

Senate Bill 21

By: Senators Jones of the 10th, Harbison of the 15th, Butler of the 55th, Tate of the 38th, Seay of the 34th 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 change provisions relating to the powers and duties of the
7 commission; to provide a time frame for concluding investigations of alleged violations of
8 the chapter; to provide a funding source for the commission; to remove certain dedications
9 of fees; to amend Title 45 of the Official Code of Georgia Annotated, relating to public
10 officers and employees, so as to correct cross-references; to provide for related matters; to
11 provide for an effective date; to provide a contingent effective date; to provide for automatic
12 repeal under certain conditions; to repeal conflicting laws; and for other 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, 2015, the commission shall be reconstituted. The commission
 34 members serving on the commission immediately prior to July 1, 2015, 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~~, two for terms Chief Justice of the Supreme Court of Georgia,
 41 one for an initial term of four years, one for an initial term of three years, and one for a
 42 an initial term of two years; ~~one member~~ and two members shall be appointed by the
 43 ~~Senate Committee on Assignments for a term of four years; and one member shall be~~
 44 ~~appointed by the Speaker of the House of Representatives~~ Chief Judge of the Georgia
 45 Court of Appeals, one for an initial term of three years and one for a an initial term of
 46 four years. Upon the expiration of a member's term of office, a new member, appointed
 47 in the same manner as the member whose term of office expired as provided in this
 48 ~~subsection~~ paragraph, shall become a member of the commission and shall serve for a
 49 term of four years and until such member's successor is duly appointed and qualified. If
 50 a vacancy occurs in the membership of the commission, a new member shall be
 51 appointed to the unexpired term of office by the ~~state official or the committee that~~
 52 Justice or Judge who appointed the vacating member. ~~Members of the commission shall~~
 53 ~~not serve for more than one complete term of office.~~

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

57 (d) Any person who:

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

- 60 (2) Has held any federal, state, or local public office within a period of five years prior
 61 to such person's appointment; ~~or~~
- 62 (3) Serves as an officer of any political party, whether such office is elective or
 63 appointive and whether such office exists on a local, state, or national level; or
- 64 (4) Serves as a registered lobbyist within a period of five years prior to such person's
 65 appointment
- 66 shall be ineligible to serve as a member of the commission.
- 67 (e) The commission shall elect a chairperson, a vice chairperson, and other officers as it
 68 deems necessary. The members shall not be compensated for their services, but they shall
 69 be reimbursed in an amount equal to the per diem received by the General Assembly for
 70 each day or portion thereof spent in serving as members of the commission. They shall be
 71 paid their necessary traveling expenses while engaged in the business of the commission.
- 72 (f) A majority of the members of the commission ~~constitutes~~ shall constitute a quorum for
 73 the transaction of business. The vote of at least a majority of the members present at any
 74 meeting at which a quorum is present is shall be necessary for any action to be taken by the
 75 commission. No vacancy in the membership of the commission ~~impairs~~ shall impair the
 76 right of a quorum to exercise all rights and perform all duties of the commission.
- 77 (g) Meetings of the members of the commission shall be held at the call of the chairperson
 78 or whenever any two members so request."

79

SECTION 3.

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

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

96 The commission may file a complaint charging violations of this chapter, and any
 97 person aggrieved by the final decision of the commission ~~is~~ shall be entitled to judicial
 98 review in accordance with Chapter 13 of Title 50; provided, however, that nothing in
 99 this Code section shall be construed to limit or encumber the right of the commission
 100 to initiate on probable cause an investigation on its own cognizance as it deems
 101 necessary to fulfill its obligations under this chapter."

102 SECTION 4.

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

105 "21-5-7.

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

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

122 SECTION 5.

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

124 "21-5-16.

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

127 SECTION 6.

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

130 ~~”(k)(†)~~ In addition to other penalties provided under this chapter, a late fee of \$125.00 shall
 131 be imposed by the person or entity with which filing is required for each report that is filed
 132 late, and notice of such late fee shall be sent to the candidate and the candidate's committee
 133 in the same manner by which the penalized report was filed with the commission.
 134 However, if the report in question was not filed or was filed with the commission in a
 135 manner other than electronic filing or certified mail, return receipt requested, the
 136 commission shall utilize certified mail, return receipt requested, to notify the candidate and
 137 the candidate's committee of the late fee due. The notice shall include the schedule of
 138 increasing late fees for late filings and the dates upon which such late fees shall be
 139 increased. In addition, a late fee of \$250.00 shall be imposed on the fifteenth day after the
 140 due date for such report if the report has not been filed by such date. A late fee of
 141 \$1,000.00 shall be imposed on the forty-fifth day after the due date for such report if such
 142 report has not been filed. Notice by electronic means ~~does~~ shall not satisfy the
 143 requirements of this ~~paragraph~~ subsection; and any increased late fees shall be stayed until
 144 at least ten days after proper notice has been given as specified in this ~~paragraph~~
 145 subsection.

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

148 **SECTION 7.**

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

151 ~~”(f)(†)~~ In addition to other penalties provided in this chapter, a late fee of \$125.00 shall be
 152 imposed by the person or entity with which filing is required for each financial disclosure
 153 statement that is filed late, and notice of such late fee shall be sent to the board member,
 154 candidate, and the candidate's committee in the same manner by which the penalized report
 155 was filed with the commission. However, if the report in question was not filed or was
 156 filed with the commission in a manner other than electronic filing or certified mail, return
 157 receipt requested, the commission shall use certified mail, return receipt requested, to
 158 notify the candidate and the candidate's committee of the late fee due. The notice shall
 159 include the schedule of increasing late fees for late filings and the dates upon which such
 160 late fees shall be increased. In addition, a late fee of \$250.00 shall be imposed on the
 161 fifteenth day after the due date for such statement if such statement has not been filed. A
 162 late fee of \$1,000.00 shall be imposed on the forty-fifth day after the due date for such
 163 statement if ~~the~~ such statement has not been filed. Campaign committee funds shall not be
 164 used to pay such penalty. Notice by electronic means shall not satisfy the requirements of

165 this ~~paragraph subsection~~; and any increased late fees shall be stayed until at least ten days
 166 after proper notice has been given as specified in this ~~paragraph subsection~~.

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

169 **SECTION 8.**

170 Said chapter is further amended by revising subparagraphs (f)(2)(B) and (f)(2)(C) of Code
 171 Section 21-5-71, relating to lobbyist registration, as follows:

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

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

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

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

188 **SECTION 9.**

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

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

194 **SECTION 10.**

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

198 "(b) Subsection (a) of this Code section shall apply to the compensation and allowances
 199 of the commissioner of community affairs, the director of the Employees' Retirement
 200 System of Georgia, the director of the State Forestry Commission, the director of the
 201 Georgia Bureau of Investigation, the executive director of the Georgia Franchise Practices
 202 Commission, the commissioner of human services, the commissioner of economic
 203 development, the commissioner of natural resources, the commissioner of public safety,
 204 the chancellor of the University System of Georgia, the president or executive director of
 205 the Georgia Student Finance Commission, the executive director of the State Soil and
 206 Water Conservation Commission, the executive secretary-treasurer of the Teachers
 207 Retirement System of Georgia, the commissioner of transportation, and the executive
 208 ~~director secretary~~ of the Georgia ~~Government Transparency and Campaign Finance~~ Ethics
 209 Commission."

210 **SECTION 11.**

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

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

223 **SECTION 12.**

224 This Act shall become effective on July 1, 2015; provided, however, that Sections 5 through
 225 8 of this Act shall become effective on January 1, 2017, only if a constitutional amendment
 226 authorizing the General Assembly to provide a fixed sum for the funding of the Georgia
 227 Ethics Commission is ratified at the November, 2016, general election. If such an
 228 amendment to the Constitution is not so ratified, then Sections 5 through 8 of this Act shall
 229 not become effective and shall stand repealed by operation of law on January 1, 2017.

230 **SECTION 13.**

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