

House Bill 889

By: Representatives Oliver of the 83<sup>rd</sup>, Porter of the 143<sup>rd</sup>, Hugley of the 133<sup>rd</sup>, Smyre of the 132<sup>nd</sup>, and Ashe of the 56<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 45 of the Official Code of Georgia Annotated, relating to public officers and  
2 employees, so as to revise provisions regarding conflicts of interest; to change certain  
3 provisions relating to the code of ethics for members of boards, commissions, and  
4 authorities; to provide the State Ethics Commission with jurisdiction to hear matters related  
5 to conflicts of interest; to provide for procedure; to provide for related matters; to provide for  
6 an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
10 is amended by revising Code Section 45-10-3, relating to code of ethics for members of  
11 boards, commissions, and authorities, as follows:

12 "45-10-3.

13 Notwithstanding any provisions of law to the contrary, each ~~member of all boards,~~  
14 ~~commissions, and authorities created by general statute~~ public official and employee, as  
15 those terms are defined in Code Section 45-10-20, shall:

- 16 (1) Uphold the Constitution, laws, and regulations of the United States, the State of  
17 Georgia, and all governments therein and never be a party to their evasion;
- 18 (2) Never discriminate by the dispensing of special favors or privileges to anyone,  
19 whether or not for remuneration;
- 20 (3) Not engage in any business with the government, either directly or indirectly, which  
21 is inconsistent with the conscientious performance of his or her governmental duties;
- 22 (4) Never use any information coming to him or her confidentially in the performance  
23 of governmental duties as a means for making private profit;
- 24 (5) Expose corruption wherever discovered;
- 25 (6) Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors,  
26 hospitality, or services from any person, association, or corporation under circumstances

1 from which it could reasonably be inferred that a major purpose of the donor is to  
2 influence the performance of ~~the member's~~ his or her official duties;

3 (7) Never accept any economic opportunity under circumstances where he or she knows  
4 or should know that there is a substantial possibility that the opportunity is being afforded  
5 him or her with intent to influence his or her conduct in the performance of his or her  
6 official duties;

7 (8) Never engage in other conduct which is unbecoming to ~~a member~~ him or her or  
8 which constitutes a breach of public trust; and

9 (9) Never take any official action with regard to any matter under circumstances in  
10 which he or she knows or should know that he or she has a direct or indirect monetary  
11 interest in the subject matter of such matter or in the outcome of such official action."

## 12 SECTION 2.

13 Said title is further amended by revising Code Section 45-10-4, relating to code of ethics for  
14 members of boards, commissions, and authorities, as follows:

15 "45-10-4.

16 (a)(1) Upon formal charges being filed with the Governor State Ethics Commission  
17 relative to a violation of Code Section 45-10-3, Part 1 of Article 2 of this chapter, or both,  
18 on the part of a member of any such board, commission, or authority public official or  
19 employee, the Governor or his State Ethics Commission or its designated agent shall  
20 conduct a hearing for the purpose of receiving evidence relative to the merits of such  
21 charges. The member so charged shall be given at least 30 days' notice prior to such  
22 hearing. If such charges are found to be true, the Governor shall forthwith remove such  
23 member from office and the vacancy shall be filled as provided by law. Such hearing  
24 shall be held in accordance with Chapter 13 of Title 50, the 'Georgia Administrative  
25 Procedure Act,' and judicial review of any such decision shall be in accordance with such  
26 chapter preliminary investigation of the merits of a written complaint by any person who  
27 believes that a violation of Code Section 45-10-3, Part 1 of Article 2 of this chapter, or  
28 both, has occurred, verified under oath to the best information, knowledge, and belief by  
29 the person making such complaint. If there are found no reasonable grounds to believe  
30 that a violation has occurred, the complaint shall be dismissed, subject to being reopened  
31 upon discovery of additional evidence or relevant material. If the State Ethics  
32 Commission determines that there are reasonable grounds to believe that a violation has  
33 occurred, it shall give notice by summoning the person believed to have committed the  
34 violation to a hearing. The hearing shall be conducted in all respects in accordance with  
35 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The State Ethics  
36 Commission may file a complaint charging violations of Code Section 45-10-3, Part 1 of

1 Article 2 of this chapter, or both, and any person aggrieved by the final decision of the  
 2 State Ethics Commission shall be entitled to judicial review in accordance with Chapter  
 3 13 of Title 50; provided, however, that nothing in this Code section shall be construed to  
 4 limit or encumber the right of the State Ethics Commission to initiate on probable cause  
 5 an investigation on its own cognizance as it deems necessary to fulfill its obligations  
 6 under Code Section 45-10-3, Part 1 of Article 2 of this chapter, or both.

7 (2) In any preliminary investigation referenced in paragraph (1) of this subsection, until  
 8 such time as the State Ethics Commission determines that there are reasonable grounds  
 9 to believe that a violation has occurred, it shall not be necessary to give the notice by  
 10 summons nor to conduct a hearing in accordance with Chapter 13 of Title 50, the  
 11 'Georgia Administrative Procedure Act.'

12 (b) If such charges are found to be true as against a public official or employee, as those  
 13 terms are defined in Code Section 45-10-20, the Governor may forthwith remove such  
 14 public official or employee from office and the vacancy shall be filled as provided by law.

15 (c)(1) The State Ethics Commission shall have the same powers and duties with respect  
 16 to this Code section, Code Section 45-10-3, and Part 1 of Article 2 of this chapter as the  
 17 State Ethics Commission has with respect to Chapter 5 of Title 21.

18 (2) The Attorney General shall have the same powers and duties with respect to this  
 19 Code section, Code Section 45-10-3, and Part 1 of Article 2 of this chapter as the  
 20 Attorney General has with respect to Chapter 5 of Title 21. Without limiting the  
 21 generality of the foregoing, it is specifically provided that the Attorney General may  
 22 bring civil actions for the enforcement of this Code section, Code Section 45-10-3, and  
 23 Part 1 of Article 2 of this chapter in the same general manner as provided in Chapter 5  
 24 of Title 21."

### 25 **SECTION 3.**

26 Said title is further amended by revising Code Section 45-10-5, relating to authority to enact  
 27 rules and regulations, as follows:

28 "45-10-5.

29 ~~No member of any board, commission, or authority created by general statute shall enact~~  
 30 ~~any rules or regulations or publicize such as being general laws and such rules and~~  
 31 ~~regulations shall in no way have the effect of law. The provisions of Code Sections~~  
 32 ~~45-10-3 and 45-10-4 or Part 1 of Article 2 of this chapter are in addition to or cumulative~~  
 33 ~~of any other criminal penalties imposed by law. Notwithstanding any other provision of~~  
 34 ~~law to the contrary, an administrative or civil enforcement action brought pursuant to Code~~  
 35 ~~Section 45-10-3, 45-10-4, or Part 1 of Article 2 of this chapter shall not bar the prosecution~~  
 36 ~~of any violation of the criminal law of this state."~~

1 **SECTION 4.**

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

4 **SECTION 5.**

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