term:

14 (1) 'Board' means the State Election Board.

15 (2) 'Campaign committee' has the same meaning as the term is defined in paragraph (2)
16 of Code Section 21-5-3.

17 (3) 'Candidate' has the same meaning as the term is defined in paragraph (4) of Code
18 Section 21-5-3 when the individual is seeking an office. The term includes a campaign
19 committee authorized by the candidate for that candidate's election.

20 (4) 'Certified candidate' means a candidate running for office who chooses to receive
21 campaign funds from the fund and who is certified pursuant to Code Section 21-2A-5.

22 (5) 'Contested election' means a general nonpartisan election or run-off election of a
23 general nonpartisan election for an office in which there are more candidates than the
24 number to be elected, other than write-in candidates.

25 (6) 'Contribution' has the same meaning as the term is defined in paragraph (6) of Code
26 Section 21-5-3. Notwithstanding any other provision of law to the contrary, a distribution
27 from the fund pursuant to this chapter shall not be considered to be a contribution for
28 purposes of this chapter or Chapter 5 of this title and shall not be subject to the limitations
29 of Code Section 21-5-41.

30 (7) 'Expenditure' has the same meaning as the term is defined in paragraph (9) of Code
31 Section 21-5-3.

32 (8) 'Fund' means the Georgia Public Financing for Appellate Judicial Campaign Fund
33 established in Code Section 21-2A-4.

34 (9) 'Office' means a judgeship on the Georgia Court of Appeals or the Supreme Court of
35 Georgia.

1 (10) 'Participating candidate' means a candidate for office who has filed a declaration of
2 intent to participate pursuant to Code Section 21-2A-5.

3 (11) 'Qualifying contribution' means a contribution in an amount of not less than \$25.00
4 and in the form of a check or money order payable to the candidate that is:

5 (A) Made by any registered voter in this state; and

6 (B) Made before filing the declaration of intent to participate in the fund.

7 (12) 'Qualifying period' means the period referenced in subsection (c) or (i) of Code
8 Section 21-2-132, as applicable to the particular year in which the election occurs.

9 21-2A-4.

10 (a) *Establishment of the fund.* The Georgia Public Financing for Appellate Judicial
11 Campaign Fund is established to finance the election campaigns of certified candidates for
12 office and to pay administrative and enforcement costs of the board related to this chapter.
13 The fund is a special, dedicated, nonlapsing, nonreverting fund. All expenses of
14 administering this chapter, and personnel and other costs incurred by the board, shall be
15 paid from the fund and not from the general fund of the state treasury. Any interest
16 generated by the fund shall be credited to the fund. The board shall administer the fund.

17 (b) *Sources of funding.* Money received from all the following sources shall be deposited
18 in the fund:

19 (1) Designations made to the fund by individual taxpayers pursuant to Code Section
20 21-2A-20;

21 (2) Fund revenues distributed for a contested election that remain unspent or
22 uncommitted at the time the recipient is no longer a certified candidate in the election;

23 (3) Fund revenues distributed for a contested election that remain unspent or
24 uncommitted at the time the recipient is elected, pursuant to paragraph (5) of subsection
25 (d) of Code Section 21-2A-5;

26 (4) Money ordered returned to the fund by the board or State Ethics Commission; and

27 (5) Voluntary donations made directly to the fund.

28 (c) *Determination of fund amount.* By October 1, 2006, and every two years thereafter, the
29 board, in conjunction with the Advisory Council for the Georgia Public Financing for
30 Appellate Judicial Campaign Fund, shall prepare and provide to the Governor, Lieutenant
31 Governor, and Speaker of the House of Representatives a report documenting, evaluating,
32 and making recommendations relating to the administration, implementation, and
33 enforcement of this chapter. In its report, the board shall set out the funds received to date
34 and the expected needs of the fund for the next election.

1 21-2A-5.

2 (a) *Declaration of intent to participate.* Any candidate choosing to receive campaign funds
3 from the fund shall first file with the board a declaration of intent to participate in the fund
4 as a candidate for a stated office. The declaration of intent shall be filed before or within
5 ten days of the qualifying period and after collecting any qualifying contributions. In the
6 declaration, the candidate shall swear or affirm that only one campaign committee,
7 identified with its treasurer, shall handle all contributions, expenditures, and obligations for
8 the participating candidate and that the candidate will comply with the contribution and
9 expenditure limits set forth in subsection (d) of this Code section and all other requirements
10 set forth in this chapter and Chapter 5 of this title. Failure to comply with this Code section
11 shall be a violation of this chapter punishable as determined by the board.

12 (b) *Demonstration of support of candidacy.* Participating candidates who seek certification
13 to receive campaign funds from the fund shall first, before or during the qualifying period,
14 obtain qualifying contributions from at least 100 registered voters in this state. No payment,
15 gift, or anything of value shall be given in exchange for a qualifying contribution.

16 (c) *Certification of candidates.* Upon receipt of the declaration of intent to participate by
17 a participating candidate, the board shall determine whether the candidate:

18 (1) Has properly signed and filed the declaration of intent to participate in the fund
19 pursuant to this chapter;

20 (2) Has submitted a report itemizing the appropriate number of qualifying contributions
21 received from registered voters, which the board shall verify through a random sample
22 or other means it adopts. The report shall include the county of residence of each
23 registered voter listed;

24 (3) Is qualified to receive votes on the ballot as a candidate for the office; and

25 (4) Otherwise meets the requirements for participation in the fund pursuant to this
26 chapter.

27 The board shall certify candidates within ten days of the qualifying period who have also
28 satisfied paragraphs (1) through (4) of this subsection. The board shall notify candidates
29 not complying with the requirements of this subsection as soon as possible and no later
30 than five business days after receipt of unsatisfactory compliance with this subsection.

31 (d) *Restrictions on contributions and expenditures for participating and certified*
32 *candidates.* The following restrictions shall apply to contributions and expenditures with
33 respect to participating and certified candidates:

34 (1) Beginning when a candidate who is not holding office declares his or her intent to
35 accept campaign contributions for office pursuant to subsection (g) of Code Section
36 21-5-30 or at the start of each election cycle as defined in paragraph (8.1) of Code
37 Section 21-5-3 for candidates holding office and continuing through the date of the

1 election or run-off election, the candidate may accept in contributions up to \$50,000.00,
 2 including qualifying contributions, from sources and in amounts as permitted by Code
 3 Section 21-5-41. Once the candidate files a declaration of intent to participate in the fund,
 4 the candidate may expend up to the \$50,000.00 raised pursuant to this Code section and
 5 the funds the candidate receives from the fund pursuant to Code Section 21-2A-6 for any
 6 campaign purpose for an election or run-off election. Any candidate who seeks office
 7 who exceeds the \$50,000.00 contribution or expenditure limits shall be ineligible to file
 8 a declaration of intent or receive funds from the fund;

9 (2) During the qualifying period, the candidate may contribute up to \$10,000.00 of that
 10 candidate's own money to his or her campaign, which moneys shall be counted toward
 11 the \$50,000.00 limitation set forth in paragraph (1) of this subsection;

12 (3) A candidate shall limit the use of all revenues permitted by this subsection to
 13 expenditures for campaign related purposes only. The guidelines outlining permissible
 14 campaign related expenditures shall be the same as provided in Chapter 5 of this title;

15 (4) Any contribution received by a participating candidate or a certified candidate that
 16 falls outside that which is permitted by this subsection shall be returned to the donor as
 17 soon as practicable. Contributions intentionally made, solicited, or accepted in violation
 18 of this chapter are subject to penalties as determined by the board; and

19 (5) A candidate shall return to the fund any amount distributed for an election that is
 20 unspent and uncommitted at the date of the election or run-off election, if applicable, or
 21 at the time the candidate ceases to be a certified candidate, whichever occurs first. For
 22 accounting purposes, all qualifying and personal contributions shall be considered spent
 23 before revenue from the fund is spent or committed.

24 (e) *Revocation.* A candidate may revoke, in writing to the board, a decision to participate
 25 in the fund at any time before the deadline set by the board. After a timely revocation, that
 26 candidate may accept and expend outside the limits of this chapter without violating this
 27 chapter. Within ten days after revocation, a candidate shall return to the board all money
 28 received from the fund.

29 21-2A-6.

30 (a) *Timing of fund distribution.* The board shall distribute to a certified candidate who will
 31 be in a contested election revenue from the fund in an amount determined under paragraph
 32 (2) of subsection (b) of this Code section within 30 days after the candidate is certified, but
 33 no later than 20 days before the contested election.

34 (b) *Amount of fund distribution.* By the tenth day after the qualifying period, prior to each
 35 general nonpartisan election, the board shall determine the amount of funds, rounded to the
 36 nearest \$100.00, to be distributed to certified candidates running in a contested election in

1 an amount equal to 50 times the candidate's filing fee as set forth in Code Section
2 21-2-131.

3 (c) *Method of fund distribution.* The board, in consultation with the director of the Office
4 of Treasury and Fiscal Services, shall develop a rapid, reliable method of conveying funds
5 to certified candidates. In all cases, the board shall distribute funds to certified candidates
6 in a manner that is expeditious, ensures accountability, and safeguards the integrity of the
7 fund. If the money in the fund is insufficient to fully fund all certified candidates, then the
8 available money shall be distributed proportionally, according to each candidate's eligible
9 funding.

10 21-2A-7.

11 (a) *Enforcement by the board.* The board, with the advice of the Advisory Council for the
12 Georgia Public Financing for Appellate Judicial Campaign Fund, shall administer the
13 provisions of this chapter.

14 (b) *Advisory Council for the Georgia Public Financing for Appellate Judicial Campaign*
15 *Fund.* There is established under the board the Advisory Council for the Georgia Public
16 Financing for Appellate Judicial Campaign Fund to advise the board on the rules,
17 procedures, and opinions the board adopts for the enforcement and administration of this
18 chapter and on the funding needs and operation of the fund. The advisory council shall
19 consist of five members to be appointed as follows:

20 (1) The Governor shall name two members from a list of individuals nominated by the
21 state executive committee of the political party which received the greatest number of
22 votes in the last presidential election. The state chairperson of that party shall submit to
23 the Governor the names of five nominees;

24 (2) The Governor shall name two members from a list of individuals nominated by the
25 state executive committee of the political party which received the second greatest
26 number of votes in the last presidential election. The state chairperson of that party shall
27 submit to the Governor the names of five nominees; and

28 (3) The board shall name one member by unanimous vote of all members of the board.
29 If the board cannot reach unanimity on the appointment of that member, the advisory
30 council shall consist of the remaining members named by the Governor.

31 The initial members shall be appointed by August 1, 2005. Of the initial appointees, two
32 shall serve for one-year terms, two shall serve for two-year terms, and one shall serve for
33 a three-year term according to random lot. Thereafter, appointees shall be appointed to
34 serve four-year terms. An individual may not serve more than two full terms, exclusive of
35 the initial term of appointment. The appointed members shall not be compensated for their
36 services but they shall be reimbursed in an amount equal to the per diem received by the

1 General Assembly for each day or portion thereof spent in serving as members of the
2 advisory council. One member of the advisory council shall be elected by the members as
3 chairperson. A vacancy during an unexpired term shall be filled in the same manner as the
4 regular appointment for that term, but a vacancy appointment is only for the unexpired
5 portion of the term.

6 (c) *Appeals.* The initial decision on an issue concerning qualification, certification, or
7 distribution of funds under this chapter shall be made by the chairperson of the board. The
8 procedure for challenging such decision is as follows:

9 (1) An individual or entity aggrieved by a decision of the chairperson of the board may
10 appeal to the full board within three business days of the decision. The appeal shall be in
11 writing and shall set forth the reasons for the appeal; and

12 (2) Within five business days after an appeal is properly made, and after due notice is
13 given to the parties, the board shall hold a hearing. The appellant has the burden of
14 providing evidence to demonstrate that the decision of the chairperson of the board was
15 improper. The board shall rule on the appeal within three business days after the
16 completion of the hearing.

17 (d) *Board to adopt rules and issue opinions.* The board shall adopt rules and issue
18 opinions to ensure effective administration of this chapter. Such rules and opinions shall
19 include, but not be limited to, procedures for obtaining qualifying contributions,
20 certification of candidates, addressing circumstances involving special elections, vacancies,
21 recounts, withdrawals, or replacements, collection of revenues for the fund, distribution of
22 fund revenue to certified candidates, return of unspent fund disbursements, and compliance
23 with this chapter. For races involving special elections, recounts, vacancies, withdrawals,
24 or replacement candidates, the board shall establish procedures for qualification,
25 certification, disbursement of fund revenues, and return of unspent fund revenues. The
26 board shall fulfill each of these duties in consultation with the Advisory Council for the
27 Georgia Public Financing for Appellate Judicial Campaign Fund.

28 (e) *Report to the public.* The Advisory Council for the Georgia Public Financing for
29 Appellate Judicial Campaign Fund shall issue a report by December 1, 2006, and every two
30 years thereafter that evaluates and makes recommendations about the implementation of
31 this chapter and the feasibility of expanding its provisions to include other candidates for
32 state office based on the experience of the fund and the experience of similar programs in
33 other states. The advisory council shall also evaluate and make recommendations regarding
34 how to address activities that could undermine the purpose of this chapter, including
35 spending that appears to target candidates receiving money from the fund.

ARTICLE 2

1
2 21-2A-20.

3 (a) To support public financing for appellate judicial campaigns, the board may, without
4 limitation, promote and solicit voluntary contributions through the income tax return
5 contribution mechanism established in subsection (e) of this Code section, and through any
6 fund raising or other promotional techniques deemed appropriate by the board.

7 (b) The 'Georgia Public Financing for Appellate Judicial Campaign Fund' shall exclusively
8 consist of all moneys provided for under Code Section 21-2A-4. All balances in the fund
9 shall be deposited in an interest-bearing account identifying the fund and shall be carried
10 forward each year so that no part thereof may be deposited in the general fund of the state
11 treasury. The fund shall be administered and the moneys held in the fund shall be expended
12 by the board in furtherance of providing public financing for appellate judicial campaigns.

13 (c) Following the transmittal of contributions to the board for deposit in the fund pursuant
14 to subsection (e) of this Code section, the expenditure of moneys in the fund shall be
15 allocated as determined by the board to certified candidates and to pay for administrative
16 and personnel costs associated with implementation of this chapter.

17 (d) The board shall prepare, by February 1 of each year, an accounting of the funds
18 received and expended from the fund and a review and evaluation of all expended moneys
19 of the fund. The report shall be made available to the Governor, the Lieutenant Governor,
20 the Speaker of the House of Representatives and, upon request, to members of the public.

21 (e)(1) Unless an earlier date is deemed feasible and established by the Governor, each
22 Georgia income tax return form for taxable years beginning on or after January 1, 2006,
23 shall contain appropriate language, to be determined by the state revenue commissioner,
24 offering the taxpayer the opportunity to contribute up to \$10.00 to the fund established
25 in subsection (b) of this Code section by either donating all or any part of any tax refund
26 due, by authorizing a reduction in the refund check otherwise payable, or by contributing
27 \$10.00 over and above any amount of tax owed by adding that amount to the taxpayer's
28 payment. In the case of a married couple filing a joint return, each taxpayer shall have the
29 option of agreeing to the contribution. The instructions accompanying the income tax
30 return form shall contain a description of the purposes for which this fund was established
31 and the intended use of moneys received from the contributions. The instructions shall
32 make it clear to the taxpayer that taxpayer contributions will support a nonpartisan court
33 system. The Department of Revenue shall consult with the board to ensure that the
34 information given to taxpayers complies with the intent of this chapter. Each taxpayer
35 required to file a state income tax return who desires to contribute to such fund may

1 designate such contribution as provided in this Code section on the appropriate income
2 tax return form.

3 (2) The Department of Revenue shall determine annually the total amount contributed,
4 shall withhold therefrom a reasonable amount for administering the provisions of
5 paragraph (1) of this subsection, and shall transmit the balance to the board for deposit
6 in the fund established in subsection (b) of this Code section; provided, however, that the
7 amount retained for administrative costs, including implementation costs, shall not
8 exceed \$50,000.00 per year. If, in any tax year, the administrative costs of the
9 Department of Revenue for collecting contributions pursuant to this Code section exceed
10 the sum of such contributions, the administrative costs which the Department of Revenue
11 is authorized to withhold from such contributions shall not exceed the sum of such
12 contributions.

13 (3) The amounts allocated to the board for the fund pursuant to this subsection shall be
14 credited to the board on a quarterly basis."

15 **SECTION 4.**

16 Said title is further amended by adding a new subsection to Code Section 21-5-41, relating
17 to maximum allowable contributions, to read as follows:

18 "(a.1) Notwithstanding subsection (a) of this Code section, and in order to make
19 meaningful the provisions of Chapter 2A of this title, a certified candidate as defined in
20 paragraph (4) of Code Section 21-2A-2 may only accept contributions as provided in Code
21 Section 21-2A-5. The recipient of a contribution that violates this subsection shall have
22 three days in which to return the contribution to the contributor or file a detailed statement
23 with the State Election Board explaining why the contribution does not violate this
24 subsection."

25 **SECTION 5.**

26 This Act shall become effective on July 1, 2005.

27 **SECTION 6.**

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