

Senate Bill 372

By: Senators Reed of the 35th, Unterman of the 45th, Johnson of the 1st, Shafer of the 48th and Hooks of the 14th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,  
2 so as to provide for the establishment of ethics panels by elected local governing bodies of  
3 counties and municipalities and local school systems; to provide for establishment by  
4 ordinance or resolution; to provide for minimum jurisdiction, standards, and procedures; to  
5 provide for compulsory process; to provide for practice and procedure and appeals; to  
6 provide for reporting of compliance and withholding of state funds for noncompliance; to  
7 provide for civil remedies and penalties to be imposed by the State Ethics Commission in the  
8 case of nonperformance of duties by a local ethics commission; to provide for other related  
9 matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
13 by adding a new Chapter 93 to read as follows:

14 "CHAPTER 93

15 36-93-1.

16 As used in this chapter, the term 'elected local governing body' means the elected  
17 governing authority of each county and municipality in this state and the elected board of  
18 education of each local school district in this state.

19 36-93-2.

20 Not later than January 1, 2008, each elected local governing body shall provide, by  
21 appropriate ordinance or resolution, for the establishment and operation of an ethics  
22 commission. Such an ordinance or resolution may be amended from time to time by the

1 elected local governing body. The membership and operation of the ethics commission  
2 shall be as established by the ordinance or resolution, subject to the minimum requirements  
3 of this chapter.

4 36-93-3.

5 (a) Each ethics commission shall have regularly scheduled meetings at least once each  
6 calendar quarter, but a scheduled meeting may be canceled if there is no pending complaint  
7 to be reviewed by the commission and no other business to come before the commission.

8 (b) Each ethics commission shall have jurisdiction to investigate citizen complaints of  
9 alleged unethical conduct on the part of the members of the elected local governing body.

10 The enabling ordinance or resolution may, but shall not be required to, grant to an ethics  
11 commission jurisdiction to investigate complaints of alleged unethical conduct on the part  
12 of other officers, agents, and employees of the elected local governing body.

13 (c) Each ethics commission shall have the power to issue subpoenas to compel the  
14 attendance and testimony of witnesses and the production of evidence germane to its  
15 jurisdiction. Upon application of a commission, the superior court shall have jurisdiction  
16 to enforce a subpoena issued by a commission by order of the court and punishment of  
17 disobedience of any such order as contempt of court.

18 (d) Each ethics commission shall have such jurisdiction and powers as may be specified  
19 in the enabling ordinance or resolution, including at a minimum the power to:

20 (1) Report any suspected violation of a state criminal statute or a local ordinance to the  
21 appropriate prosecuting attorney;

22 (2) Report any suspected violation of a statute enforced by the State Ethics Commission  
23 to the State Ethics Commission;

24 (3) Report any suspected disqualification from holding office to the appropriate officer  
25 or agency having the power to fill the vacancy;

26 (4) Issue a public reprimand in any case in which it finds that a member of the elected  
27 local governing body has violated any general law, local law, ordinance, or policy of the  
28 elected local governing body and the violation relates to such officer's performance of  
29 his or her duties; and

30 (5) Impose a civil penalty not to exceed \$1,000.00 per violation in any case in which it  
31 finds that a member of the elected local governing body has violated any general law,  
32 local law, ordinance, or policy of the elected local governing body and the violation  
33 relates to such officer's performance of his or her duties.

34 36-93-4.

1 Any appeal from a decision of an ethics panel shall be by a de novo action in superior  
2 court.

3 36-93-5.

4 (a) Each elected local governing body other than a board of education shall report its  
5 compliance with the requirements of this chapter to the Department of Community Affairs,  
6 in such manner as may be specified by the department, no later than January 1, 2008. In  
7 the case of noncompliance, the affected local government shall be ineligible for any state  
8 funds administered by the department until the noncompliance is cured.

9 (b) Each local board of education shall report its compliance with the requirements of this  
10 chapter to the Department of Education, in such manner as may be specified by the  
11 department, no later than January 1, 2008. In the case of noncompliance, the department  
12 shall withhold a portion of state funds otherwise payable to the affected local school  
13 system, as specified by the State Board of Education, until the noncompliance is cured.

14 36-93-6.

15 Any member or members of an ethics panel who willfully fail to provide a hearing on any  
16 complaint or otherwise willfully fail to carry out the duties of the panel shall be subject to  
17 a civil penalty not to exceed \$5,000.00 per violation to be administered by the State Ethics  
18 Commission; and the State Ethics Commission is granted jurisdiction to investigate and  
19 punish violations of this Code section in the same manner as provided for violations of  
20 Chapter 5 of Title 21."

21 **SECTION 2.**

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