

House Bill 892

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

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 21 of the Official Code of Georgia Annotated, relating to elections, so as to
2 create a voluntary taxpayer fund to financially assist certain judicial campaigns and
3 candidates who demonstrate qualifying public support and who accept fund-raising and
4 spending limitations concomitant with the acceptance of such funds; to change certain
5 provisions relating to the duty of the State Election Board; to change certain provisions
6 relating to the enforcement of Chapter 2 of said title, relating to elections and primaries
7 generally; to provide that the State Election Board enforce provisions relating to the "Georgia
8 Fund for Judicial Campaigns Act"; to provide for a short title; to make legislative findings;
9 to provide for definitions; to provide for a fund and fund sources to finance the election
10 campaigns of certain judicial candidates; to provide for the mechanics of making
11 distributions from the fund, including qualification of candidates, timing of fund distribution,
12 amount of fund distribution, method of fund distribution, and restrictions on campaign
13 contributions and expenditures necessary in order to obtain and continue to receive
14 distributions from the fund; to provide for an advisory council for the fund; to provide for
15 appointments and terms of office for members of the advisory council; to provide for
16 appeals; to provide for rule making; to provide for public reporting of information; to provide
17 for voluntary contributions to the fund through the state income tax return; to provide for the
18 Department of Revenue's assistance in collecting contributions and transmitting them to the
19 fund; to change provisions relating to maximum allowable contributions; to provide for
20 related matters; to provide for an effective date; to repeal conflicting laws; and for other
21 purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended by
25 revising Code Section 21-2-31, relating to duties of the State Election Board, as follows:

26 "21-2-31.

27 It shall be the duty of the State Election Board:

28 (1) To promulgate rules and regulations so as to obtain uniformity in the practices and
 29 proceedings of superintendents, registrars, deputy registrars, poll officers, and other
 30 officials, as well as the legality and purity in all primaries and elections;

31 (2) To formulate, adopt, and promulgate such rules and regulations, consistent with law,
 32 as will be conducive to the fair, legal, and orderly conduct of primaries and elections;
 33 and, upon the adoption of each rule and regulation, the board shall promptly file certified
 34 copies thereof with the Secretary of State and each superintendent;

35 (3) To publish and furnish to primary and election officials, from time to time, a
 36 sufficient number of indexed copies of all primary and election laws and pertinent rules
 37 and regulations then in force;

38 (4) To publish and distribute such explanatory pamphlets regarding the interpretation and
 39 application of primary and election laws as in the opinion of the board should be
 40 distributed to the electorate;

41 (5) To investigate, or authorize the Secretary of State to investigate, when necessary or
 42 advisable the administration of primary and election laws and frauds and irregularities in
 43 primaries and elections and to report violations of the primary and election laws either
 44 to the Attorney General or the appropriate district attorney who shall be responsible for
 45 further investigation and prosecution; and to investigate when necessary or advisable the
 46 administration of and compliance with Chapter 3 of this title and to report violations of
 47 Chapter 3 of this title either to the Attorney General or the appropriate district attorney
 48 who shall be responsible for further investigation and prosecution. Nothing in this
 49 paragraph shall be so construed as to require any complaining party to request an
 50 investigation by the board before such party might proceed to seek any other remedy
 51 available to that party under this chapter, Chapter 3 of this title, or any other provision of
 52 law;

53 (6) To make such recommendations to the General Assembly as it may deem advisable
 54 relative to the conduct and administration of primaries and elections;

55 (7) To promulgate rules and regulations to define uniform and nondiscriminatory
 56 standards concerning what constitutes a vote and what will be counted as a vote for each
 57 category of voting system used in this state;

58 (8) To employ such assistants as may be necessary;

59 (9) Subject to funds being specifically appropriated by the General Assembly, to
 60 formulate and conduct a voter education program concerning voting procedures for
 61 voting by absentee ballot and at the polls with particular emphasis on the proper types of
 62 identification required for voting; ~~and~~

63 (10) To formulate, adopt, and promulgate such rules and regulations, consistent with law,
 64 as necessary for the administration of Chapter 3 of this title and to file certified copies
 65 thereof with the Secretary of State;

66 (11) To publish and furnish forms for use in the administration of Chapter 3 of this title;
 67 and

68 ~~(10)~~(12) To take such other action, consistent with law, as the board may determine to
 69 be conducive to the fair, legal, and orderly conduct of primaries and elections and to the
 70 administration of Chapter 3 of this title."

71 **SECTION 2.**

72 Said title is further amended by revising Code Section 21-2-33.1, relating to the enforcement
 73 of Chapter 2 of Title 21, as follows:

74 "21-2-33.1.

75 (a) The State Election Board is vested with the power to issue orders, after the completion
 76 of appropriate proceedings, directing compliance with this chapter or Chapter 3 of this title
 77 or prohibiting the actual or threatened commission of any conduct constituting a violation
 78 of either chapter, which order may include a provision requiring the violator:

79 (1) To cease and desist from committing further violations;

80 (2) To pay a civil penalty not to exceed \$5,000.00 for each violation of this chapter or
 81 Chapter 3 of this title or for each failure to comply with any provision of this chapter or
 82 Chapter 3 of this title or of any rule or regulation promulgated under this chapter or
 83 Chapter 3 of this title. Such penalty may be assessed against any violator as the State
 84 Election Board deems appropriate;

85 (3) To publicly reprimand any violator found to have committed a violation;

86 (4) To require that restitution be paid by any violator to a state, county, or city governing
 87 authority when it has suffered a monetary loss or damage as the result of a violation;

88 (5) To require violators to attend training as specified by the board; and

89 (6) To assess investigative costs incurred by the board against any violator found to have
 90 committed a violation.

91 (b) A civil penalty shall not be assessed against any violator except after notice and
 92 hearing as provided by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'
 93 In addition to the State Election Board, any contested case may be held before any
 94 representative of such board who has been selected and appointed by such board for such
 95 purpose. The amount of any civil penalty finally assessed shall be recoverable by a civil
 96 action brought in the name of the State Election Board. All moneys recovered pursuant to
 97 this Code section shall be deposited in the state treasury, except for any moneys recovered

98 pursuant to the enforcement of Chapter 3 of this title, which shall be deposited in the
 99 Georgia Fund for Judicial Campaigns.

100 (c) The Attorney General of this state shall, upon complaint by the State Election Board,
 101 bring an action in the superior court in the name of the State Election Board for a
 102 temporary restraining order or other injunctive relief or for civil penalties assessed against
 103 any violator of any provision of this chapter or Chapter 3 of this title or any rule or
 104 regulation duly issued by the State Election Board.

105 (d) Any action brought by the Attorney General to enforce civil penalties assessed against
 106 any violator of this chapter or Chapter 3 of this title or any rule or regulation duly issued
 107 by the State Election Board or any order issued by the State Election Board ordering
 108 compliance or to cease and desist from further violations shall be brought in the superior
 109 court of the county of the residence of the party against whom relief is sought. Service of
 110 process shall lie in any jurisdiction within ~~the~~ this state. In such actions, the superior court
 111 inquiry ~~will~~ shall be limited to whether notice was given by the State Election Board to the
 112 violator in compliance with the Constitution and the rules of procedure of Chapter 13 of
 113 Title 50, the 'Georgia Administrative Procedure Act.' Upon satisfaction that notice was
 114 given and a hearing was held pursuant to Chapter 13 of Title 50, the 'Georgia
 115 Administrative Procedure Act,' the superior court shall enforce the orders of the State
 116 Election Board and the civil penalties assessed under this chapter or Chapter 3 of this title,
 117 and the superior court shall not make independent inquiry as to whether the violations have
 118 occurred.

119 (e) In any action brought by the Attorney General to enforce any of the provisions of this
 120 chapter or Chapter 3 of this title or of any rule or regulation issued by the State Election
 121 Board, the judgment, if in favor of the State Election Board, shall provide that the
 122 defendant pay to the State Election Board the costs, including reasonable attorneys' fees,
 123 incurred by the State Election Board in the prosecution of such action."

124 **SECTION 3.**

125 Said title is further amended by replacing Chapter 3, which is reserved, with a new Chapter 3
 126 to read as follows:

127 "CHAPTER 3

128 ARTICLE 1

129 21-3-1.

130 This chapter shall be known and may be cited as the 'Georgia Fund for Judicial Campaigns
 131 Act.'

132 21-3-2.

133 The purpose of this chapter is to enlarge public discussion and participation in the election
 134 process, to ensure the fairness of democratic elections in Georgia, to protect the
 135 constitutional rights of voters and candidates from any detrimental effects or improper
 136 influence stemming from large private campaign contributions or independent
 137 expenditures, and, with special regard to the necessity of upholding public confidence in
 138 the integrity of the judiciary, to eliminate the appearance of improper influence stemming
 139 from large private campaign contributions or independent expenditures. Accordingly, this
 140 chapter establishes the Georgia Fund for Judicial Campaigns as an alternative source of
 141 campaign financing for candidates who demonstrate qualifying broad public support and
 142 voluntarily accept fund-raising expenditure limitations in conjunction with acceptance of
 143 fund moneys. This chapter shall be applicable to candidates for Justice of the Supreme
 144 Court and Judge of the Georgia Court of Appeals in elections to be held in 2012 and
 145 thereafter.

146 21-3-3.

147 As used in this chapter, the term:

148 (1) 'Advisory council ' means the Advisory Council for the Georgia Fund for Judicial
 149 Campaigns Act established in Code Section 21-3-7.

150 (2) 'Board' means the State Election Board.

151 (3) 'Campaign committee' has the same meaning as the term is defined in paragraph (2)
 152 of Code Section 21-5-3.

153 (4) 'Candidate' has the same meaning as the term is defined in paragraph (4) of Code
 154 Section 21-5-3 when the individual is seeking an office. The term includes a campaign
 155 committee authorized by the candidate for that candidate's election.

156 (5) 'Certified candidate' means a candidate running for office who chooses to receive
 157 campaign funds from the fund and who is certified pursuant to Code Section 21-3-5.

158 (6) 'Contested election' means a general nonpartisan election or run-off election of a
 159 general nonpartisan election for an office in which there are more candidates than the
 160 number to be elected, other than write-in candidates.

161 (7) 'Contribution' has the same meaning as the term is defined in paragraph (7) of Code
 162 Section 21-5-3. Notwithstanding any other provision of law to the contrary, a distribution
 163 from the fund pursuant to this chapter shall not be considered to be a contribution for
 164 purposes of this chapter or Chapter 5 of this title and shall not be subject to the limitations
 165 of Code Section 21-5-41.

166 (8) 'Expenditure' has the same meaning as the term is defined in paragraph (11) of Code
 167 Section 21-5-3.

168 (9) 'Fund' means the Georgia Fund for Judicial Campaigns established in Code Section
 169 21-3-4.

170 (10) 'Office' means a judgeship on the Supreme Court of Georgia or Georgia Court of
 171 Appeals.

172 (11) 'Participating candidate' means a candidate for office who has filed a declaration of
 173 intent to participate pursuant to Code Section 21-3-5.

174 (12) 'Qualifying contribution' means a contribution in an amount of no more than
 175 \$500.00 and not less than \$5.00 and in the form of a check or money order payable to the
 176 candidate that is:

177 (A) Made by any registered voter in this state;

178 (B) Made before filing the declaration of intent to participate in the fund; and

179 (C) Is not a contribution made by the candidate from his or her own money.

180 (13) 'Qualifying period' means the period referenced in subsection (c) or (i) of Code
 181 Section 21-2-132, as applicable to the particular year in which the election occurs.

182 (14) 'Supplemental qualifying contribution' means a contribution in an amount no more
 183 than \$500.00 and in the form of a check or money order payable to the candidate that is:

184 (A) Made by any registered voter in this state;

185 (B) Made by an individual who has not made a qualifying contribution pursuant to
 186 paragraph (12) of this Code section; and

187 (C) Made after the initial grant distribution pursuant to paragraph (1) of subsection (a)
 188 of Code subsection 21-3-6 and not later than 20 days before the date of the election or
 189 run-off election.

190 21-3-4.

191 (a) *Establishment of the fund.* The Georgia Fund for Judicial Campaigns is established to
 192 finance the election campaigns of certified candidates for office and to pay administrative
 193 and enforcement costs of the board related to this chapter. The fund is a special, dedicated,
 194 nonlapsing, nonreverting fund. All expenses of administering this chapter, and personnel
 195 and other costs incurred by the board, shall be paid from the fund and not from the general
 196 fund of the state treasury. Any interest generated by the fund shall be credited to the fund.
 197 The board shall administer the fund.

198 (b) *Sources of funding.* Money received from all the following sources shall be deposited
 199 in the fund:

200 (1) Designations made to the fund by individual taxpayers pursuant to Code Section
 201 21-3-20;

202 (2) Fund revenues distributed for a contested election that remain unspent or
 203 uncommitted at the time the recipient is no longer a certified candidate in the election;

204 (3) Fund revenues distributed for a contested election that remain unspent or
 205 uncommitted at the time the recipient is elected, pursuant to paragraph (5) of subsection
 206 (d) of Code Section 21-3-5;

207 (4) Money ordered returned to the fund by the board or State Ethics Commission;

208 (5) Any contribution made by attorneys in accordance with the rules of the Supreme
 209 Court of Georgia; and

210 (6) Voluntary donations made directly to the fund.

211 21-3-5.

212 (a) Declaration of intent to participate. Any candidate choosing to receive campaign
 213 funds from the fund shall first file with the board a declaration of intent to participate in the
 214 fund as a candidate for a stated office. The declaration of intent shall be filed within 90
 215 days of the last date of the qualifying period and after collecting any qualifying
 216 contributions. In the declaration, the candidate shall swear or affirm that only one
 217 campaign committee, identified with its treasurer, shall handle all contributions,
 218 expenditures, and obligations for the participating candidate and that the candidate will
 219 comply with the contribution and expenditure limitations set forth in subsection (d) of this
 220 Code section and all other requirements set forth in this chapter and Chapter 5 of this title.
 221 Failure to comply with this Code section shall be a violation of this chapter punishable as
 222 determined by the board.

223 (b) Demonstration of support of candidacy. Participating candidates who seek
 224 certification to receive campaign funds from the fund shall first, before filing a declaration
 225 of intent to participate in the fund, raise qualifying contributions from at least 250
 226 registered voters in this state. No payment, gift, or anything of value shall be given in
 227 exchange for a qualifying contribution.

228 (c)(1) Certification of candidates and reports. Upon receipt of the declaration of intent
 229 to participate by a participating candidate, the board shall determine whether the
 230 candidate:

231 (A) Has properly signed and filed the declaration of intent to participate in the fund
 232 pursuant to this chapter;

233 (B) Has submitted a report itemizing the appropriate number of qualifying
 234 contributions received from registered voters, which the board shall verify through a
 235 random sample or other means it adopts. The report shall include:

236 (i) The name of each contributor;

237 (ii) Each contributor's address, including the county of residence; and

238 (iii) Each contributor's employer and profession;

239 (C) Is qualified to receive votes on the ballot as a candidate for the office; and

240 (D) Otherwise meets the requirements for participation in the fund pursuant to this
241 chapter.

242 (2) The board shall certify candidates within ten days of the qualifying period who have
243 also satisfied subparagraphs (c)(1)(A) through (c)(1)(D) of this Code section. The board
244 shall notify candidates not complying with the requirements of this subsection as soon
245 as possible and no later than five business days after receipt of unsatisfactory compliance
246 with this subsection.

247 (d) *Restrictions on contributions and expenditures for participating and certified*
248 *candidates.* The following restrictions shall apply to contributions and expenditures with
249 respect to participating and certified candidates:

250 (1) Beginning when a candidate who is not holding office declares his or her intent to
251 accept campaign contributions for office pursuant to subsection (g) of Code Section
252 21-5-30 or at the start of each election cycle as defined in paragraph (10) of Code Section
253 21-5-3 for candidates holding office and continuing through the date of the election or
254 run-off election, the candidate may accept contributions in amounts up to \$500.00;
255 provided, however, that no contributor shall contribute more than \$500.00 in the
256 aggregate. Prior to a candidate's certification pursuant to subsection (c) of this Code
257 section, the candidate may expend up to \$25,000.00 of the qualifying contributions raised
258 for any campaign purpose for an election or run-off election. Following a candidate's
259 certification pursuant to subsection (c) of this Code section, the candidate may expend
260 the remaining qualifying contribution funds raised, the funds the candidate receives from
261 the fund pursuant to Code Section 21-3-6, and any other funds raised for any campaign
262 purpose for an election or run-off election. Any candidate who seeks office who accepts
263 any amount in excess of the limits on qualifying contributions, or the \$25,000.00
264 expenditure limit of this paragraph, shall be ineligible to file a declaration of intent or
265 receive funds from the fund;

266 (2) Notwithstanding the contribution limits set forth in paragraph (1) of this subsection,
267 the candidate may contribute up to \$10,000.00 of that candidate's own money to his or
268 her campaign;

269 (3) A candidate shall limit the use of all revenues permitted by this subsection to
270 expenditures for campaign related purposes only. The guidelines outlining permissible
271 campaign related expenditures shall be the same as provided in Chapter 5 of this title;

272 (4) Any contribution received by a participating candidate or a certified candidate that
273 falls outside that which is permitted by this subsection shall be returned to the donor as
274 soon as practicable. Contributions intentionally made, solicited, or accepted in violation
275 of this chapter shall be subject to penalties as determined by the board; and

276 (5) A candidate shall return to the fund any amount distributed for an election that is
 277 unspent and uncommitted at the date of the election or run-off election, if applicable, or
 278 at the time the candidate ceases to be a certified candidate, whichever occurs first. For
 279 accounting purposes, all qualifying contributions and supplemental qualifying
 280 contributions shall be considered spent before revenue from the fund is spent or
 281 committed.

282 (e) Revocation. A candidate may revoke, in writing to the board, a decision to participate
 283 in the fund at any time before the deadline set by the board. After a timely revocation, that
 284 candidate may accept and expend contributions outside the limits of this chapter without
 285 violating this chapter. Within ten days after revocation, a candidate shall return to the
 286 board all money received from the fund.

287 21-3-6.

288 (a) Timing of fund distribution.

289 (1) Initial grant. Following the initial certification of a candidate who will be in a
 290 contested election, revenue from the fund in an amount determined under paragraph (2)
 291 of subsection (b) of this Code section shall be distributed within 15 days after the
 292 candidate is certified, but no later than ten days before the contested election.

293 (2) Subsequent grants. Beginning no less than 30 days after the date of certification of
 294 a candidate pursuant to subsection (c) of Code Section 21-3-5, and in intervals of not less
 295 than 20 days, and in no case less than 20 days before the date of an election or run-off
 296 election, a certified candidate may apply for additional moneys from the fund pursuant
 297 to paragraph (2) of subsection (b) of this Code Section. Applications for such additional
 298 funds shall contain a report which contains the same information required under
 299 subparagraph (c)(1)(B) of Code Section 21-3-5, and the board shall be required to verify
 300 the report in the same manner as set forth in such subparagraph.

301 (b) Amount of fund distribution.

302 (1) Initial grant. By the tenth day after the qualifying period, prior to each general
 303 nonpartisan election, the board shall determine the amount of funds, rounded to the
 304 nearest \$100.00, to be distributed to certified candidates running in a contested election
 305 in an amount equal to:

306 (A) For candidates for Justice of the Supreme Court of Georgia, an amount equal to 40
 307 times the candidate's filing fee as set forth in Code Section 21-2-131; and

308 (B) For candidates for Judge of the Court of Appeals of Georgia, an amount equal to
 309 20 times the candidate's filing fee as set forth in Code Section 21-2-131.

310 (2) Subsequent grants. Upon application and certification made pursuant to paragraph
 311 (2) of subsection (a) of this Code Section, certified candidates may receive distributions
 312 in the amount of five times the amount of supplemental qualifying contributions raised.
 313 (3) The total amount of the fund distributed to any one candidate for any election cycle,
 314 including any run-off election, shall not exceed:

315 (A) For candidates for Justice of the Supreme Court of Georgia, an amount equal to
 316 four times the amount of the initial grant distribution made pursuant to paragraph (1)
 317 of this subsection; and

318 (B) For candidates for Judge of the Court of Appeals of Georgia, an amount equal to
 319 three times the amount of the initial grant distribution made pursuant to paragraph (1)
 320 of this subsection.

321 (c) Method of fund distribution. The board, in consultation with the director of the Office
 322 of Treasury and Fiscal Services, shall develop a rapid, reliable method of conveying funds
 323 to certified candidates. In all cases, the board shall distribute funds to certified candidates
 324 in a manner that is expeditious, ensures accountability, and safeguards the integrity of the
 325 fund. If the money in the fund is insufficient to fully fund all certified candidates, then the
 326 available money shall be distributed proportionally, according to each candidate's eligible
 327 funding.

328 21-3-7.

329 (a) Enforcement by the board. The board, with the advice of the advisory council, shall
 330 administer the provisions of this chapter.

331 (b) Advisory Council for the Georgia Fund for Judicial Campaigns Act.

332 (1) There is established under the board the Advisory Council for the Georgia Fund for
 333 Judicial Campaigns Act to advise the board on the rules, procedures, and opinions the
 334 board adopts for the enforcement and administration of this chapter and on the funding
 335 needs and operation of the fund. The advisory council shall have full access to all records
 336 pertaining to the fund in order to enforce the provisions of this chapter. The advisory
 337 council shall consist of five members to be appointed as follows:

338 (A) The Governor shall name two members from a list of individuals nominated by the
 339 state executive committee of the political party which received the greatest number of
 340 votes in Georgia in the last presidential election. The state chairperson of that party
 341 shall submit to the Governor the names of five nominees;

342 (B) The Governor shall name two members from a list of individuals nominated by the
 343 state executive committee of the political party which received the second greatest
 344 number of votes in Georgia in the last presidential election. The state chairperson of
 345 that party shall submit to the Governor the names of five nominees; and

346 (C) The board shall name one member by unanimous vote of all members of the board.
347 If the board cannot reach unanimity on the appointment of that member, the advisory
348 council shall consist of the remaining members named by the Governor.

349 (3) The initial members shall be appointed by August 1, 2010. Of the initial appointees,
350 two shall serve for one-year terms, two shall serve for two-year terms, and one shall serve
351 for a three-year term according to random lot. Thereafter, appointees shall be appointed
352 to serve four-year terms. An individual shall not serve more than two full terms,
353 exclusive of the initial term of appointment. The appointed members shall not be
354 compensated for their services but shall be reimbursed in the same manner as provided
355 for in Code Section 45-7-21. One member of the advisory council shall be elected by the
356 members as chairperson. A vacancy during an unexpired term shall be filled in the same
357 manner as the regular appointment for that term, but a vacancy appointment shall only
358 be for the unexpired portion of the term.

359 (c) Appeals. The initial decision on an issue concerning qualification, certification, or
360 distribution of funds under this chapter shall be made by the chairperson of the board. The
361 procedure for challenging such decision shall be as follows:

362 (1) An individual or entity aggrieved by a decision of the chairperson of the board may
363 appeal to the full board within three business days of such decision. The appeal shall be
364 in writing and shall set forth the reasons for the appeal; and

365 (2) Within five business days after an appeal is properly made, and after due notice is
366 given to the parties, the board shall hold a hearing. The appellant shall have the burden
367 of providing evidence to demonstrate that the decision of the chairperson of the board
368 was improper. The board shall rule on the appeal within three business days after the
369 completion of the hearing.

370 (d) Board to adopt rules and issue opinions. The board shall adopt rules and issue
371 opinions to ensure effective administration of this chapter. Such rules and opinions shall
372 include, but not be limited to, procedures for obtaining qualifying contributions,
373 certification of candidates, addressing circumstances involving special elections, vacancies,
374 recounts, withdrawals, or replacements, collection of revenues for the fund, distribution of
375 fund revenue to certified candidates, return of unspent fund disbursements, and compliance
376 with this chapter. For races involving special elections, recounts, vacancies, withdrawals,
377 or replacement candidates, the board shall establish procedures for qualification,
378 certification, disbursement of fund revenues, and return of unspent fund revenues. The
379 board shall fulfill each of these duties in consultation with the advisory council.

380 (e) Report to the public. The advisory council shall issue a report by December 15, 2010,
381 and every two years thereafter that evaluates and makes recommendations about the
382 implementation, administration, and enforcement of this chapter and the feasibility of

383 expanding its provisions to include other candidates for state office based on the experience
 384 of the fund and the experience of similar programs in other states. The advisory council
 385 shall also evaluate and make recommendations regarding how to address activities that
 386 could undermine the purpose of this chapter, including spending that appears to target
 387 candidates receiving money from the fund. The report shall be made available to the
 388 Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and to
 389 members of the public via the advisory council's website.

390 ARTICLE 2

391 21-3-20.

392 (a) To support public financing for appellate judicial campaigns, the board may, without
 393 limitation, promote and solicit voluntary contributions through the income tax return
 394 contribution mechanism established in subsection (e) of this Code section and through any
 395 fund-raising or other promotional techniques deemed appropriate by the board.

396 (b) The Georgia Fund for Judicial Campaigns shall exclusively consist of all moneys
 397 provided for under Code Section 21-3-4. All balances in the fund shall be deposited in an
 398 interest-bearing account identifying the fund and shall be carried forward each year so that
 399 no part thereof may be deposited in the general fund of the state treasury. The fund shall
 400 be administered and the moneys held in the fund shall be expended by the board in
 401 furtherance of providing public financing for appellate judicial campaigns.

402 (c) Following the transmittal of contributions to the board for deposit in the fund pursuant
 403 to subsection (e) of this Code section, the expenditure of moneys in the fund shall be
 404 allocated as determined by the board to certified candidates and to pay for administrative
 405 and personnel costs associated with implementation of this chapter.

406 (d) The board shall prepare, by February 1 of each year, an accounting of the funds
 407 received and expended from the fund and a review and evaluation of all expended moneys
 408 and expected future financial needs of the fund. The report shall be made available to the
 409 Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and to
 410 members of the public via the board's website.

411 (e)(1) Unless an earlier date is deemed feasible and established by the Governor, each
 412 Georgia income tax return form for taxable years beginning on or after January 1, 2011,
 413 shall contain appropriate language, to be determined by the state revenue commissioner,
 414 which shall include an opportunity for the taxpayer to contribute up to \$10.00 to the fund
 415 established in subsection (b) of this Code section by either donating all or any part of any
 416 tax refund due by authorizing a reduction in the refund check otherwise payable or by
 417 contributing \$10.00 over and above any amount of tax owed by adding that amount to the

418 taxpayer's payment. In the case of a married couple filing a joint return, each taxpayer
 419 shall have the option of agreeing to the contribution. The tax return form shall include
 420 a \$10.00 voluntary contribution unless the taxpayer chooses not to contribute such
 421 amount. The instructions accompanying the income tax return form shall contain a
 422 description of the purposes for which this fund was established and the intended use of
 423 moneys received from the contributions. The instructions shall make it clear to the
 424 taxpayer that taxpayer contributions will support a nonpartisan court system. The
 425 instructions shall also state the manner in which the taxpayer can choose not to make the
 426 \$10.00 contribution and the option of contributing a different amount. The Department
 427 of Revenue shall consult with the board to ensure that the information given to taxpayers
 428 complies with the intent of this chapter. Each taxpayer required to file a state income tax
 429 return who desires to contribute to such fund may designate such contribution as provided
 430 in this Code section on the appropriate income tax return form.

431 (2) The Department of Revenue shall determine annually the total amount contributed,
 432 shall withhold therefrom a reasonable amount for administering the provisions of
 433 paragraph (1) of this subsection, and shall transmit the balance to the board for deposit
 434 in the fund established in subsection (b) of this Code section; provided, however, that the
 435 amount retained for administrative costs, including implementation costs, shall not
 436 exceed \$50,000.00 per year. If, in any tax year, the administrative costs of the
 437 Department of Revenue for collecting contributions pursuant to this Code section exceed
 438 the sum of such contributions, the administrative costs which the Department of Revenue
 439 is authorized to withhold from such contributions shall not exceed the sum of such
 440 contributions.

441 (3) The amounts allocated to the board for the fund pursuant to this subsection shall be
 442 credited to the board on a quarterly basis."

443 **SECTION 4.**

444 Said title is further amended by adding a new subsection to Code Section 21-5-41, relating
 445 to maximum allowable contributions, to read as follows:

446 "(a.1) Notwithstanding subsection (a) of this Code section, and in order to make
 447 meaningful the provisions of Chapter 3 of this title, a certified candidate as defined in
 448 paragraph (5) of Code Section 21-3-3 shall only accept contributions as provided in Code
 449 Section 21-3-5. The recipient of such contribution that violates this subsection shall have
 450 three days in which to return such contribution to the contributor or file a detailed statement
 451 with the State Election Board explaining why such contribution does not violate this
 452 subsection."

453 **SECTION 5.**

454 This Act shall become effective on July 1, 2010.

455 **SECTION 6.**

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