

Senate Bill 429

By: Senators Tolleson of the 20th, Chance of the 16th, Rogers of the 21st, Millar of the 40th,  
Davis of the 22nd and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 28 of the Official Code of Georgia Annotated, relating to  
2 financial affairs relative to the General Assembly, so as to change certain provisions relating  
3 to fiscal notes for bills changing compensation; to change certain provisions relating to  
4 introduction of bills having significant impact upon anticipated revenues or expenditures and  
5 furnishing of fiscal notes; to change certain provisions relating to state and local government  
6 partnership; to amend Part 1 of Article 1 of Chapter 18 of Title 45 of the Official Code of  
7 Georgia Annotated, relating to the State Employees' Health Insurance Plan, so as to change  
8 certain provisions relating to fiscal notes required for bills impacting employees' health  
9 insurance plans; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 5 of Title 28 of the Official Code of Georgia Annotated, relating to financial affairs  
13 relative to the General Assembly, is amended by revising Code Section 28-5-2, relating to  
14 fiscal notes for bills changing compensation, as follows:

15 "28-5-2.

16 ~~(a) The chairman of any committee of either house of the General Assembly shall request~~  
17 ~~the state auditor to prepare and furnish a fiscal note for each bill referred to such committee~~  
18 ~~which would change the compensation or allowances of any elected or appointed state~~  
19 ~~official, officer, or department or agency head. This Code section shall apply only if such~~  
20 ~~compensation or allowances are to be paid either wholly or in part from state funds.~~

21 ~~(b) It shall be the duty of the state auditor to compile and furnish such fiscal notes as may~~  
22 ~~be requested by the chairman of any committee of either house of the General Assembly.~~  
23 ~~Such fiscal notes shall contain a statement of the present compensation and allowances of~~  
24 ~~the official, officer, or department or agency head, any present longevity increments, and~~  
25 ~~any personal expense allowances, other than mileage and travel expenses, and shall contain~~  
26 ~~a statement of the proposed increase or change in such compensation, allowances, or~~

27 ~~increments, with the total cost of such changes. Such fiscal notes shall be printed by the~~  
 28 ~~Clerk of the House of Representatives or the Secretary of the Senate and shall be~~  
 29 ~~distributed to members of the General Assembly prior to a vote being taken on such bill in~~  
 30 ~~either house of the General Assembly. Reserved."~~

31 **SECTION 2.**

32 Said chapter is further amended by revising Code Section 28-5-42, relating to introduction  
 33 of bills having significant impact upon anticipated revenues or expenditures and furnishing  
 34 of fiscal notes, as follows:

35 "28-5-42.

36 (a)(.1) The sponsor of any general bill shall request and obtain a fiscal note from the  
 37 Office of Planning and Budget and the Department of Audits and Accounts prior to the  
 38 consideration of such bill by a committee of the Senate or of the House of  
 39 Representatives but subsequent to the preparation of such bill by the Office of Legislative  
 40 Counsel. The director of the Office of Planning and Budget and the state auditor shall  
 41 prepare the fiscal note and submit it to the sponsor of the legislation; provided, however,  
 42 that the director and the state auditor may refer the bill to the Department of Community  
 43 Affairs as provided for by Code Section 28-5-49 for analysis and preparation of the fiscal  
 44 note in any case where such legislation would have a fiscal impact on local political  
 45 subdivisions.

46 (1) Any general bill having a significant impact on the anticipated revenue or  
 47 expenditure level of any state department, bureau, board, council, committee,  
 48 commission, or other state agency must be introduced no later than the twentieth day of  
 49 any session. The sponsor of such legislation must request a fiscal note from the Office  
 50 of Planning and Budget and the Department of Audits and Accounts by November 1 of  
 51 the year preceding the annual convening of the General Assembly in which the bill is to  
 52 be introduced, but subsequent to the preparation of such bill by the Office of Legislative  
 53 Counsel. With respect to a member-elect of the General Assembly, such person must  
 54 request a fiscal note from the Office of Planning and Budget and the Department of  
 55 Audits and Accounts by December 1 of the year preceding the annual convening of the  
 56 General Assembly in which the bill is to be introduced, but subsequent to the preparation  
 57 of such bill by the Office of Legislative Counsel. The director of the Office of Planning  
 58 and Budget and the state auditor shall prepare and submit the fiscal note not later than the  
 59 day of convening of the General Assembly.

60 (2) The failure to request a fiscal note by November 1 as provided in paragraph (1) of  
 61 this subsection shall preclude consideration of the measure by the Senate or the House

62 of Representatives unless the committee to which a bill is assigned in the chamber in  
63 which it is introduced:

64 (A)(i) Determines that such bill will have a significant impact as described in  
65 paragraph (1) of this subsection;

66 (ii) Waives the applicable November 1 or December 1 deadline of paragraph (1) of  
67 this subsection;

68 (iii) Requests a fiscal note from the director of the Office of Planning and Budget and  
69 the state auditor, except as otherwise provided in subsection (e) of this Code section;  
70 and

71 (iv) Among fiscal notes so requested, the chairperson of such committee suggests a  
72 preferred order of completion to guide the director of the Office of Planning and  
73 Budget and the state auditor; or

74 (B) Determines that such bill will not have a significant impact as described in  
75 paragraph (1) of this subsection.

76 (3) Any such determination or waiver shall be by the affirmative vote of a majority of  
77 the members of the committee, on a specific motion for waiver, and shall allow  
78 consideration of the measure by both chambers so long as the bill has been introduced not  
79 later than the twentieth day of any session.

80 (4) Any general bill having a significant impact on the anticipated revenue or  
81 expenditure level of counties and municipalities must be introduced no later than the  
82 twentieth day of any session.

83 (5) This article shall not apply to any local bill affecting a county or municipality which  
84 must be advertised in accordance with the requirements of Code Section 28-1-14, relating  
85 to the advertisement of local legislation.

86 (b) In the event any general bill having a significant impact as described in paragraph (1)  
87 of subsection (a) of this Code section is introduced after the twentieth day of any session,  
88 it shall not be considered or acted upon in any manner by either the Senate or the House  
89 of Representatives. The President of the Senate shall decide whether a bill which is  
90 introduced in the Senate falls within this category; and the Speaker of the House of  
91 Representatives shall decide whether a bill which is introduced in the House of  
92 Representatives falls within this category. The President of the Senate shall have the same  
93 right of decision on House bills which reach the Senate; and the Speaker of the House of  
94 Representatives shall have the same right of decision on Senate bills which reach the House  
95 of Representatives.

96 (c)(1) In the event a general bill having a significant impact as described in paragraph  
97 (1) of subsection (a) of this Code section is introduced not later than the twentieth day  
98 of any session, the chairperson of the committee to which such bill is referred shall

99 request the director of the Office of Planning and Budget and the state auditor to submit  
 100 any such fiscal note as to the fiscal effect of any such bill and to file a copy of such fiscal  
 101 note with the Senate Budget Office and the House Budget Office. The chairperson shall  
 102 make such request after the bill is referred to the committee.

103 (2) The chairperson shall not be required to make such request with respect to any bill  
 104 for which:

105 (A) A fiscal note has been requested by the sponsor of the bill pursuant to paragraph  
 106 (1) of subsection (a) of this Code section and the chairperson has been duly notified in  
 107 writing of such request by such sponsor; or

108 (B) The director of the Office of Planning and Budget and the state auditor have  
 109 previously submitted a fiscal note pursuant to a request under paragraph (1) of  
 110 subsection (a) of this Code section.

111 (d) In the event a determination is made under subparagraph (a)(2)(B) of this Code section  
 112 that a bill will not have a significant impact, if the director of the Office of Planning and  
 113 Budget or the state auditor has information or knowledge that any bill will have a  
 114 significant impact as described in paragraph (1) of subsection (a) of this Code section, a  
 115 fiscal note may be prepared according to the criteria outlined in subsection (g) of this Code  
 116 section. Such a fiscal note may be prepared without a request by the bill's author or the  
 117 committees to which it is assigned in either chamber. Any fiscal note prepared according  
 118 to this subsection shall be distributed consistent with Code Section 28-5-44.

119 (e) During any regular session of the General Assembly, the director of the Office of  
 120 Planning and Budget and the state auditor shall prepare and submit the fiscal note within  
 121 five days after receipt of the request or within ten days if the director of the Office of  
 122 Planning and Budget and the state auditor have made a formal request for extension of  
 123 time.

124 (f) The principal administrative and fiscal officers of all departments, boards, councils,  
 125 committees, commissions, and other agencies of the state government and, when  
 126 applicable, of counties, municipalities, and other political subdivisions are authorized and  
 127 directed to cooperate fully with the director of the Office of Planning and Budget and the  
 128 state auditor in providing any information and assistance necessary in the preparation of  
 129 fiscal notes pursuant to this Code section.

130 (g) The fiscal note required by this Code section shall include a reliable estimate in dollars  
 131 of the anticipated change in revenue or expenditures for state government or local political  
 132 subdivisions under the provisions of the bill, along with an estimate of costs of incurred by  
 133 business in complying with the bill. It shall also include a statement as to the immediate  
 134 effect and, if determinable or reasonably foreseeable, the long-range effect of the measure.  
 135 If, after careful investigation, it is determined that no dollar estimate is possible, the fiscal

136 note shall contain a statement to that effect, setting forth the reasons why no dollar estimate  
 137 can be given. In this event, the fiscal note shall contain an example based on a specific  
 138 situation or reflecting the average group of persons possibly affected by the bill so as to  
 139 provide an indication of the cost of such bill to the General Assembly. Assumptions used  
 140 to develop these averages shall be noted in the fiscal note and the criteria included herein  
 141 shall constitute a fiscal note. No comment or opinion regarding the merits of the measure  
 142 for which the statement is prepared shall be included in the fiscal note; however, technical  
 143 or mechanical defects may be noted. The state auditor and the director of the Office of  
 144 Planning and Budget shall jointly prepare their fiscal note; and, if there is a difference of  
 145 opinion between such officials, it shall be noted in the fiscal note. In the event the director  
 146 of the Office of Planning and Budget and the state auditor concur that the fiscal note on any  
 147 such bill cannot be prepared within the five-day limitation in effect during any regular  
 148 session of the General Assembly, they shall so inform the chairperson in writing and shall  
 149 be allowed to submit said note not later than ten days after the request for it is made."

150 **SECTION 2.**

151 Said chapter is further amended by revising Article 3A, relating to state and local  
 152 government partnership, as follows:

153 "28-5-47.

154 This article shall be known and may be cited as the 'State and Local Government  
 155 Partnership Act of 1995.'

156 ~~28-5-47.1.~~

157 ~~It is the intent and purpose of the General Assembly in enacting this article:~~

158 ~~(1) To strengthen the partnership between the State of Georgia and local political~~  
 159 ~~subdivisions;~~

160 ~~(2) To assist the General Assembly in its consideration of proposed legislation and new~~  
 161 ~~and revised state programs containing fiscal requirements affecting local political~~  
 162 ~~subdivisions by:~~

163 ~~(A) Requiring the provision of accurate estimates of the fiscal impact upon local~~  
 164 ~~political subdivisions of proposed legislation and new and revised state programs; and~~

165 ~~(B) Establishing a mechanism to bring such information to the attention of the~~  
 166 ~~members of the General Assembly before the House of Representatives or Senate,~~  
 167 ~~respectively, votes on proposed legislation;~~

168 ~~(3) To promote informed and deliberate decisions by the General Assembly on the~~  
 169 ~~appropriateness of proposed fiscal impact legislation in any particular instances;~~

170 ~~(4) To improve the quality of state regulations affecting local political subdivisions and~~  
 171 ~~the process by which those regulations are developed by:~~  
 172 ~~(A) Providing that state agencies consult with elected and other officials of local~~  
 173 ~~political subdivisions; and~~  
 174 ~~(B) Requiring that state agencies prepare accurate estimates of the budgetary impact~~  
 175 ~~of state regulatory mandates upon local political subdivisions before adopting such~~  
 176 ~~regulations.~~

177 28-5-48.

178 As used in this article, the term:

179 (1) 'Commissioner' means the commissioner of community affairs.

180 (2) 'Department' means the Department of Community Affairs.

181 (3) 'Fiscal note' means a realistic statement of the estimated financial cost of  
 182 implementing or complying with the proposed law, regulation, rule, order, or  
 183 administrative law upon local political subdivisions to which the proposed law,  
 184 regulation, rule, order, or administrative law applies.

185 (4) 'Local political subdivision' means a county, municipality, county school district, or  
 186 independent school district.

187 28-5-48.1.

188 This article shall not apply to any proposed bill, ~~resolution~~, regulation, rule, order, or  
 189 administrative law for which an appropriation, in an amount sufficient to fund the full cost  
 190 of the proposal, has been made to affected local political subdivisions.

191 28-5-49.

192 ~~(a) The Upon referral of any general bill from the Office of Planning and Budget and the~~  
 193 ~~Department of Audits and Accounts pursuant to paragraph (.1) of subsection (a) of Code~~  
 194 ~~Section 28-5-42, the department shall conduct any analysis to determine the cost of~~  
 195 ~~implementation or compliance for all bills and joint resolutions introduced in the General~~  
 196 ~~Assembly which have a fiscal impact of such legislation on local political subdivisions and~~  
 197 ~~shall prepare a fiscal note for such legislation. Before any vote is taken in a committee of~~  
 198 ~~the House of Representatives or Senate or on the floor of either house upon any bill or joint~~  
 199 ~~resolution determined by the department to require an expenditure which in the aggregate~~  
 200 ~~exceeds \$5 million of public funds by local political subdivisions, a fiscal note shall be~~  
 201 ~~attached to such bill or resolution and shall be filed by the sponsor of the bill with the~~  
 202 ~~chairperson of the committee and the Clerk of the House of Representatives or the~~  
 203 ~~Secretary of the Senate and shall be provided to all members of the General Assembly.~~

204 ~~Any representative of any local political subdivision requesting a copy of the fiscal note~~  
 205 ~~shall be furnished with a copy immediately upon request to the Clerk of the House of~~  
 206 ~~Representatives or the Secretary of the Senate. This Code section shall not apply to a bill~~  
 207 ~~or joint resolution that is necessary for the state to assume the administration of regulatory~~  
 208 ~~programs mandated by federal statute.~~

209 ~~(b) The requirements of this Code section may be waived by the committee to which the~~  
 210 ~~bill is assigned in the chamber wherein the bill is introduced. Any such waiver shall be by~~  
 211 ~~the affirmative vote of a majority of the members of the committee. Any such waiver by~~  
 212 ~~the committee shall allow consideration of the measure by both chambers.~~

213 ~~(c) The requirements of this Code section may be waived:~~

214 ~~(1) By a majority vote of the House of Representatives or by the Speaker of the House~~  
 215 ~~with respect to a bill introduced in the House of Representatives; or~~

216 ~~(2) By majority vote of the Senate or by the President of the Senate with respect to a bill~~  
 217 ~~introduced in the Senate.~~

218 ~~Any such waiver shall allow consideration of the measure by both the House of~~  
 219 ~~Representatives and the Senate.~~

220 28-5-50.

221 Except as otherwise provided in this Code section, no regulation, rule, order, or  
 222 administrative law which would have a fiscal impact which in the aggregate exceeds \$5  
 223 million on local political subdivisions in this state shall be valid unless 30 days prior to its  
 224 adoption by a board, commission, agency, department, officer, or other authority of the  
 225 government of this state, except the General Assembly, the courts, and the Governor, such  
 226 board, commission, agency, department, officer, or other authority shall file a fiscal note  
 227 with the members of the General Assembly. Any local political subdivisions that will be  
 228 affected by the proposed regulation, rule, policy, order, or administrative law, upon request,  
 229 shall immediately be furnished with a copy of the fiscal note by the board, commission,  
 230 agency, department, officer, or other authority. This Code section shall not apply to an  
 231 emergency regulation, rule, order, or administrative law as described by subsection (b) of  
 232 Code Section 50-13-4, ~~to any rule or regulation adopted or order issued pursuant to~~  
 233 ~~legislation exempted from Code Section 28-5-49~~, or to any other order issued to abate or  
 234 prevent violations of specific statutory provisions enacted by the General Assembly.

235 28-5-51.

236 A fiscal note shall contain an aggregated estimate of the fiscal impact of a bill, ~~a joint~~  
 237 ~~resolution~~, or an administrative action on local political subdivisions for the fiscal year in  
 238 which it would become effective, if enacted, and for the next two succeeding fiscal years.

239 If the fiscal impact of the bill, ~~joint resolution~~, or administrative action is not expected to  
240 be totally evident within the applicable period, the estimate shall be projected beyond that  
241 period to include an estimate for the first fiscal year in which it is expected to be fully  
242 effective.

243 28-5-52.

244 The other departments or agencies of the state government shall assist the department in  
245 the preparation of fiscal notes required by this article. Where appropriate, the  
246 commissioner shall seek the advice and assistance of local government officials or their  
247 representatives. The departments or agencies of state government assisting in the  
248 preparation of the fiscal note shall be clearly indicated on the fiscal note along with the  
249 signature of the commissioner or the commissioner's authorized representative indicating  
250 that the commissioner agrees with the fiscal impact estimated thereon.

251 28-5-53.

252 (a) A fiscal note that is attached to a bill ~~or joint resolution~~ shall be revised by the  
253 commissioner at each successive stage of the legislative process in which an amendment  
254 is adopted that changes the fiscal effect of the bill ~~or joint resolution~~, unless this  
255 requirement is waived by the President of the Senate, by a majority vote of the Senate, by  
256 the Speaker of the House of Representatives, or by a majority vote of the House of  
257 Representatives. A revised fiscal note shall not be required for any amendment which  
258 either increases local revenues or decreases mandated expenditures.

259 (b) The revised fiscal note shall be processed by the commissioner and returned as quickly  
260 as possible to the committee or the Clerk of the House of Representatives or Secretary of  
261 the Senate if either the Clerk or the Secretary has the custody of the bill or joint resolution  
262 at that time.

263 (c) Except as otherwise provided by subsections (a) and (b) of this Code section, a waiver  
264 of a fiscal note shall be replaced at any time with a fiscal note if an amendment to a bill ~~or~~  
265 ~~joint resolution~~ causes the bill ~~or joint resolution~~ to have an effect upon the revenues or  
266 expenditures of local political subdivisions.

267 28-5-54.

268 (a) A copy of each fiscal note or waiver of a fiscal note shall be retained by the  
269 commissioner and shall be reasonably available for public inspection for at least three years  
270 following its preparation. The fiscal note or waiver of a fiscal note shall be published in  
271 the journal of each house of the General Assembly.

272 (b) A fiscal note, upon being filed as provided in this article, shall be open to inspection  
 273 by the general public as provided by Code Sections 50-18-70 through 50-18-72.

274 28-5-55.

275 Reserved.

276 28-5-56.

277 Nothing in this article shall be construed to require any degree of formality of proof of  
 278 compliance with any requirement of this article, and any enrolled bill shall be conclusively  
 279 presumed to have been enacted in compliance with the requirements of this article."

280

### **SECTION 3.**

281 Part 1 of Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated,  
 282 relating to the State Employees' Health Insurance Plan, is amended by revising Code Section  
 283 45-18-20, relating to fiscal notes required for bills impacting employees' health insurance  
 284 plans, as follows:

285 "45-18-20.

286 ~~Any bill prepared by the General Assembly which would impact the state employees'~~  
 287 ~~health insurance plan established under this part shall require a fiscal note in accordance~~  
 288 ~~with the procedures of Code Section 28-5-42~~ Reserved."

289

### **SECTION 4.**

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