

Senate Bill 391

By: Senators McKoon of the 29th, Gooch of the 51st, Miller of the 49th, Shafer of the 48th,
Stone of the 23rd 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 substantially revise the "Ethics in Government Act"; to rename the
3 Georgia Government Transparency and Campaign Finance Commission as the State
4 Accountability Commission; to change certain provisions relating to campaign contributions;
5 to change provisions relating to public officials' conduct and lobbyist disclosure; to change
6 provisions relating to postemployment restrictions on public officers; to amend Title 45 of
7 the Official Code of Georgia Annotated, relating to public officers and employees, so as to
8 conform certain cross-references; to provide for related matters; to provide for an effective
9 date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 I.
12 Campaign contributions.

13 SECTION 1.

14 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in
15 government, is amended by adding a new Code section to read as follows:

16 "21-5-30.3.

17 (a) Except as otherwise provided in this subsection, the definitions set forth in Code
18 Section 21-5-3 shall be applicable to the provisions of this Code section. As used in this
19 Code section, the term:

20 (1) 'Disclosure report' means a report filed with the commission by a political action
21 committee setting forth all expenditures of more than \$100.00 and all contributions of
22 more than \$100.00 for the calendar year in which the report is filed. Such report shall
23 also include the total amount of all contributions received or expenditures made of less
24 than \$100.00 each.

25 (2) 'Political action committee' means any committee, club, association, partnership,
 26 corporation, or other group of persons which receives donations aggregating in excess of
 27 \$1,000.00 during a calendar year from persons who are members or supporters of the
 28 committee and which distributes these funds as contributions to one or more campaign
 29 committees of candidates for public office. Such term shall not include a campaign
 30 committee.

31 (b) Not later than January 3, each year, each political action committee shall be required
 32 to annually file with the commission a disclosure report with expenditures and
 33 contributions made during the preceding calendar year."

34 II.

35 Lobbyist registration, limitations, and disclosures.

36 SECTION 2.

37 Said chapter is further amended by revising subsection (f) of Code Section 21-5-71, relating
 38 to registration of lobbyists, applications for registration, supplemental registration,
 39 expiration, docket, fees, identification cards, public rosters, and exemptions, as follows:

40 "(f)(1) Each person registering under this Code section shall pay the registration fees set
 41 forth in paragraph (2) of this subsection; provided, however, that a person who represents
 42 any state, county, municipal, or public agency, department, commission, or authority
 43 shall be exempted from payment of such registration fees.

44 (2) The commission shall collect the following fees:

45 (A) Annual lobbyist registration or renewal filed pursuant to
 46 this Code section ~~\$300.00~~ \$150.00

47 (B) Lobbyist supplemental registration filed pursuant to
 48 this Code section ~~10.00~~ 50.00

49 (C) Each copy of a lobbyist identification card issued pursuant to
 50 this Code section 20.00

51 (D)(i) For reports filed when the General Assembly is not in session, in addition to
 52 other penalties provided under this chapter, a late fee of \$275.00 shall be imposed for
 53 each report that is filed late. In addition, a late fee of \$1,000.00 shall be imposed on
 54 the fifteenth day after the due date for such report if the report has not been filed. A
 55 late fee of \$10,000.00 shall be imposed on the forty-fifth day after the due date for
 56 such report if the report has not been filed.

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

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

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

67 SECTION 3.

68 Said chapter is further amended by revising paragraph (1) of Code Section 21-5-70, relating
 69 to definitions for provisions relating to public officials' conduct and lobbyist disclosure, as
 70 follows:

71 "(1) 'Expenditure':

72 (A) Means a purchase, payment, distribution, loan, advance, deposit, or conveyance
 73 of money or anything of value made for the purpose of influencing the actions of any
 74 public officer, specifically including any such transaction which is made on behalf of
 75 or for the benefit of a public employee for the purpose of influencing a public officer;

76 (B) Includes any other form of payment when such can be reasonably construed as
 77 designed to encourage or influence a public officer;

78 (B.1) Includes reimbursement or payment of actual and reasonable expenses provided
 79 to a public officer for transportation, travel, lodging, registration, food, beverages, and
 80 other activities related to attending a meeting or conference so as to permit such public
 81 officer's participation in such meeting or conference;

82 (C) Includes any gratuitous transfer, payment, subscription, advance, or deposit of
 83 money, services, or anything of value, unless consideration of equal or greater value is
 84 received;

85 (D) Notwithstanding division (x) of subparagraph (E) of this paragraph, includes food
 86 or beverage consumed at a single meal or event by a public officer or public employee
 87 or a member of the family of such public officer or public employee; ~~and~~

88 (D.1) Includes any such transaction or expenditure as provided in subparagraph (A),
 89 (B), (B.1), or (C) of this paragraph made to a family member of a public officer or
 90 made to an employee or a staff member of such officer who works in support of the
 91 public office in which such officer serves; and

92 (E) The term shall not include:

93 (i) The value of personal services performed by persons who serve voluntarily
 94 without compensation from any source;

- 95 (ii) A gift received from a member of the public officer's family;
- 96 (iii) Legal compensation or expense reimbursement provided to public employees
97 and to public officers in the performance of their duties;
- 98 (iv) Promotional items generally distributed to the general public or to public officers
99 and food and beverages produced in Georgia;
- 100 (v) An award, plaque, certificate, memento, or similar item given in recognition of
101 the recipient's civic, charitable, political, professional, or public service;
- 102 (vi) Legitimate salary, benefits, fees, commissions, or expenses associated with a
103 recipient's nonpublic business, employment, trade, or profession;
- 104 (vii) Food, beverages, and registration at group events to which all members of an
105 agency, as defined in paragraph (1) of subsection (a) of Code Section 21-5-30.2, are
106 invited. An agency shall include the Georgia House of Representatives, the Georgia
107 Senate, committees and subcommittees of such bodies, and the governing body of
108 each political subdivision of this state;
- 109 (viii) Campaign contributions or expenditures reported as required by Article 2 of
110 this chapter;
- 111 (ix) A commercially reasonable loan made in the ordinary course of business;
- 112 (x) Food, beverage, or expenses afforded public officers, members of their immediate
113 families, or others that are associated with normal and customary business or social
114 functions or activities; or
- 115 (xi) Transportation unless a lobbyist arranges for or participates in such
116 transportation."

117 **SECTION 4.**

118 Said chapter is further amended by revising subsection (a) of Code Section 21-5-73, relating
119 to disclosure reports, as follows:

120 "(a)(1) No lobbyist shall make at any single event an expenditure to a public officer, an
121 employee or a staff member of a public officer who works in support of the public office
122 in which such officer serves, or a member of the family of a public officer in an amount
123 exceeding \$100.00 per such officer, employee, staff member, or family member;
124 provided, however, that any reimbursement or payment of actual and reasonable expenses
125 provided to a public officer or a family member, employee, or staff member of a public
126 officer for transportation, travel, lodging, registration, food, beverages, and other
127 activities related to attending a meeting or conference so as to permit a public officer's
128 participation in such meeting or conference shall be limited to not more than \$750.00.
129 Beginning January 1, 2013, and annually thereafter, the limitation on expenditures

130 specified in this subsection shall be increased by .03 percent or by a percentage equal to
 131 the Consumer Price Index, whichever is less.

132 (2) There is created a Joint Accountability Review Committee within the General
 133 Assembly consisting of five members of the House of Representatives to be appointed
 134 by the Speaker of the House of Representatives and five members of the Senate to be
 135 appointed by the Lieutenant Governor. The Speaker of the House of Representatives and
 136 the Lieutenant Governor shall each select from the members appointed a person to serve
 137 as cochairperson of the committee. The purpose of the committee shall be to review
 138 requests by public officers for reimbursement or payment of actual expenses provided to
 139 a public officer or a family member, employee, or staff member of a public officer for
 140 transportation, travel, lodging, registration, food, beverages, and other activities related
 141 to attending a meeting or conference where such expenses exceed \$750.00. Such
 142 reimbursements or payments shall only be approved if the attendance at such meeting or
 143 conference is related to education or public policy or economic or cultural development.
 144 Approval shall be given by majority vote of the members of the committee. The
 145 limitation on expenditures provided for in this subsection shall not apply to any
 146 expenditure approved by the committee.

147 (a.1) Each lobbyist registered under this article shall file disclosure reports as provided for
 148 in this Code section in the electronic format specified by the commission."

149 III.

150 The "State Accountability Commission."

151 **SECTION 5.**

152 Said chapter is further amended by revising paragraph (5) of Code Section 21-5-3, relating
 153 to definitions for general provisions relating to ethics in government, as follows:

154 "(5) 'Commission' means the Georgia Government Transparency and Campaign Finance
 155 State Accountability Commission created under Code Section 21-5-4."

156 **SECTION 6.**

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

160 "(a) The Georgia Government Transparency and Campaign Finance State Accountability
 161 Commission shall be a successor to the State Ethics Georgia Government Transparency
 162 and Campaign Finance Commission, with such duties and powers as are set forth in this
 163 chapter. As the successor commission, it shall have all the powers and duties granted to

164 the ~~State Ethics~~ Georgia Government Transparency and Campaign Finance Commission
 165 in all matters pending before the ~~State Ethics~~ Georgia Government Transparency and
 166 Campaign Finance Commission and may continue to investigate, prosecute, and act upon
 167 all such matters.

168 (b) The commission shall be governed by five members appointed as follows: three
 169 members, not more than two of whom shall be from the same political party, shall be
 170 appointed by the Governor, two for terms of three years and one for a term of two years;
 171 one member shall be appointed by the Senate Committee on Assignments for a term of four
 172 years; and one member shall be appointed by the Speaker of the House of Representatives
 173 for a term of four years. Upon the expiration of a member's term of office, a new member,
 174 appointed in the same manner as the member whose term of office expired as provided in
 175 this subsection, shall become a member of the commission and shall serve for a term of
 176 four years and until such member's successor is duly appointed and qualified. If a vacancy
 177 occurs in the membership of the commission, a new member shall be appointed to the
 178 unexpired term of office by the state official or the committee that appointed the vacating
 179 member. Members of the commission shall not serve for more than one complete term of
 180 office.

181 (c) All members of the commission shall be residents of this state.

182 (d) Any person who:

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

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

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

189 (4) Is currently a lobbyist;

190 (5) Is receiving compensation from a lobbyist group, organization, or firm or another
 191 lobbyist; or

192 (6) Has a family member who is currently a lobbyist

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

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

199 (f) A majority of the members of the commission constitutes a quorum for the transaction
 200 of business. The vote of at least a majority of the members present at any meeting at which

201 a quorum is present is necessary for any action to be taken by the commission. No vacancy
 202 in the membership of the commission impairs the right of a quorum to exercise all rights
 203 and perform all duties of the commission.

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

206 **SECTION 7.**

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

210 "(1) 'Commission' means the ~~Georgia Government Transparency and Campaign Finance~~
 211 State Accountability Commission created under Code Section 21-5-4."

212 **SECTION 8.**

213 Said title is further amended by revising Code Section 45-7-7, relating to compensation and
 214 allowances of certain officials not to be changed without giving public notice, as follows:

215 "45-7-7.

216 (a) The compensation or allowances of the officials listed in subsection (b) of this Code
 217 section shall not be changed by the governing board or body having the authority to do so
 218 unless public notice of such proposed action and amount shall have been given at least 30
 219 days prior to the date such board or body shall consider such action and unless notice of
 220 such proposed change shall have likewise been given to the Governor by the board or body
 221 at least 30 days prior to the date of such proposed change.

222 (b) Subsection (a) of this Code section shall apply to the compensation and allowances of
 223 the commissioner of community affairs, the director of the Employees' Retirement System
 224 of Georgia, the director of the State Forestry Commission, the director of the Georgia
 225 Bureau of Investigation, the executive director of the Georgia Franchise Practices
 226 Commission, the commissioner of human services, the commissioner of economic
 227 development, the commissioner of natural resources, the commissioner of public safety,
 228 the chancellor of the University System of Georgia, the president or executive director of
 229 the Georgia Student Finance Commission, the executive director of the State Soil and
 230 Water Conservation Commission, the executive secretary-treasurer of the Teachers
 231 Retirement System of Georgia, the commissioner of transportation, and the executive
 232 director of the ~~Georgia Government Transparency and Campaign Finance~~ State
 233 Accountability Commission."

234 **SECTION 9.**

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

238 "(a) Except as provided in subsection (b) of this Code section, any public official or
 239 employee, whether for himself, herself, or on behalf of any business, or any business in
 240 which such public official or employee or any member of his or her family has a substantial
 241 interest who transacts business with the state or any agency thereof shall disclose such
 242 transactions. Such disclosure shall be submitted prior to January 31 each year to the
 243 ~~Georgia Government Transparency and Campaign Finance~~ State Accountability
 244 Commission on such forms as it shall prescribe and shall include an itemized list of the
 245 previous year's transactions with the dollar amount of each transaction reported and totaled.
 246 Such disclosure statements shall be public records."

247 **IV.**
 248 Conduct of public officials.

249 **SECTION 10.**

250 Said chapter is further amended in subsection (a) of Code Section 21-5-50, relating to filing
 251 financial disclosure statements by public officers, candidates for public office, elected
 252 officials and members of the General Assembly, electronic filing, and transfer of filings from
 253 the Secretary of State to the commission, by adding a new paragraph to read as follows:

254 "(7) Any public officer or any person serving as the head or executive director of a state
 255 department, bureau, agency, authority, or other similarly designated state entity shall file
 256 with the commission not before the first day of January nor later than July 1 of each year
 257 in which such person holds office a financial disclosure statement for the preceding
 258 calendar year. In addition, each such public officer shall file with the commission,
 259 together with the financial disclosure statement, an affidavit confirming that he or she
 260 took no official action in the previous calendar year that had a material effect on such
 261 public officer's private financial or business interests."

262 **SECTION 11.**

263 Said chapter is further amended by revising Code Section 21-5-75, relating to
 264 postemployment restrictions on public officers, as follows:

265 "21-5-75.

266 (a) Except as provided in subsection (b) of this Code section, on and after ~~January 8, 2007~~
 267 July 1, 2012, persons identified in subparagraphs (A) through (D) of paragraph (22) of

268 Code Section 21-5-3 and the executive director of each state board, commission, or
269 authority and any employee of the Governor's office or the Lieutenant Governor's office
270 shall be prohibited from registering as a lobbyist or engaging in lobbying under this article
271 for a period of one year after terminating such employment or leaving such office.

272 (b) The lobbying prohibition contained in subsection (a) of this Code section shall not
273 apply to persons who terminate such employment or leave such office but who remain
274 employed in state government."

275

V.

276

Effective date and repealer.

277

SECTION 12.

278 This Act shall become effective on July 1, 2012.

279

SECTION 13.

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