

The Senate Ethics Committee offered the following substitute to SB 372:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 21, Title 28, and Title 36 of the Official Code of Georgia  
2 Annotated, relating to ethics in government, the General Assembly, and local government,  
3 respectively, so as to provide for ethical reforms; to provide for lobbyist training; to eliminate  
4 the requirement that candidates for the General Assembly file copies of their campaign  
5 disclosure reports with the election superintendent of the county of such candidate's  
6 residence in addition to the State Ethics Commission; to change a definition; to provide for  
7 expanded lobbyist disclosure; to change certain provisions relating to lobbyist disclosure  
8 reports; to require lobbyist training; to change certain provisions relating to the salary and  
9 allowances of the General Assembly members; to provide for the establishment of ethics  
10 panels by elected local governing bodies of counties and municipalities and local school  
11 systems; to provide for establishment of ethics panels by ordinance or resolution; to provide  
12 for minimum jurisdiction, standards, and procedures; to provide for compulsory process; to  
13 provide for practice and procedure and appeals; to provide for sovereign immunity; to  
14 provide for reporting of compliance and withholding of state funds for noncompliance; to  
15 provide for civil remedies and penalties to be imposed by the State Ethics Commission in the  
16 case of nonperformance of duties by a local ethics commission; to provide for related  
17 matters; to repeal conflicting laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

19 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in  
20 government, is amended by revising subsection (b) of Code Section 21-5-6, relating to the  
21 powers and duties of the State Ethics Commission, by striking "and" at the end of paragraph  
22 (21), replacing the period at the end of paragraph (22) with "; and", and adding a new  
23 paragraph to read as follows:  
24

1       “(23) To provide and conduct, at least semiannually, training on the duties and  
2       responsibilities of lobbyists and the mechanics of filing and registration and to approve  
3       curriculum for other organizations or entities to provide such training.”

#### 4                                       **SECTION 2.**

5       Said chapter is further amended by revising subparagraph (a)(1)(A) of Code Section 21-5-34,  
6       relating to disclosure reports, as follows:

7             “(a)(1)(A) The candidate or the chairperson or treasurer of each campaign committee  
8             organized to bring about the nomination or election of a candidate for any office except  
9             county and municipal offices ~~or the General Assembly~~ and the chairperson or treasurer  
10            of every campaign committee designed to bring about the recall of a public officer or  
11            to oppose the recall of a public officer or designed to bring about the approval or  
12            rejection by the voters of any proposed constitutional amendment, state-wide proposed  
13            question, or state-wide referendum shall sign and file with the commission the required  
14            campaign contribution disclosure reports. ~~A candidate for membership in the General  
15            Assembly or the chairperson or treasurer of such candidate’s campaign committee shall  
16            file such candidate’s reports with the commission and a copy of such report with the  
17            election superintendent of the county of such candidate’s residence.”~~

#### 18                                   **SECTION 3.**

19       Said chapter is further amended by revising paragraph (5) of Code Section 21-5-70, relating  
20       to the definitions for public officials conduct and lobbyist disclosure, as follows:

21       “(5) 'Lobbyist' means:

22            (A) Any natural person who, for compensation, either individually or as an employee  
23            of another person, ~~undertakes to promote or oppose~~ promotes or opposes the passage  
24            of any legislation by the General Assembly, or any committee thereof, or the approval  
25            or veto of legislation by the Governor;

26            (B) Any natural person who makes a total expenditure of more than \$250.00 in a  
27            calendar year, not including the person’s own travel, food, lodging expenses, or  
28            informational material to promote or oppose the passage of any legislation by the  
29            General Assembly, or any committee thereof, or the approval or veto of legislation by  
30            the Governor;

31            (C) Any natural person who as an employee of the executive branch or judicial branch  
32            of state government engages in any activity covered under subparagraph (A) of this  
33            paragraph;

34            (D) Any natural person who, for compensation, either individually or as an employee  
35            of another person, ~~undertakes to promote or oppose~~ promotes or opposes the passage

1 of any ordinance or resolution by a public officer specified under subparagraph (F) or  
 2 (G) of paragraph (22) of Code Section 21-5-3, or any committee of such public officers,  
 3 or the approval or veto of any such ordinance or resolution;

4 (E) Any natural person who makes a total expenditure of more than \$250.00 in a  
 5 calendar year, not including the person's own travel, food, lodging expenses, or  
 6 informational material to promote or oppose the passage of any ordinance or resolution  
 7 by a public officer specified under subparagraph (F) or (G) of paragraph (22) of Code  
 8 Section 21-5-3, or any committee of such public officers, or the approval or veto of any  
 9 such ordinance or resolution;

10 (F) Any natural person who as an employee of the executive branch or judicial branch  
 11 of local government engages in any activity covered under subparagraph (D) of this  
 12 paragraph;

13 (G) Any natural person who, for compensation, either individually or as an employee  
 14 of another person is hired ~~specifically to undertake influencing~~ to influence a public  
 15 officer or state agency in the selection of a vendor to supply any goods or services to  
 16 any state agency but does not include any employee of the vendor solely on the basis  
 17 that such employee participates in soliciting a bid or in preparing a written bid, written  
 18 proposal, or other document relating to a potential sale to a state agency; ~~or~~

19 (H) Any natural person who, for compensation, either individually or as an employee  
 20 of another person, is hired ~~specifically to undertake~~ to promote or oppose the passage  
 21 of any rule or regulation of any state agency; or

22 (I) Any natural person who, for compensation, either individually or as an employee  
 23 of another person, is hired by a person or entity other than a public officer or state  
 24 agency to influence such public officer or state agency; provided, however, that such  
 25 person shall not include an attorney hired to represent a party in an administrative  
 26 proceeding."

#### 27 SECTION 4.

28 Said chapter is further amended by revising subsections (b) and (c) of Code Section 21-5-71,  
 29 relating to lobbyist registration requirements, the application for registration, supplemental  
 30 registration, fees, identification cards, and exemptions, as follows:

31 "(b) Each lobbyist shall file an application for registration with the commission. The  
 32 application shall be verified by the applicant and shall contain:

- 33 (1) The applicant's name, address, and telephone number;
- 34 (2) The name, address, and telephone number of the person or agency that employs,  
 35 appoints, or authorizes the applicant to lobby on its behalf;

1 (3) A statement of the general business or purpose of each person, firm, corporation,  
2 association, or agency the applicant represents;

3 (4) If the applicant represents a membership group other than an agency or corporation,  
4 the general purpose and approximate number of members of the organization;

5 (5) A statement signed by the person or agency employing, appointing, or authorizing  
6 the applicant to lobby on its behalf;

7 (6) If the applicant is a lobbyist within the meaning of subparagraph (G), ~~or~~ (H), or (I)  
8 of paragraph (5) of Code Section 21-5-70, the name of the state agency or agencies before  
9 which the applicant engages in lobbying; ~~and~~

10 (7) A statement disclosing each individual or entity on whose behalf the applicant is  
11 registering if such individual or entity has agreed to pay him or her an amount exceeding  
12 \$10,000.00 in a calendar year for lobbying activities; and

13 (8) A statement verifying that the applicant has completed, within the past 12 months,  
14 the training course described in paragraph (23) of subsection (b) of Code Section 21-5-6.

15 (c) The lobbyist shall, within seven days of any substantial or material change or addition,  
16 file a supplemental registration indicating such substantial or material change or addition  
17 to the registration prior to its expiration. Previously filed information may be incorporated  
18 by reference. Substantial or material changes or additions shall include, but are not limited  
19 to, the pertinent information concerning changes or additions to client and employment  
20 information required by paragraphs (2), (3), (4), (6), ~~and~~ (7), and (8) of subsection (b) of  
21 this Code section."

## 22 SECTION 5.

23 Said chapter is further amended by revising subsection (d) of Code Section 21-5-73, relating  
24 to lobbyist disclosure reports, as follows:

25 "(d) A person who is a lobbyist pursuant to subparagraph (A), (B), (C), (F), (G), ~~or~~ (H),  
26 or (I) of paragraph (5) of Code Section 21-5-70 shall file a disclosure report, current  
27 through the end of the period ending on July 31 and December 31 of each year, on or  
28 before August 5 and January 5 of each year."

## 29 SECTION 6.

30 Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, is  
31 amend by revising Code Section 28-1-8, relating to the salary and allowances of General  
32 Assembly members and officers, by adding a new subsection to read as follows:

33 "(i) Notwithstanding the provisions of this Code section or Code Section 45-7-4, the  
34 Senate and House of Representatives may provide meals, as are convenient to the orderly  
35 performance of the duties of the General Assembly, to the members and staff of the

1 respective house with funds appropriated to the respective body. The President Pro  
2 Tempore of the Senate and the Speaker of the House of Representatives shall authorize  
3 expenditure of such funds for the respective house."

#### 4 SECTION 7.

5 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
6 by adding a new chapter to read as follows:

#### 7 "CHAPTER 94

8 36-94-1.

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

12 36-94-2.

13 Not later than January 1, 2009, each elected local governing body shall provide, by  
14 appropriate ordinance or resolution, for the establishment and operation of an ethics panel;  
15 provided, however, that any ordinance or resolution adopted by an elected local governing  
16 body that sets forth a mechanism for the filing, review, and disposition of ethics complaints  
17 prior to July 1, 2008, shall satisfy the requirements of this Code section. Such an ordinance  
18 or resolution may be amended from time to time by the elected local governing body. The  
19 membership and operation of the ethics panel shall be as established by the ordinance or  
20 resolution, subject to the minimum requirements of this chapter.

21 36-94-3.

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

25 (b) Each ethics panel shall have jurisdiction to investigate citizen complaints of alleged  
26 unethical conduct on the part of the members of the elected local governing body and each  
27 ethics panel created by an elected county governing authority shall have jurisdiction to  
28 investigate citizen complaints of alleged unethical conduct on the part of local  
29 constitutional officers elected within the county. The enabling ordinance or resolution  
30 may, but shall not be required to, grant to an ethics panel jurisdiction to investigate  
31 complaints of alleged unethical conduct on the part of other officers, agents, and employees  
32 of the elected local governing body.

1 (c) Each ethics panel shall have the power to issue subpoenas to compel the attendance and  
 2 testimony of witnesses and the production of evidence germane to its jurisdiction. Upon  
 3 application of an ethics panel, the superior court shall have jurisdiction to enforce a  
 4 subpoena issued by a panel by order of the court and punishment of disobedience of any  
 5 such order as contempt of court.

6 (d) Each elected local governing body and each ethics panel shall enjoy sovereign  
 7 immunity from liability for the acts or omissions of an ethics panel.

8 (e) Each ethics panel shall have such jurisdiction and powers as may be specified in the  
 9 enabling ordinance or resolution, including at a minimum the power to:

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

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

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

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

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

24 (6) Dismiss frivolous complaints;

25 (7) Require complainants to submit a signed affidavit with each complaint; and

26 (8) Impose a civil penalty of up to \$1,000.00 on complainants submitting frivolous  
 27 complaints or complaints lacking an evidentiary basis.

28 36-94-4.

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

31 36-94-5.

32 (a) Each elected local governing body other than a board of education shall report its  
 33 compliance with the requirements of this chapter to the State Ethics Commission. In the  
 34 event an affected local government fails to act in accordance with this chapter by January

1 1, 2009, the affected local government shall be ineligible for any state funds administered  
2 by the Department of Community Affairs until the noncompliance is cured.

3 (b) Each local board of education shall report its compliance with the requirements of this  
4 chapter to the Department of Education, in such manner as may be specified by the  
5 department, no later than January 1, 2009. In the case of noncompliance, the department  
6 shall withhold a portion of state funds otherwise payable to the affected local school  
7 system, as specified by the State Board of Education, until the noncompliance is cured.

8 36-94-6.

9 Any member or members of an ethics panel who willfully fail to provide a hearing on any  
10 complaint or otherwise willfully fail to carry out the duties of the ethics panel shall be  
11 subject to removal by the body appointing such panel member."

12 **SECTION 8.**

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