

House Bill 893

By: Representatives Oliver of the 83rd, Porter of the 143rd, Smyre of the 132nd, Ashe of the 56th, Benfield of the 85th, and others

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 ethical conduct and conflicts of interest; to
3 change and expand certain provisions relating to the code of ethics for members of boards,
4 commissions, and authorities; to provide the State Ethics Commission with jurisdiction to
5 hear matters related to violations of the code of ethics and conflicts of interest; to provide for
6 procedure; to change and expand provisions relating to the investigative duties of the Joint
7 Legislative Ethics Committee; to provide for related matters; to provide for an effective date;
8 to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

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

14 "45-10-3.

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

18 (1) Uphold the Constitution, laws, and regulations of the United States, the State of
19 Georgia, and all governments therein and never be a party to their evasion;

20 (2) Never discriminate by the dispensing of special favors or privileges to anyone,
21 whether or not for remuneration;

22 (3) Not engage in any business with the government, either directly or indirectly, which
23 is inconsistent with the conscientious performance of his or her governmental duties;

24 (4) Never use any information coming to him or her confidentially in the performance
25 of governmental duties as a means for making private profit;

26 (5) Expose corruption wherever discovered;

- 27 (6) Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors,
 28 hospitality, or services from any person, association, or corporation under circumstances
 29 from which it could reasonably be inferred that a major purpose of the donor is to
 30 influence the performance of ~~the member's~~ his or her official duties;
- 31 (7) Never accept any economic opportunity under circumstances where he or she knows
 32 or should know that there is a substantial possibility that the opportunity is being afforded
 33 him or her with intent to influence his or her conduct in the performance of his or her
 34 official duties;
- 35 (8) Never engage in other conduct which is unbecoming to ~~a member~~ him or her or
 36 which constitutes a breach of public trust;
- 37 (9) Never take any official action with regard to any matter under circumstances in
 38 which he or she knows or should know that he or she has a direct or indirect monetary
 39 interest in the subject matter of such matter or in the outcome of such official action.;
- 40 (10) Never threaten the use of state resources for personal purposes of coercion,
 41 retaliation, or punishment; and
- 42 (11) Never engage in sexual harassment of another individual."

43 SECTION 2.

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

46 "45-10-4.

47 (a) As used in this Code section, the terms 'public official' and 'employee' shall have the
 48 same meaning as such terms are defined in Code Section 45-10-20.

49 (b)(1) Upon formal charges being filed with the ~~Governor~~ State Ethics Commission
 50 relative to a violation of Code Section 45-10-3, Part 1 of Article 2 of this chapter, or both,
 51 on the part of a ~~member of any such board, commission, or authority~~ public official or
 52 ~~employee,~~ the ~~Governor or his~~ State Ethics Commission or its designated agent shall
 53 conduct a hearing for the purpose of receiving evidence relative to the merits of such
 54 charges. ~~The member so charged shall be given at least 30 days' notice prior to such~~
 55 hearing. ~~If such charges are found to be true, the Governor shall forthwith remove such~~
 56 member from office and the vacancy shall be filled as provided by law. ~~Such hearing~~
 57 shall be held in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
 58 Procedure Act,' and judicial review of any such decision shall be in accordance with such
 59 chapter preliminary investigation of the merits of a written complaint by any person who
 60 believes that a violation of Code Section 45-10-3, Part 1 of Article 2 of this chapter, or
 61 both, has occurred, verified under oath to the best information, knowledge, and belief by
 62 the person making such complaint. ~~If there are found no reasonable grounds to believe~~

63 that a violation has occurred, the complaint shall be dismissed, subject to being reopened
64 upon discovery of additional evidence or relevant material. If the State Ethics
65 Commission determines that there are reasonable grounds to believe that a violation has
66 occurred, it shall give notice by summoning the person believed to have committed the
67 violation to a hearing. The hearing shall be conducted in all respects in accordance with
68 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The State Ethics
69 Commission may file a complaint charging violations of Code Section 45-10-3, Part 1 of
70 Article 2 of this chapter, or both, and any person aggrieved by the final decision of the
71 State Ethics Commission shall be entitled to judicial review in accordance with Chapter
72 13 of Title 50; provided, however, that nothing in this Code section shall be construed to
73 limit or encumber the right of the State Ethics Commission to initiate on probable cause
74 an investigation on its own cognizance as it deems necessary to fulfill its obligations
75 under Code Section 45-10-3, Part 1 of Article 2 of this chapter, or both.

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

81 (c) If such charges are found to be true as against an employee or any person appointed to
82 a state office where in the conduct of such office the person so appointed has administrative
83 and discretionary authority to receive and expend public funds and to perform certain
84 functions concerning the public which are assigned to him or her by law, the Governor may
85 forthwith remove such person from the appointed position or employment and the vacancy
86 shall be filled as provided by law. If the charges are found to be true as against a member
87 of the General Assembly, the provisions of Article III, Section IV, Paragraph VII of the
88 Constitution shall control.

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

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

99

SECTION 3.

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

102 "45-10-5.

103 ~~No member of any board, commission, or authority created by general statute shall enact~~
 104 ~~any rules or regulations or publicize such as being general laws and such rules and~~
 105 ~~regulations shall in no way have the effect of law. The provisions of Code Sections~~
 106 45-10-3 and 45-10-4 or Part 1 of Article 2 of this chapter shall be in addition to or
 107 cumulative of any other criminal penalties imposed by law. Notwithstanding any other
 108 provision of law to the contrary, an administrative or civil enforcement action brought
 109 pursuant to Code Section 45-10-3, 45-10-4, or Part 1 of Article 2 of this chapter shall not
 110 bar the prosecution of any violation of the criminal law of this state."

111

SECTION 4.

112 Said title is further amended by revising paragraph (2) of subsection (b) of Code Section
 113 45-10-93, relating to the powers and duties of the Joint Legislative Ethics Committee, as
 114 follows:

115 "(2) To receive and investigate all complaints from any individual alleging:

116 (A) A a violation of the rules and regulations established by the committee;

117 (B) Any violation of the code of ethics for government service set forth in Code
 118 Section 45-10-1;

119 (C) Any violation of the code of ethics set forth in Code Section 45-10-3; or

120 (D) A conflict of interest in violation of Part 1 of Article 2 of this chapter;"

121

SECTION 5.

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

124

SECTION 6.

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