

House Bill 1513

By: Representatives Benfield of the 85th, Oliver of the 83rd, Porter of the 143rd, and Hugley of the 133rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 2 of Title 46 of the Official Code of Georgia Annotated,
2 relating to investigations and hearings of the Public Service Commission, so as to prohibit
3 communications between a member of the Public Service Commission or the commission's
4 advisory staff and a party to a proceeding pending before the commission, the director of the
5 consumers' utility counsel division, a representative of a party to a proceeding pending
6 before the commission, and public and elected officials; to provide that communications
7 between members of the commission or members of the commission's advisory staff are not
8 prohibited; to provide that communications between members of the commission or members
9 of the commission's advisory staff and the director of the consumers' utility counsel division
10 on administrative matters are not prohibited; to provide the time period in which certain
11 communications are prohibited; to require that prohibited communications be disclosed and
12 that information regarding the prohibited communications be placed on the record of the
13 proceeding; to require that prohibited communications be reported to the State Ethics
14 Commission; to provide a process by which the member of the commission or member of
15 the commission's advisory staff receiving a prohibited communication may be prohibited
16 from participating in a proceeding; to amend Code Section 21-5-6 of the Official Code of
17 Georgia Annotated, relating to powers and duties of the State Ethics Commission, so as to
18 provide the State Ethics Commission with the duty to investigate upon a written complaint
19 any prohibited communications; to provide for related matters; to provide for an effective
20 date; to repeal conflicting laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 Article 3 of Chapter 2 of Title 46 of the Official Code of Georgia Annotated, relating to
24 investigations and hearings of the Public Service Commission, is amended by adding a new
25 Code Section 46-2-60 to read as follows:

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1 "46-2-60.

2 (a) As used in this Code section, the term:

3 (1) 'Advisory staff' means the director of utilities and any engineer, statistician, or
4 inspector employed by the commission pursuant to Code Section 46-2-7.

5 (2) 'Person' means a party to a proceeding pending before the commission, including any
6 officers, directors, managers, or employees of the party; a representative of a party to a
7 proceeding pending before the commission; the director of the consumers' utility counsel
8 division; and public and elected officials.

9 (3) 'Proceeding' means a contested case to be adjudicated, decided, arbitrated, or
10 promulgated by the commission.

11 (b) Except as provided in subsection (c) of this Code section, a member of the commission
12 or member of the commission's advisory staff shall not communicate, directly or indirectly,
13 with a person and a person shall not communicate, directly or indirectly, with a member
14 of the commission or member of the commission's advisory staff regarding an issue in a
15 proceeding pending before the commission without first providing reasonable notice and
16 an opportunity for all parties to participate in the communication.

17 (c) Notwithstanding the provisions of subsection (b) of this Code section, this Code section
18 shall not prohibit:

19 (1) A member of the commission or a member of the commission's advisory staff
20 communicating with other members of the commission and other members of the
21 commission's advisory staff regarding matters and proceedings pending before the
22 commission; or

23 (2) Members of the commission or members of the commission's advisory staff
24 communicating with the director of the consumers' utility counsel division on
25 administrative matters.

26 (d) During the 90 day period immediately preceding the filing with the commission of any
27 pleadings, applications, or other documents that initiate a proceeding before the
28 commission, a person who is aware that such a proceeding is to be initiated shall not
29 communicate, directly or indirectly, with a member of the commission or member of the
30 commission's advisory staff regarding an issue involved in the proceeding. If a prohibited
31 communication is made during that time, the member of the commission or member of the
32 commission's advisory staff shall disclose the communication in the manner provided in
33 subsection (e) of this Code section; except that a member of the commission or member
34 of the commission's advisory staff may communicate, directly or indirectly, with a person
35 regarding any fact, law, or other matter that is or may become an issue in a proceeding
36 before the commission for the purposes of an educational briefing by the person if all
37 members of the commission, all members of the advisory staff, the director of the

1 consumers' utility counsel division, and all parties are invited to attend the briefing through
 2 the issuance of a formal notice of briefing. Notice of the briefing shall be published on the
 3 commission's website ten days before the educational briefing.

4 (e)(1) If a member of the commission or member of the commission's advisory staff
 5 makes or receives a communication in violation of this Code section, he or she shall place
 6 the following on the record of the proceeding:

7 (A) The substance of the prohibited communication;

8 (B) All written or electronic documentation of the prohibited communication;

9 (C) The identity of each person who participated in the prohibited communication; and

10 (D) The date and time of the communication.

11 (2) The member of the commission or member of the commission's advisory staff shall
 12 also advise all parties that these matters have been placed on the record. Within ten days
 13 after receipt of notice of the prohibited communication, a person who desires to rebut the
 14 content of the prohibited communication shall request and be granted the opportunity to
 15 rebut its contents on the record of the proceeding.

16 (f) If necessary to eliminate the effect of a prohibited communication received in violation
 17 of this Code section, a member of the commission or member of the commission's advisory
 18 staff who receives the prohibited communication may be prohibited from participating in
 19 the proceeding by the commissioners upon a majority vote of those present and voting and
 20 the portions of the record pertaining to the prohibited communication may be sealed by
 21 protective order.

22 (g) A member of the commission or member of the commission's advisory staff, the
 23 director of the consumers' utility counsel division, a party, or other person shall report a
 24 willful violation or repeated nonwillful violations of this Code section by a member of the
 25 commission, a member of the advisory staff, or the director of the consumers' utility
 26 counsel division to the State Ethics Commission for disciplinary proceedings or other
 27 action provided by law."

28 SECTION 2.

29 Code Section 21-5-6 of the Official Code of Georgia Annotated, relating to the powers and
 30 duties of the State Ethics Commission, is amended by striking "and" at the end of paragraph
 31 (21), by striking the period at the end of paragraph (22), and inserting in lieu thereof "; and",
 32 and by adding a new paragraph (23) to subsection (b) to read as follows:

33 "(23) To investigate upon a written complaint any communication made in violation of
 34 Code Section 46-2-60."

1 **SECTION 3.**

2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval.

4 **SECTION 4.**

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