

Senate Bill 315

By: Senators Stoner of the 6th, Fort of the 39th, Henson of the 41st, Seay of the 34th, Jones of the 10th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics
2 in government, so as to revise the "Ethics in Government Act"; to change a definition; to
3 change the name of the Georgia Government Transparency and Campaign Finance
4 Commission to the Georgia Ethics Commission; to reconstitute the membership of the
5 commission; to change the appointing authority of the commission; to clarify eligibility of
6 commission members; to provide a time frame for concluding investigations of alleged
7 violations of the chapter; to provide a funding source for the commission; to remove certain
8 dedications of fees; to amend Title 45 of the Official Code of Georgia Annotated, relating
9 to public officers and employees, so as to correct cross-references; to provide for related
10 matters; to provide for an effective date; to provide a contingent effective date; to provide
11 for automatic repeal under certain conditions; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

15 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in
16 government, is amended by revising paragraph (5) of Code Section 21-5-3, relating to
17 definitions, as follows:

18 "(5) 'Commission' means the Georgia ~~Government Transparency and Campaign Finance~~
19 Ethics Commission created under Code Section 21-5-4."

20 style="text-align:center">**SECTION 2.**

21 Said chapter is further amended by revising Code Section 21-5-4, relating to the Georgia
22 Government Transparency and Campaign Finance Commission, membership, officers,
23 quorum, and meetings, as follows:

24 "21-5-4.

25 (a) The Georgia Ethics Commission shall be the successor to the Georgia Government
 26 Transparency and Campaign Finance Commission shall be a successor to the State Ethics
 27 Commission, with such duties and powers as are set forth in this chapter. As the successor
 28 commission, it shall have all the powers and duties granted to the ~~State Ethics Commission~~
 29 Georgia Government Transparency and Campaign Finance Commission in all matters
 30 pending before the ~~State Ethics Commission~~ Georgia Government Transparency and
 31 Campaign Finance Commission and may continue to investigate, prosecute, and act upon
 32 all such matters.

33 (b)(1) Effective July 1, 2012, the commission shall be reconstituted. The commission
 34 members serving on the commission immediately prior to July 1, 2012, shall cease to
 35 serve on that date, but such prior members shall be eligible for reappointment to succeed
 36 themselves for their initial term; and thereafter, members of the commission shall not
 37 serve for more than one complete term of office.

38 (2) The commission shall be governed by five members appointed as follows: three
 39 members, ~~not more than two of whom shall be from the same political party~~, shall be
 40 appointed by the ~~Governor~~ Chief Justice of the Supreme Court of Georgia, ~~two for terms~~
 41 one for a term of four years, one for a term of three years, and one for a term of two
 42 years; one member, and two members shall be appointed by the ~~Senate Committee on~~
 43 ~~Assignments for a term of four years; and one member shall be appointed by the Speaker~~
 44 ~~of the House of Representatives~~ Chief Judge of the Georgia Court of Appeals, one for a
 45 term of three years and one for a term of four years. Upon the expiration of a member's
 46 term of office, a new member, appointed in the same manner as the member whose term
 47 of office expired as provided in this ~~subsection~~ paragraph, shall become a member of the
 48 commission and shall serve for a term of four years and until such member's successor
 49 is duly appointed and qualified. If a vacancy occurs in the membership of the
 50 commission, a new member shall be appointed to the unexpired term of office by the ~~state~~
 51 ~~official or the committee that~~ Justice or Judge who appointed the vacating member.
 52 ~~Members of the commission shall not serve for more than one complete term of office.~~

53 (c) All members of the commission shall be residents of this state and at least one member
 54 of the commission shall be an attorney in good standing with the State Bar of Georgia. The
 55 appointing officials shall strive to provide for diversity on the commission.

56 (d) Any person who:

57 (1) Has qualified to run for any federal, state, or local public office within a period of
 58 five years prior to such person's appointment;

59 (2) Has held any federal, state, or local public office within a period of five years prior
 60 to such person's appointment; ~~or~~

61 (3) Serves as an officer of any political party, whether such office is elective or
 62 appointive and whether such office exists on a local, state, or national level; or

63 (4) Serves as a registered lobbyist within a period of five years prior to such person's
 64 appointment

65 shall be ineligible to serve as a member of the commission.

66 (e) The commission shall elect a chairperson, a vice chairperson, and other officers as it
 67 deems necessary. The members shall not be compensated for their services but they shall
 68 be reimbursed in an amount equal to the per diem received by the General Assembly for
 69 each day or portion thereof spent in serving as members of the commission. They shall be
 70 paid their necessary traveling expenses while engaged in the business of the commission.

71 (f) A majority of the members of the commission constitutes a quorum for the transaction
 72 of business. The vote of at least a majority of the members present at any meeting at which
 73 a quorum is present is necessary for any action to be taken by the commission. No vacancy
 74 in the membership of the commission impairs the right of a quorum to exercise all rights
 75 and perform all duties of the commission.

76 (g) Meetings of the members of the commission shall be held at the call of the chairperson
 77 or whenever any two members so request."

78 **SECTION 3.**

79 Said chapter is further amended by revising subparagraph (b)(10)(A) of Code Section 21-5-6,
 80 relating to the powers and duties of the commission, as follows:

81 "(A) To conduct a preliminary investigation, subject to the limitations contained in
 82 Code Section 21-5-7.1, of the merits of a written complaint by any person who believes
 83 that a violation of this chapter has occurred, verified under oath to the best information,
 84 knowledge, and belief by the person making such complaint. Within 180 days of
 85 receiving or initiating a complaint, the commission shall determine if there are
 86 reasonable grounds to believe that a violation of this chapter has occurred. If there are
 87 found no reasonable grounds to believe that a violation has occurred, the complaint
 88 shall be dismissed, subject to being reopened upon discovery of additional evidence or
 89 relevant material. Upon good cause shown by the executive secretary, the commission
 90 may allow a one-time extension of 180 days to complete an investigation. If the
 91 commission determines that there are such reasonable grounds to believe that a
 92 violation has occurred, it shall give notice by summoning the persons believed to have
 93 committed the violation to a hearing. The hearing shall be conducted in all respects in
 94 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'
 95 The commission may file a complaint charging violations of this chapter, and any
 96 person aggrieved by the final decision of the commission is entitled to judicial review

97 in accordance with Chapter 13 of Title 50; provided, however, that nothing in this Code
 98 section shall be construed to limit or encumber the right of the commission to initiate
 99 on probable cause an investigation on its own cognizance as it deems necessary to
 100 fulfill its obligations under this chapter."

101 SECTION 4.

102 Said chapter is further amended by revising Code Section 21-5-7, relating to initiation of
 103 complaints, as follows:

104 "21-5-7.

105 (a) The commission shall not initiate any investigation or inquiry into any matter under its
 106 jurisdiction based upon the complaint of any person unless that person shall produce the
 107 same in writing and verify the same under oath to the best information, knowledge, and
 108 belief of such person, the falsification of which shall be punishable as false swearing under
 109 Code Section 16-10-71. The person against whom any complaint is made shall be
 110 furnished by hand delivery or statutory overnight delivery or mailed by certified mail,
 111 return receipt requested, a copy of the complaint by the commission within two business
 112 days of the commission's receipt of such complaint and prior to any other public
 113 dissemination of such complaint. Nothing in this Code section, however, shall be
 114 construed to limit or encumber the right of the commission to initiate on probable cause an
 115 investigation on its own cognizance as it deems necessary to fulfill its obligations under
 116 this chapter.

117 (b) Within 180 days of receiving or initiating a complaint, the commission shall determine
 118 if there are reasonable grounds to believe that a violation of this chapter has occurred.
 119 Upon good cause shown by the executive secretary, the commission may allow a one-time
 120 extension of 180 days to complete an investigation."

121 SECTION 5.

122 Said chapter is further amended by adding a new Code section to read as follows:

123 "21-5-16.

124 Funding for the commission shall be as provided in Article III, Section IX, Paragraph VI(o)
 125 of the Constitution."

126 SECTION 6.

127 Said chapter is further amended by revising subsection (k) of Code Section 21-5-34, relating
 128 to disclosure reports, as follows:

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

131 candidate and the candidate's committee by registered or certified mail or statutory
 132 overnight delivery, return receipt requested, and shall include the schedule of increasing
 133 late fees for late filings and the dates upon which such late fees shall be increased. In
 134 addition, a late fee of \$250.00 shall be imposed on the fifteenth day after the due date for
 135 such report if the report has not been filed by such date; provided, however, that a 15 day
 136 extension period shall be granted on the final report. A late fee of \$1,000.00 shall be
 137 imposed on the forty-fifth day after the due date for such report if such report has not been
 138 filed. Campaign committee funds shall not be used to pay such penalty. Notice by
 139 electronic means does not satisfy the requirements of this ~~paragraph~~ subsection; and any
 140 increased late fees shall be stayed until at least ten days after proper notice has been given
 141 as specified in this ~~paragraph~~ subsection.

142 ~~(2) The commission shall retain \$25.00 of the first late fee received for processing~~
 143 ~~pursuant to the provisions of Code Section 45-12-92.1."~~

144 **SECTION 7.**

145 Said chapter is further amended by revising subsection (f) of Code Section 21-5-50, relating
 146 to financial disclosure statement filings by public officials, as follows:

147 ~~"(f)(1)~~ In addition to other penalties provided in this chapter, a late fee of \$125.00 shall be
 148 imposed for each financial disclosure statement that is filed late, and notice of such late fee
 149 shall be sent to the board member, candidate, and the candidate's committee by registered
 150 or certified mail or statutory overnight delivery, return receipt requested, and shall include
 151 the schedule of increasing late fees for late filings and the dates upon which such late fees
 152 shall be increased. In addition, a late fee of \$250.00 shall be imposed on the fifteenth day
 153 after the due date for such statement if such statement has not been filed. A late fee of
 154 \$1,000.00 shall be imposed on the forty-fifth day after the due date for such statement if
 155 the statement has not been filed. Campaign committee funds shall not be used to pay such
 156 penalty. Notice by electronic means shall not satisfy the requirements of this ~~paragraph~~
 157 subsection; and any increased late fees shall be stayed until at least ten days after proper
 158 notice has been given as specified in this ~~paragraph~~ subsection.

159 ~~(2) The commission shall retain \$25.00 of the first late fee received for processing~~
 160 ~~pursuant to the provisions of Code Section 45-12-92.1."~~

161 **SECTION 8.**

162 Said chapter is further amended by revising subparagraphs (f)(2)(D) and (F)(2)(E) of Code
 163 Section 21-5-71, relating to lobbyist registration, as follows:

164 ~~"(D)(i)~~ For reports filed when the General Assembly is not in session,
 165 in addition to other penalties provided under this chapter, a late fee of

166 \$275.00 shall be imposed for each report that is filed late. In
 167 addition, a late fee of \$1,000.00 shall be imposed on the fifteenth day
 168 after the due date for such report if the report has not been filed. A
 169 late fee of \$10,000.00 shall be imposed on the forty-fifth day after the
 170 due date for such report if the report has not been filed.

171 ~~(ii) The commission shall retain \$25.00 of the first late fee received~~
 172 ~~for processing pursuant to the provisions of Code Section~~
 173 ~~45-12-92.1.~~

174 (E)(i) For reports filed when the General Assembly is in session, in
 175 addition to other penalties provided under this chapter, a late fee of
 176 \$275.00 shall be imposed for each report that is filed late. In
 177 addition, a late fee of \$1,000.00 shall be imposed on the seventh day
 178 after the due date for such report if the report has not been filed. A
 179 late fee of \$10,000.00 shall be imposed on the twenty-first day after
 180 the due date for such report if the report has not been filed.

181 ~~(ii) The commission shall retain \$25.00 of the first late fee received~~
 182 ~~for processing pursuant to the provisions of Code Section~~
 183 ~~45-12-92.1."~~

184 **SECTION 9.**

185 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
 186 is amended by revising paragraph (1) of subsection (a) of Code Section 45-1-6, relating to
 187 gifts to employees by vendors, as follows:

188 "(1) 'Commission' means the Georgia Government Transparency and Campaign Finance
 189 Ethics Commission created under Code Section 21-5-4."

190 **SECTION 10.**

191 Said title is further amended by revising subsection (b) of Code Section 45-7-7, relating to
 192 compensation and allowances of certain officials not to be changed without giving public
 193 notice, as follows:

194 "(b) Subsection (a) of this Code section shall apply to the compensation and allowances
 195 of the commissioner of community affairs, the director of the Employees' Retirement
 196 System of Georgia, the director of the State Forestry Commission, the director of the
 197 Georgia Bureau of Investigation, the executive director of the Georgia Franchise Practices
 198 Commission, the commissioner of human services, the commissioner of economic
 199 development, the commissioner of natural resources, the commissioner of public safety,

200 the chancellor of the University System of Georgia, the president or executive director of
201 the Georgia Student Finance Commission, the executive director of the State Soil and
202 Water Conservation Commission, the executive secretary-treasurer of the Teachers
203 Retirement System of Georgia, the commissioner of transportation, and the executive
204 ~~director~~ secretary of the Georgia ~~Government Transparency and Campaign Finance~~ Ethics
205 Commission."

206 **SECTION 11.**

207 Said title is further amended by revising subsection (a) of Code Section 45-10-26, relating
208 to public officials and employees to file yearly disclosure statements concerning business
209 transactions with the state, as follows:

210 "(a) Except as provided in subsection (b) of this Code section, any public official or
211 employee, whether for himself, herself, or on behalf of any business, or any business in
212 which such public official or employee or any member of his or her family has a substantial
213 interest who transacts business with the state or any agency thereof shall disclose such
214 transactions. Such disclosure shall be submitted prior to January 31 each year to the
215 Georgia ~~Government Transparency and Campaign Finance~~ Ethics Commission on such
216 forms as it shall prescribe and shall include an itemized list of the previous year's
217 transactions with the dollar amount of each transaction reported and totaled. Such
218 disclosure statements shall be public records."

219 **SECTION 12.**

220 This Act shall become effective on July 1, 2012; provided, however, that Sections 5 through
221 8 of this Act shall only become effective if a constitutional amendment authorizing the
222 General Assembly to provide a fixed sum for the funding of the Georgia Ethics Commission
223 is ratified at the November, 2012, general election. If such an amendment to the Constitution
224 is not so ratified, then Sections 5 through 8 of this Act shall not become effective and shall
225 stand repealed by operation of law on January 1, 2013.

226 **SECTION 13.**

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