

The Senate Ethics Committee offered the following substitute to HB 232:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 21 of the Official Code of Georgia Annotated, the "Ethics in
2 Government Act," so as to authorize the waiver of certain penalties and fees; to provide for
3 the method by which the Georgia Government Transparency and Campaign Finance
4 Commission shall deliver certain notices to certain officials; to provide an exception to the
5 requirement that filers provide e-mail addresses; to provide that campaign finance disclosure
6 statements and financial disclosure statements of certain local officials may be filed by
7 certified mail or statutory overnight delivery; to redefine the term "lobbyist" and thereby
8 provide that certain persons who engage only incidentally in certain activities shall not be
9 regulated as lobbyists; to provide that persons who are bona fide employed as salespersons
10 shall not be subject to regulation as vendor lobbyists; to change certain expenditure triggers
11 for lobbyist registration; to provide for a grace period for the filing of lobbyist disclosure
12 reports; to provide for other related matters; to provide for an effective date and applicability;
13 to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

15 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, the "Ethics in Government
16 Act," is amended in Code Section 21-5-6, relating to powers of the Georgia Government
17 Transparency and Campaign Finance Commission, by revising division (b)(14)(C)(i) as
18 follows:
19

20 "(C)(i) Except as provided in paragraph (2) of Code Section 21-5-7.1, to pay a civil
21 penalty not to exceed \$1,000.00 for each violation contained in any report required
22 by this chapter or for each failure to comply with any other provision of this chapter
23 or of any rule or regulation promulgated under this chapter; provided, however, that
24 a civil penalty not to exceed \$10,000.00 may be imposed for a second occurrence of
25 a violation of the same provision and a civil penalty not to exceed \$25,000.00 may be
26 imposed for each third or subsequent occurrence of a violation of the same provision.

27 In imposing a penalty or late filing fee under this chapter, the commission may waive
 28 or suspend such penalty or fee if the imposition of such penalty or fee would impose
 29 an undue hardship on the person required to pay such penalty or fee. The commission
 30 may also waive or suspend a penalty or fee in the case of failure to file or late filing
 31 of a report if there are no items to be included in the report. For the purposes of the
 32 penalties imposed by this division, the same error, act, omission, or inaccurate entry
 33 shall be considered a single violation if the error, act, omission, or inaccurate entry
 34 appears multiple times on the same report or causes further errors, omissions, or
 35 inaccurate entries in that report or in any future reports or further violations in that
 36 report or in any future reports."

37 SECTION 2.

38 Said chapter is further amended by revising Code Section 21-5-14, relating to filers'
 39 provision of e-mail addresses to the commission, as follows:

40 "21-5-14.

41 (a) Each Except as provided in subsection (b) of this Code section, each individual required
 42 by this chapter to file a report or disclosure statement with the commission shall provide
 43 the commission, in writing, with a current e-mail address and shall advise the commission,
 44 in writing, of any change to such address within ten days of any change to such address.
 45 Such information shall be provided to the commission prior to January 31 each year.

46 (b) City, county, and school board officials are not required to provide an e-mail address
 47 to the commission."

48 SECTION 3 .

49 Said chapter is further amended by adding a new Code Section 21-5-15 to read as follows:

50 "21-5-15.

51 When the commission gives notice to a local official referred to in subparagraph (F) or (G)
 52 of paragraph (22) of Code Section 21-5-3 of any of the actions listed in this Code section,
 53 such notice shall be given by certified mail or statutory overnight delivery. This Code
 54 section shall apply with respect to any notice of: the filing of a complaint; a technical
 55 defect in a filing; a failure to make a timely filing; or a late fee or other penalty."

56 SECTION 4.

57 Said chapter is further amended in Code Section 21-5-34, relating to campaign contribution
 58 disclosure reports, by revising paragraph (1) of subsection (k) as follows:

59 "(k)(1) In addition to other penalties provided under this chapter, a late fee of \$125.00
 60 shall be imposed for each report that is filed late, and notice of such late fee shall be sent

61 to the candidate and the candidate's committee by registered or certified mail or statutory
 62 overnight delivery, return receipt requested, and shall include the schedule of increasing
 63 late fees for late filings and the dates upon which such late fees shall be increased. In
 64 addition, a late fee of \$250.00 shall be imposed on the fifteenth day after the due date for
 65 such report if the report has not been filed by such date; provided, however, that a 15 day
 66 extension period shall be granted on the final report. A late fee of \$1,000.00 shall be
 67 imposed on the forty-fifth day after the due date for such report if such report has not
 68 been filed. Campaign committee funds shall not be used to pay such penalty. Notice by
 69 electronic means does not satisfy the requirements of this paragraph; and any increased
 70 late fees shall be stayed until at least ten days after proper notice has been given as
 71 specified in this paragraph."

72 SECTION 5.

73 Said chapter is further amended in Code Section 21-5-34.1, relating to electronic filing of
 74 campaign contribution disclosure reports, by revising subsection (c) as follows:

75 "(c) Candidates seeking election to county or municipal offices ~~shall~~ may use electronic
 76 means to file their campaign contribution disclosure reports with the commission ~~upon~~
 77 ~~having raised or spent a minimum of \$20,000.00 in an election cycle, but contributions and~~
 78 ~~expenditures received or made prior to reaching such threshold need not be electronically~~
 79 ~~filed if previously reported, except as cumulative totals. Under that threshold, electronic~~
 80 ~~filing is permitted and encouraged but not required~~ or may file by certified mail or statutory
 81 overnight delivery."

82 SECTION 6.

83 Said chapter is further amended in Code Section 21-5-50, relating to filing of financial
 84 disclosure statements, by revising subsection (d) and paragraph (1) of subsection (f) as
 85 follows:

86 "(d) All state-wide elected officials and members of the General Assembly shall file
 87 financial disclosure statements electronically with the commission. Local officials referred
 88 to in subparagraph (F) or (G) of paragraph (22) of Code Section 21-5-3 may file
 89 electronically or may file by certified mail or statutory overnight delivery."

90 "(f) (1) In addition to other penalties provided in this chapter, a late fee of \$125.00 shall
 91 be imposed for each financial disclosure statement that is filed late, and notice of such
 92 late fee shall be sent to the board member, candidate, and the candidate's committee by
 93 registered or certified mail or statutory overnight delivery, return receipt requested, and
 94 shall include the schedule of increasing late fees for late filings and the dates upon which
 95 such late fees shall be increased. In addition, a late fee of \$250.00 shall be imposed on

96 the fifteenth day after the due date for such statement if such statement has not been filed.
 97 A late fee of \$1,000.00 shall be imposed on the forty-fifth day after the due date for such
 98 statement if the statement has not been filed. Campaign committee funds shall not be
 99 used to pay such penalty. Notice by electronic means shall not satisfy the requirements
 100 of this paragraph; and any increased late fees shall be stayed until at least ten days after
 101 proper notice has been given as specified in this paragraph."

102 **SECTION 7.**

103 Said chapter is further amended in Code Section 21-5-70, relating to terms applicable to
 104 Article 4, by revising paragraph (5) as follows:

105 "(5) 'Lobbyist' means, subject to the qualifications at the end of this paragraph:

106 (A) Any natural person who, ~~for compensation~~, either individually or as an employee
 107 of another person, ~~undertakes~~ is compensated specifically for undertaking to promote
 108 or oppose the passage of any legislation by the General Assembly, or any committee
 109 thereof, or the approval or veto of legislation by the Governor;

110 (B) Any natural person who makes a total expenditure of more than ~~\$250.00~~ \$1,000.00
 111 in a calendar year, not including the person's own travel, food, lodging expenses, or
 112 informational material, to promote or oppose the passage of any legislation by the
 113 General Assembly, or any committee thereof, or the approval or veto of legislation by
 114 the Governor;

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

118 (D) Any natural person who, ~~for compensation~~, either individually or as an employee
 119 of another person, ~~undertakes~~ is compensated specifically for undertaking to promote
 120 or oppose the passage of any ordinance or resolution by a public officer specified under
 121 subparagraph (F) or (G) of paragraph (22) of Code Section 21-5-3, or any committee
 122 of such public officers, or the approval or veto of any such ordinance or resolution;

123 (E) Any natural person who makes a total expenditure of more than ~~\$250.00~~ \$1,000.00
 124 in a calendar year, not including the person's own travel, food, lodging expenses, or
 125 informational material, to promote or oppose the passage of any ordinance or resolution
 126 by a public officer specified under subparagraph (F) or (G) of paragraph (22) of Code
 127 Section 21-5-3, or any committee of such public officers, or the approval or veto of any
 128 such ordinance or resolution;

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

132 (G) Any natural person who, for compensation, either individually or as an employee
 133 of another person, is hired specifically to undertake influencing a public officer or state
 134 agency in the selection of a vendor to supply any goods or services to any state agency
 135 but does not include any employee or independent contractor of the vendor solely on
 136 the basis that such employee or independent contractor participates in soliciting a bid
 137 or in preparing a written bid, written proposal, or other document relating to a potential
 138 sale to a state agency and shall not include a bona fide salesperson who sells to or
 139 contracts with a state agency for goods or services and who does not otherwise engage
 140 in activities described in subparagraphs (A) through (F) or (H) through (J) of this
 141 paragraph;

142 (H) Any natural person who, ~~for compensation,~~ either individually or as an employee
 143 of another person, ~~is hired specifically to undertake~~ is compensated specifically for
 144 undertaking to promote or oppose the passage of any rule or regulation of any state
 145 agency;

146 (I) Any natural person who, ~~for compensation,~~ either individually or as an employee
 147 of another person, ~~undertakes~~ is compensated specifically for undertaking to promote
 148 or oppose any matter before the State Transportation Board; or

149 (J) Any natural person who makes a total expenditure of more than ~~\$250.00~~ \$1,000.00
 150 in a calendar year, not including the person's own travel, food, lodging expenses, or
 151 informational material, to promote or oppose any matter before the State Transportation
 152 Board.

153 The provisions of subparagraphs (A), (C), (D), (F), (G), (H), and (I) of this paragraph
 154 shall apply only where the person in question spends more than 10 percent of his or her
 155 working hours engaged in the activities described in one or more of those subparagraphs.
 156 In the case of a person who is employed by a single employer, the 10 percent test shall
 157 be applied to all time worked for that employer. In the case of a person who is employed
 158 by more than one employer or retained by more than one client, the 10 percent test shall
 159 be applied separately with respect to time spent working for each employer and each
 160 client. A person who spends less than 10 percent of his or her time working for an
 161 employer or client engaged in such activities shall not be required to register as or be
 162 subject to regulation as a lobbyist for that employer or client. In applying the 10 percent
 163 test, time spent in planning, researching, or preparing for activities described in
 164 subparagraphs (A), (C), (D), (F), (G), (H), and (I) of this paragraph shall be counted as
 165 time engaged in such activities. When registration is required, the time of registration
 166 shall be as provided in Code Section 21-5-71."

167

SECTION 8.

168

Said chapter is further amended in Code Section 21-5-71, relating to registration of lobbyists,
 169 by revising subsection (a) as follows:

170

"(a)(1) No Subject to paragraphs (2) and (3) of this subsection, no person shall engage
 171 in lobbying as defined by this article unless such person is registered with the commission
 172 as a lobbyist. The commission shall not allow a person who has been convicted of a
 173 felony involving moral turpitude in the courts of this state or an offense that, had it
 174 occurred in this state, would constitute a felony involving moral turpitude under the laws
 175 of this state to become a registered lobbyist unless ten years or more have elapsed since
 176 the completion of the person's sentence. The administration of this article is vested in the
 177 commission.

178

(2) When a person is hired or retained as an employee or agent or independent contractor
 179 and under the agreement of the parties the primary duties, or a substantial part of the
 180 duties, of the person will involve lobbying activities, the person shall register as a
 181 lobbyist before commencing lobbying activities.

182

(3) When paragraph (2) does not apply there shall be a lookback period of each calendar
 183 month for determining whether the 10 percent test of paragraph (5) of Code Section
 184 21-5-70 has been met. If at the end of any month the 10 percent test has been met during
 185 that month, the person shall register as a lobbyist within five days after the last day of that
 186 month and shall in his or her initial disclosure report include all prior lobbying
 187 expenditures in that calendar year."

188

SECTION 9.

189

Said chapter is further amended in Code Section 21-5-73, relating to lobbyist disclosure
 190 reports, by adding a new subsection (i) to read as follows:

191

"(i) All lobbyists shall have a grace period of three business days in filing all disclosure
 192 reports."

193

SECTION 10.

194

This Act shall become effective upon its approval by the Governor or upon its becoming law
 195 without such approval. It is the express intention of the General Assembly that this Act be
 196 applied retroactively to January 10, 2011, as well as prospectively.

197

SECTION 11.

198

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