

House Bill 854

By: Representative Lunsford of the 110th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 13 of Title 45 of the Official Code of Georgia Annotated,
2 relating to general powers and duties of the Secretary of State, so as to require labor
3 organizations to file annual financial reports with the Secretary of State; to provide for
4 legislative intent and findings; to provide for definitions; to require certain submissions by
5 labor organizations to the Secretary of State; to provide for maintenance of substantiating
6 records; to provide for access to members of the labor organization; to provide for public
7 access to the financial reports; to provide for rules and regulations; to provide for violations;
8 to provide for civil actions; to provide for an exception; to amend Article 2 of Chapter 10 of
9 Title 45 of the Official Code of Georgia Annotated, relating to conflicts of interest for public
10 officers and employees, so as to prohibit state funds going to organizations which lobby the
11 state; to provide for an effective date and applicability; to provide for related matters; to
12 repeal conflicting laws; and for other purposes.

13 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

14 **SECTION 1.**

15 It is the intent of the General Assembly to protect the welfare and best interests of the
16 employee workforce in this state. The General Assembly finds and declares that a public
17 purpose is served by ensuring that labor organizations which serve members in various
18 segments of the workforce uphold their fiduciary duties to their members. The General
19 Assembly therefore declares that in its considered judgment, the public good and the general
20 welfare of the citizen workforce of this state requires the enactment of this Act.

21 **SECTION 2.**

22 Chapter 13 of Title 45 of the Official Code of Georgia Annotated, relating to general powers
23 and duties of the Secretary of State, is amended by adding a new Code section to read as
24 follows:

1 "45-13-29.

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

3 (1) 'Employee' means any individual employed full time or part time by an employer.

4 (2) 'Employer' means any person or entity that employs one or more employees and shall
5 include the State of Georgia and its political subdivisions and instrumentalities.

6 (3) 'Labor organization' means a state or local labor organization and includes any
7 organization of any kind, any agency, or employee representation committee, group,
8 association, or plan so engaged in which employees participate and which exists for the
9 purpose, in whole or in part, of dealing with employers concerning grievances, labor
10 disputes, wages, rates of pay, hours, or other terms or conditions of employment. This
11 term is intended to include any state or local organization, association, or corporation
12 which has among its objectives educational, charitable, instructional, legislative, legal,
13 or professional development activities related to promoting and enhancing the welfare of
14 a profession and its employees.

15 (4) 'Member' means any person who has fulfilled the requirements for membership in a
16 labor organization and who neither has voluntarily withdrawn from membership nor has
17 been expelled from membership.

18 (5) 'Officer' means any constitutional officer, any person authorized to perform the
19 functions of president, vice president, secretary, treasurer, or other executive functions
20 of a labor organization, and any member of its executive board or similar governing body.

21 (6) 'Secretary of State' means the Secretary of State of the State of Georgia.

22 (b) Every labor organization shall file a copy of its constitution and bylaws with the
23 Secretary of State, together with a report, signed by its president and secretary or
24 corresponding principal officers, containing the following information:

25 (1) The name of the labor organization, its mailing address, and any other address at
26 which it maintains its principal office or at which it keeps the records referred to in this
27 Code section;

28 (2) The name and title of each of its officers;

29 (3) The initiation fee or fees required from a new or transferred member and fees for
30 work permits required by the reporting labor organization;

31 (4) The regular dues or fees or other periodic payments required to remain a member of
32 the reporting labor organization; and

33 (5) Detailed statements or references to specific provisions of documents filed under this
34 Code section which contain statements showing the provisions made and procedures
35 followed with respect to:

36 (A) Qualifications for or restrictions on membership;

37 (B) Levying of assessments;

- 1 (C) Participation in an insurance or other benefit plan;
 2 (D) Authorization for disbursement of funds of the labor organization;
 3 (E) Audit of financial transactions of the labor organization;
 4 (F) The calling of regular and special meetings; and
 5 (G) The selection of officers and stewards and of any representatives to other bodies
 6 composed of labor organizations' representatives, with a specific statement of the
 7 manner in which each officer was elected, appointed, or otherwise selected.

8 Any change in the information required by this subsection shall be reported to the
 9 Secretary of State at the time the reporting labor organization files its annual financial
 10 report required by subsection (c) of this Code section.

11 (c) Every labor organization shall file annually with the Secretary of State a financial
 12 report signed by its president and treasurer or corresponding principal officers containing
 13 the following information in such detail as may be necessary accurately to disclose its
 14 financial condition and operations for its preceding fiscal year:

- 15 (1) Assets and liabilities at the beginning and end of the fiscal year;
 16 (2) Receipts of any kind and the sources thereof;
 17 (3) Salary, allowances, and other direct or indirect disbursements, including reimbursed
 18 expenses, to each officer and also to each employee who received more than \$10,000.00
 19 in the aggregate during the fiscal year from the labor organization and any other labor
 20 organization affiliated with it or with which it is affiliated, or which is affiliated with the
 21 same national labor organization;
 22 (4) Direct and indirect loans made to any officer, employee, or member which
 23 aggregated more than \$250 during the fiscal year, together with a statement of the
 24 purpose, security, if any, and arrangements for repayment;
 25 (5) Direct and indirect loans to any business enterprise, together with a statement of the
 26 purpose, security, if any, and arrangements for repayment; and
 27 (6) Other disbursements made by it including the purposes thereof.

28 These shall be in such categories as prescribed by the Secretary of State. The report
 29 required pursuant to this subsection shall be filed no later than 90 days after the end of the
 30 fiscal year of the labor organization.

31 (d) Every labor organization required to submit a financial report under this Code section
 32 shall maintain records on the matters required to be included in the report that will provide
 33 sufficient detail to verify, explain, clarify, and ensure the accuracy and completeness of the
 34 information and data contained in the report. The records maintained shall include, but not
 35 be limited to, vouchers, worksheets, receipts, and applicable resolutions of the labor
 36 organization. The records maintained for a fiscal year report shall be preserved for a period
 37 of not less than five years after the filing of the report.

1 (e) Every labor organization required to submit a financial report under this Code section
2 shall make available to all of its members the information required to be contained in such
3 report as well as the substantiating records maintained pursuant to subsection (d) of this
4 Code section. The financial report required by this subsection shall include the content and
5 information in the manner as required by the United States Department of Labor forms
6 LM-2, LM-3, and LM-4, as in effect on July 1, 2007, as deemed appropriate by the
7 Secretary of State. The Secretary of State shall be authorized to establish total annual
8 receipt amount requirements for each form.

9 (f) The reports submitted to the Secretary of State by labor organizations pursuant to this
10 Code section shall be public records and subject to Article 4 of Chapter 18 of Title 50,
11 relating to the inspection of public records, and the Secretary of State may make available
12 in any form, in his or her discretion, the reports and any information and data contained in
13 such reports. The Secretary of State may use the information and data contained in such
14 reports for statistical and research purposes and may compile and publish such studies,
15 analyses, reports, and surveys based on such reports as he or she deems appropriate. The
16 Secretary of State shall make available to the public each report within ten days of receipt
17 of any such report.

18 (g) The Secretary of State shall be authorized and directed to promulgate rules and
19 regulations to implement the provisions of this Code section.

20 (h)(1) Any person who willfully violates this Code section shall be fined not more than
21 \$10,000.00, imprisoned for up to one year, or both.

22 (2) Any person who makes a false statement or representation of a material fact, knowing
23 it to be false, or who knowingly fails to disclose a material fact in any report filed
24 pursuant to this Code section shall be fined not more than \$10,000.00, imprisoned for up
25 to one year, or both.

26 (3) Any person who willfully makes a false entry in or willfully conceals, withholds, or
27 destroys any books, records, reports, or statements required to be maintained pursuant to
28 subsection (d) of this Code section shall be fined not more than \$10,000.00, imprisoned
29 for up to one year, or both.

30 (4) Each individual required to sign a financial report pursuant to subsection (c) of this
31 Code section shall be personally responsible for the filing of such reports and for any
32 statement contained therein which he or she knows to be false.

33 (i) Whenever it shall appear that any person has violated or is about to violate any of the
34 provisions of this Code section, the Secretary of State may bring a civil action for such
35 relief, including injunctions, as may be appropriate.

1 (j) Any labor organization which is required to comply with and is in compliance with the
2 federal Labor-Management Reporting and Disclosure Act of 1959, as amended, shall not
3 be required to comply with this Code section."

4 **SECTION 3.**

5 Article 2 of Chapter 10 of Title 45 of the Official Code of Georgia Annotated, relating to
6 conflicts of interest for public officers and employees, is amended by adding a new part to
7 read as follows:

8 "Part 7

9 45-10-100.

10 No public funds shall be disbursed, either through contract or grant, to any organization
11 which engages in lobbying, as defined in Code Section 21-5-70, the General Assembly of
12 the State of Georgia.

13 **SECTION 4.**

14 This Act shall become effective on July 1, 2007, and shall be effective for each labor
15 organization for the labor organization's fiscal year ending on or next ensuing after July 1,
16 2007.

17 **SECTION 5.**

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