

## Senate Bill 96

By: Senators Reed of the 35th, Johnson of the 1st, Hooks of the 14th and Brown of the 26th

**AS PASSED SENATE**

## A BILL TO BE ENTITLED

## AN ACT

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

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

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

23 "(23) To provide and conduct, at least semiannually, training on the duties and  
 24 responsibilities of lobbyists and the mechanics of filing and registration and to approve  
 25 curriculum for other organizations or entities to provide such training."

26 **SECTION 2.**

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

29 "(a)(1)(A) The candidate or the chairperson or treasurer of each campaign committee  
 30 organized to bring about the nomination or election of a candidate for any office except  
 31 county and municipal offices ~~or the General Assembly~~ and the chairperson or treasurer  
 32 of every campaign committee designed to bring about the recall of a public officer or  
 33 to oppose the recall of a public officer or designed to bring about the approval or  
 34 rejection by the voters of any proposed constitutional amendment, state-wide proposed  
 35 question, or state-wide referendum shall sign and file with the commission the required  
 36 campaign contribution disclosure reports. ~~A candidate for membership in the General  
 37 Assembly or the chairperson or treasurer of such candidate's campaign committee shall  
 38 file such candidate's reports with the commission and a copy of such report with the  
 39 election superintendent of the county of such candidate's residence."~~

40 **SECTION 3.**

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

43 "(5) 'Lobbyist' means:

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

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

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

56 (D) Any natural person who, for compensation, either individually or as an employee  
 57 of another person, ~~undertakes to promote or oppose~~ promotes or opposes the passage  
 58 of any ordinance or resolution by a public officer specified under subparagraph (F) or  
 59 (G) of paragraph (22) of Code Section 21-5-3, or any committee of such public officers,  
 60 or the approval or veto of any such ordinance or resolution;

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

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

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

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

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

#### 85 **SECTION 4.**

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

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

- 91 (1) The applicant's name, address, and telephone number;
- 92 (2) The name, address, and telephone number of the person or agency that employs,  
 93 appoints, or authorizes the applicant to lobby on its behalf;
- 94 (3) A statement of the general business or purpose of each person, firm, corporation,  
 95 association, or agency the applicant represents;

96 (4) If the applicant represents a membership group other than an agency or corporation,  
 97 the general purpose and approximate number of members of the organization;  
 98 (5) A statement signed by the person or agency employing, appointing, or authorizing  
 99 the applicant to lobby on its behalf;  
 100 (6) If the applicant is a lobbyist within the meaning of subparagraph (G), ~~or (H), or (I)~~  
 101 of paragraph (5) of Code Section 21-5-70, the name of the state agency or agencies before  
 102 which the applicant engages in lobbying; ~~and~~  
 103 (7) A statement disclosing each individual or entity on whose behalf the applicant is  
 104 registering if such individual or entity has agreed to pay him or her an amount exceeding  
 105 \$10,000.00 in a calendar year for lobbying activities; and  
 106 (8) A statement verifying that the applicant has completed, within the past 12 months,  
 107 the training course described in paragraph (23) of subsection (b) of Code Section 21-5-6.  
 108 (c) The lobbyist shall, within seven days of any substantial or material change or addition,  
 109 file a supplemental registration indicating such substantial or material change or addition  
 110 to the registration prior to its expiration. Previously filed information may be incorporated  
 111 by reference. Substantial or material changes or additions shall include, but are not limited  
 112 to, the pertinent information concerning changes or additions to client and employment  
 113 information required by paragraphs (2), (3), (4), (6), ~~and (7), and (8)~~ of subsection (b) of  
 114 this Code section."

115 **SECTION 5.**

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

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

122 **SECTION 6.**

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

## 125 "CHAPTER 93

126 36-93-1.

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

130 36-93-2.

131 Not later than January 1, 2010, each elected local governing body shall provide, by  
132 appropriate ordinance or resolution, for the establishment and operation of an ethics panel;  
133 provided, however, that any ordinance or resolution adopted by an elected local governing  
134 body that sets forth a mechanism for the filing, review, and disposition of ethics complaints  
135 prior to July 1, 2009, shall satisfy the requirements of this Code section. Such an ordinance  
136 or resolution may be amended from time to time by the elected local governing body. The  
137 membership and operation of the ethics panel shall be as established by the ordinance or  
138 resolution, subject to the minimum requirements of this chapter.

139 36-93-3.

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

143 (b) Each ethics panel shall have jurisdiction to investigate citizen complaints of alleged  
144 unethical conduct on the part of the members of the elected local governing body and each  
145 ethics panel created by an elected county governing authority shall have jurisdiction to  
146 investigate citizen complaints of alleged unethical conduct on the part of local  
147 constitutional officers elected within the county. The enabling ordinance or resolution  
148 may, but shall not be required to, grant to an ethics panel jurisdiction to investigate  
149 complaints of alleged unethical conduct on the part of other officers, agents, and employees  
150 of the elected local governing body.

151 (c) Each ethics panel shall have the power to issue subpoenas to compel the attendance and  
152 testimony of witnesses and the production of evidence germane to its jurisdiction. Upon  
153 application of an ethics panel, the superior court shall have jurisdiction to enforce a  
154 subpoena issued by a panel by order of the court and to punish disobedience of any such  
155 order as contempt of court.

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

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

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

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

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

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

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

174 (6) Dismiss frivolous complaints;

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

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

178 36-93-4.

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

181 36-93-5.

182 (a) Each elected local governing body other than a board of education shall report its  
183 compliance with the requirements of this chapter to the State Ethics Commission. In the  
184 event an affected local government fails to act in accordance with this chapter by January  
185 1, 2010, the affected local government shall be ineligible for any state funds administered  
186 by the Department of Community Affairs until the noncompliance is cured.

187 (b) Each local board of education shall report its compliance with the requirements of this  
188 chapter to the Department of Education, in such manner as may be specified by the  
189 department, no later than January 1, 2010. In the case of noncompliance, the department  
190 shall withhold a portion of state funds otherwise payable to the affected local school  
191 system, as specified by the State Board of Education, until the noncompliance is cured.

192 36-93-6.

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

196 **SECTION 7.**

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