

Senate Bill 394

By: Senator McKoon of the 29th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 5 of Title 21 of the Official Code of Georgia Annotated,
2 relating to campaign contributions, so as to provide for definitions; to provide that any
3 business entity whose contracts with state or local agencies, in the aggregate, annually total
4 more than \$50,000.00, and any affiliated entities or affiliated persons of such business entity,
5 are prohibited from making any contributions to any candidate, or his or her campaign
6 committee, for the office responsible for awarding such contracts or any declared candidate,
7 or his or her campaign committee, for such office; to provide that any business entity whose
8 aggregate pending bids and offers on state or local contracts total more than \$50,000.00, or
9 whose aggregate pending bids and offers on state or local contracts combined with the
10 business entity's aggregate annual total value of state contracts exceed \$50,000.00, and any
11 affiliated entities or affiliated persons of such business entity, are prohibited from making
12 any contributions to any candidate, or his or her campaign committee, for the office
13 responsible for awarding a contract on which the business entity has submitted a bid or offer
14 during the period beginning on the date the invitation for bids, request for proposals, or any
15 other procurement opportunity is issued and ending on the day after the date such contract
16 is awarded or any declared candidate, or his or her campaign committee, for such office; to
17 provide for penalties; to provide for related matters; to repeal conflicting laws; and for other
18 purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

21 Article 2 of Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to
22 campaign contributions, is amended by revising Code Section 21-5-31, which was previously
23 reserved, as follows:

24 "21-5-31.

25 (a) As used in this Code section, the term:

- 26 (1) 'Affiliated corporation' shall have the same meaning as provided in Code Section
 27 21-5-40.
- 28 (2) 'Affiliated entity' means:
- 29 (A) Any corporate parent and each operating subsidiary of the bidding or contracting
 30 business entity;
- 31 (B) Each operating subsidiary of the corporate parent of the bidding or contracting
 32 business entity; and
- 33 (C) Any organization recognized by the United States Internal Revenue Service as a
 34 tax-exempt organization described in Section 501(c) of the Internal Revenue Code
 35 of 1986, or any successor provision of federal tax law, and established by the bidding
 36 or contracting business entity, any affiliated entity of such business entity, or any
 37 affiliated person of such business entity.
- 38 (3) 'Affiliated person' means:
- 39 (A) Any person with any ownership interest or distributive share of the bidding or
 40 contracting business entity in excess of 7.5 percent;
- 41 (B) An executive employee of the bidding or contracting business entity; and
- 42 (C) The spouse of any such person.
- 43 (4) 'Business entity' means any entity doing business for profit, whether organized as a
 44 corporation, partnership, sole proprietorship, limited liability company or partnership, or
 45 otherwise.
- 46 (5) 'Declared candidate' means any person who has filed a declaration of intention to
 47 accept campaign contributions as provided in subsection (g) of Code Section 21-5-30.
- 48 (6) 'Executive employee' means:
- 49 (A) The president, chairperson of the board, or chief executive officer of a business
 50 entity and any other individual who fulfills equivalent duties as the president,
 51 chairperson of the board, or chief executive officer of a business entity; and
- 52 (B) Any employee of a business entity whose compensation is determined directly, in
 53 whole or in part, by the award or payment of contracts by any state department, agency,
 54 board, bureau, commission, or authority; any county, municipal corporation, school
 55 system, or other political subdivision of this state; any department, agency, board,
 56 bureau, commission, authority, or similar body of such county, municipal corporation,
 57 school system, or other political subdivision of this state; or any municipal, county,
 58 regional, or other authority established pursuant to the laws of this state to the entity
 59 employing the employee. A regular salary that is paid irrespective of the award or
 60 payment of a contract by any state department, agency, board, bureau, commission, or
 61 authority; any county, municipal corporation, school system, or other political
 62 subdivision of this state; any department, agency, board, bureau, commission, authority,

63 or similar body of such county, municipal corporation, school system, or other political
64 subdivision of this state; or any municipal, county, regional, or other authority
65 established pursuant to the laws of this state shall not constitute compensation under
66 this definition.

67 (7) 'Local contract' or 'contract with a local agency' means any contract between a
68 business entity and any county, municipal corporation, school system, or other political
69 subdivision of this state; any department, agency, board, bureau, commission, authority,
70 or similar body of each such county, municipal corporation, school system, or other
71 political subdivision of this state; and any municipal, county, regional, or other authority
72 established pursuant to the laws of this state.

73 (8) 'State contract' or 'contract with a state agency' means any contract between a
74 business entity and any state department, agency, board, bureau, commission, or
75 authority.

76 (b) Any business entity whose contracts with state agencies, in the aggregate, annually
77 total more than \$50,000.00, and any affiliated entities or affiliated persons of such business
78 entity, are prohibited from making any contributions to any candidate, or his or her
79 campaign committee, for the office responsible for awarding such contracts or any declared
80 candidate, or his or her campaign committee, for such office. This prohibition shall be
81 effective for the duration of the term of office of the incumbent officeholder awarding such
82 contracts or for a period of two years following the expiration or termination of such
83 contracts, whichever is longer. For the purpose of contracts with the executive branch of
84 state government, the Governor shall be deemed to be the officer awarding the contracts
85 in addition to any other officer of the executive branch who may be awarding such
86 contracts.

87 (c) Any business entity whose contracts with local agencies, in the aggregate, annually
88 total more than \$50,000.00, and any affiliated entities or affiliated persons of such business
89 entity, are prohibited from making any contributions to any candidate, or his or her
90 campaign committee, for the office responsible for awarding such contracts or any declared
91 candidate, or his or her campaign committee, for such office. This prohibition shall be
92 effective for the duration of the term of office of the incumbent officeholder awarding such
93 contracts or for a period of two years following the expiration or termination of such
94 contracts, whichever is longer.

95 (d) Any business entity whose aggregate pending bids and offers on state contracts total
96 more than \$50,000.00, or whose aggregate pending bids and offers on state contracts
97 combined with the business entity's aggregate annual total value of state contracts exceed
98 \$50,000.00, and any affiliated entities or affiliated persons of such business entity, are
99 prohibited from making any contributions to any candidate, or his or her campaign

100 committee, for the office responsible for awarding a contract on which the business entity
101 has submitted a bid or offer during the period beginning on the date the invitation for bids,
102 request for proposals, or any other procurement opportunity is issued and ending on the day
103 after the date such contract is awarded or any declared candidate, or his or her campaign
104 committee, for such office. For the purpose of contracts with the executive branch of state
105 government, the Governor shall be deemed to be the officer awarding the contracts in
106 addition to any other officer of the executive branch who may be awarding such contracts.
107 (e) Any business entity whose aggregate pending bids and offers on local contracts total
108 more than \$50,000.00, or whose aggregate pending bids and offers on local contracts
109 combined with the business entity's aggregate annual total value of state contracts exceed
110 \$50,000.00, and any affiliated entities or affiliated persons of such business entity, are
111 prohibited from making any contributions to any candidate, or his or her campaign
112 committee, for the office responsible for awarding a contract on which the business entity
113 has submitted a bid or offer during the period beginning on the date the invitation for bids,
114 request for proposals, or any other procurement opportunity is issued and ending on the day
115 after the date such contract is awarded or any declared candidate, or his or her campaign
116 committee, for such office.
117 (f) All contracts with a state agency and a business entity that violate subsection (b) or (d)
118 of this Code section shall be voidable by the contracting agency within the 90 day period
119 following the discovery of the violation. If a business entity violates subsection (b) of this
120 Code section three or more times within a 36 month period, then all contracts between state
121 and local agencies and such business entity shall be void, and such business entity shall not
122 bid or respond to any invitation to bid or request for proposals for any state or local
123 contract or otherwise enter into any state or local contract for a period of three years from
124 the date of the last violation.
125 (g) All contracts with a local agency and a business entity that violate subsection (c) or (e)
126 of this Code section shall be voidable by the contracting agency within the 90 day period
127 following the discovery of the violation. If a business entity violates subsection (c) of this
128 Code section three or more times within a 36 month period, then all contracts between state
129 and local agencies and such business entity shall be void, and such business entity shall not
130 bid or respond to any invitation to bid or request for proposals for any state or local
131 contract or otherwise enter into any state or local contract for a period of three years from
132 the date of the last violation.
133 (h) Any candidate or campaign committee that has received a contribution in violation of
134 subsection (b), (c), (d), or (e) of this Code section shall pay an amount equal to the value
135 of the contribution to the state not more than 30 calendar days after receiving notice of the
136 violation concerning the contribution for deposit into the general revenue fund Reserved."

137

SECTION 2.

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