

House Bill 336

By: Representatives Davis of the 109<sup>th</sup>, Martin of the 47<sup>th</sup>, England of the 108<sup>th</sup>, Golick of the 34<sup>th</sup>, Wilkinson of the 52<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 28 of the Official Code of Georgia Annotated, relating to the  
2 General Assembly in general, so as to revise provisions relating to the issuance of subpoenas  
3 by and on behalf of the General Assembly; to eliminate certain provisions relating to judicial  
4 issuance of subpoenas upon request of the committees on ethics; to provide that officers of  
5 the Senate or House of Representatives may issue subpoenas to compel a person to appear  
6 before a committee and give sworn testimony or produce evidence; to provide for judicial  
7 enforcement in the same manner as for contempt of court; to provide for service, fees, and  
8 mileage; to provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Chapter 1 of Title 28 of the Official Code of Georgia Annotated, relating to the General  
12 Assembly in general, is amended by revising Code Section 28-1-16, relating to issuance of  
13 subpoenas on behalf of the ethics committees, as follows:

14 "28-1-16.

15 (a) If the ~~Committee on Ethics~~ President of the Senate, the President Pro Tempore of the  
16 Senate, or the Speaker of the House of Representatives determines that the effective  
17 functioning of ~~the a committee listed in this subsection~~ requires the issuance of compulsory  
18 process to secure the attendance of a witness or the production of documents and materials,  
19 ~~or if a person whose conduct is called into question in an investigation or other proceeding~~  
20 ~~requests the issuance of such compulsory process, the chairperson or acting chairperson~~  
21 ~~shall make application in writing to the presiding judge of the Superior Court of Fulton~~  
22 ~~County for the issuance of an appropriate subpoena. Such application shall:~~ such officer  
23 may issue a subpoena to compel any person to appear before a committee and give sworn  
24 testimony or produce documentary or other evidence or both testify and produce evidence.

25 The committees to which this Code section applies are:

26 (1) The House Committee on Appropriations;

27 (2) The House Committee on Budget and Fiscal Affairs Oversight;

28 (3) The House Committee on Ethics;

29 (4) The House Committee on Information and Audits;

30 (5) The House Committee on Judiciary;

31 (6) The House Committee on Judiciary, Non-civil;

32 (7) The House Committee on Ways and Means;

33 (8) The Senate Appropriations Committee;

34 (9) The Senate Ethics Committee;

35 (10) The Senate Finance Committee;

36 (11) The Senate Government Oversight Committee;

37 (12) The Senate Judiciary Committee; and

38 (13) The Senate Special Judiciary Committee.

39 ~~(1) Describe in general terms the investigation or other proceeding for which the~~  
 40 ~~issuance of subpoena is sought and identify the provisions of the Senate or House rules~~  
 41 ~~authorizing the committee to conduct such investigation or proceeding;~~

42 ~~(2) In the case of process to secure the attendance of a witness, identify the witness; the~~  
 43 ~~general nature of the questions to be propounded to the witness; and the reasons for~~  
 44 ~~believing that the testimony of the witness is likely to be relevant to the authorized scope~~  
 45 ~~of the investigation or proceeding;~~

46 ~~(3) In the case of process to secure the production of documents and materials, identify~~  
 47 ~~the person to whom the subpoena is to be directed; the general nature of the documents~~  
 48 ~~and materials in question; and the reasons for believing that such documents and~~  
 49 ~~materials are likely to be relevant to the authorized scope of the investigation or~~  
 50 ~~proceeding;~~

51 ~~(4) State whether confidential treatment of the application for and issuance of the~~  
 52 ~~subpoena is requested;~~

53 ~~(5) If the application is submitted on behalf of a person whose conduct is called into~~  
 54 ~~question, be accompanied by any materials in support of the application which such~~  
 55 ~~person desires to have transmitted to the court with the application; and~~

56 ~~(6) If the application is submitted on motion of the committee, be sought by the~~  
 57 ~~chairperson or acting chairperson only after notification to the person whose conduct is~~  
 58 ~~in issue that the subpoena will be sought.~~

59 ~~(b) The presiding judge shall act on such application within 48 hours after it is presented~~  
 60 ~~to the judge. If the judge finds that the committee is acting within the scope of the authority~~  
 61 ~~granted to it by the rules of the Senate or House and that the testimony or documents or~~  
 62 ~~materials sought to be elicited appear to be likely to be relevant to the authorized scope of~~  
 63 ~~the investigation or proceeding, the judge may cause an appropriate subpoena to be issued~~

64 ~~and transmitted to the chairperson or acting chairperson. If the judge deems it necessary~~  
 65 ~~or appropriate, the judge may hold a closed or open hearing with respect to his or her~~  
 66 ~~determination of this matter.~~

67 ~~(c) When authorized by the rules of the Senate and House, the confidential treatment of~~  
 68 ~~material and information in the course of investigations and other proceedings of the~~  
 69 ~~Committees on Ethics shall be recognized by law. Such confidential treatment shall be~~  
 70 ~~preserved in proceedings under this Code section as provided in this subsection. If the~~  
 71 ~~application for a subpoena requests confidential treatment, the court shall in any event take~~  
 72 ~~any and all steps necessary or appropriate to preserve the confidentiality of the application.~~  
 73 ~~The court may, but shall not be required to, issue the subpoena in such a manner as to~~  
 74 ~~preserve its confidentiality. If the court determines that a subpoena may be issued but~~  
 75 ~~confidential treatment is not warranted under the rules of the Senate or House, the judge~~  
 76 ~~shall so notify the chairperson or acting chairperson, and the chairperson or acting~~  
 77 ~~chairperson shall then have the option to:~~

78 ~~(1) Abandon the request for a subpoena, in which case the application shall remain~~  
 79 ~~confidential; or~~

80 ~~(2) Accept the determination of the court, in which case the subpoena shall issue, but the~~  
 81 ~~application and the issuance shall not be treated as confidential.~~

82 ~~(d)~~(b) In case of refusal to obey a subpoena issued under this Code section to any person,  
 83 the Superior Court of Fulton County, upon application by the ~~chairperson or acting~~  
 84 ~~chairperson~~ officer who issued the subpoena, may issue to the person an order requiring  
 85 him or her to appear before the court to show cause why he or she should not be held in  
 86 contempt for refusal to obey the subpoena. Failure to obey a subpoena may be punished by  
 87 the court in the same manner as contempt of court.

88 ~~(e)~~(c) A subpoena issued under this Code section may be served at any place in the state  
 89 and in any manner authorized in Code Section 24-10-23. Fees and mileage shall be paid  
 90 and tendered as provided in Code Section 24-10-24, notwithstanding the general exemption  
 91 of the state from tender of fees and mileage, and shall be in the form of a check issued by  
 92 the Legislative Fiscal Office upon the written request of the ~~chairperson or acting~~  
 93 ~~chairperson~~ officer who issued the subpoena.

94 ~~(f)~~(d) Any decision of the court under this Code section shall be appealable in the same  
 95 manner as provided by law for the appeal of a final judgment in a civil action."

96 **SECTION 2.**

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