

House Bill 572

By: Representatives Reeves of the 99th, DeLoach of the 167th, Gunter of the 8th, Smith of the 18th, Leverett of the 123rd, 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
2 government transparency and campaign finance, so as to rename the Georgia Government
3 Transparency and Campaign Finance Commission as the State Ethics Commission; to
4 provide for civil penalties regarding disclosure reports; to provide for contribution amounts
5 and construction of same; to remove provisions regarding contribution reports sent by United
6 States mail; to remove a provision regarding repayment of loans to campaign committees;
7 to amend Code Sections 36-62-5 and 37-2-6.1 and Title 45 of the Official Code of Georgia
8 Annotated, relating to development authority directors, officers, compensation, adoption of
9 bylaws, delegation of powers and duties, conflicts of interest, and audits, community service
10 boards, executive director, staff, budget, facilities, powers and duties, and exemption from
11 state and local taxation, and public officers and employees, respectively, so as to provide for
12 cross-references; to provide for related matters; to repeal conflicting laws; and for other
13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to government
17 transparency and campaign finance, is amended in Code Section 21-5-3, relating to
18 definitions, by revising paragraphs (5) and (25) as follows:

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

21 "(25) 'Staff attorney' means a licensed member of the Georgia Bar Association that is
22 employed by the ~~Georgia Government Transparency and Campaign Finance Commission~~
23 State Ethics Commission."

24 **SECTION 2.**

25 Said chapter is further amended in Code Section 21-5-4, relating to Georgia Government
26 Transparency and Campaign Finance Commission, membership, officers, quorum, and
27 meetings, by revising subsection (a) as follows:

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

36 **SECTION 3.**

37 Said chapter is further amended in Code Section 21-5-33, relating to disposition of
38 contributions, by revising paragraph (3) of subsection (b) as follows:

39 "(3) Any candidate or public officer holding elective office may provide in the will of
40 such candidate or such public officer that the contributions shall be spent in any of the
41 authorized manners upon the death of such candidate or such public officer; and, in the
42 absence of any such direction in the probated will of such candidate or such public
43 officer, the contributions shall be paid to the treasury of the state party with which such
44 candidate or such public officer was affiliated in such candidate's or such public officer's
45 last election or elective office after the payment of any expenses pursuant to subsection
46 (a) of this Code section. Notwithstanding any other provisions of this paragraph, the
47 personal representative or executor of the estate shall be allowed to use or pay out funds
48 in the campaign account in any manner authorized in subparagraphs (A) through ~~(E)~~ (F)
49 of paragraph (1) of this subsection."

50

SECTION 4.

51 Said chapter is further amended in Code Section 21-5-34, relating to disclosure reports, by
52 revising paragraphs (3) and (4) of subsection (a), subparagraph (c)(2)(C), and subsection (m)
53 as follows:

54 "(3) A candidate for a public office listed in subparagraph (F) of paragraph (22) of Code
55 Section 21-5-3 or the chairperson or treasurer of such candidate's campaign committee
56 shall sign and file the required disclosure reports with the election superintendent in the
57 county of election. Upon receipt of any such report, the election superintendent shall
58 cause such report to be available for inspection and copying in accordance with Article
59 4 of Chapter 18 of Title 50. The election superintendent shall transmit a copy of each
60 such report to the commission, electronically by eFiling or eFax, not later than 30 days
61 after the end of the grace period. No fine, fee, or sanction, including but not limited to
62 identifying a candidate as having filed late or failed to file, shall be imposed by the
63 commission on a candidate for the failure of the election superintendent to timely
64 transmit a copy of such report. The commission is authorized to impose civil penalties

65 pursuant to subparagraph (b)(14)(C) of Code Section 21-5-6 against an election
66 superintendent who fails to properly transmit a copy of each such report, upon finding
67 that said superintendent willfully failed to comply with the provisions of this chapter.

68 (4) A candidate for a public office listed in subparagraph (G) of paragraph (22) of Code
69 Section 21-5-3 or the chairperson or treasurer of such candidate's campaign committee
70 shall sign and file the required disclosure reports with the municipal clerk in the
71 municipality of election or, if there is no clerk, with the chief executive officer of the
72 municipality; provided, however, that a municipality and a county may enter into an
73 agreement whereby such candidates, chairpersons, or treasurers shall file the required
74 disclosure reports with the county election superintendent instead. Upon receipt of any
75 such report, the municipal clerk, chief executive officer of the municipality, or county
76 election superintendent, as applicable, shall cause such report to be available for
77 inspection and copying in accordance with Article 4 of Chapter 18 of Title 50. The
78 municipal clerk, chief executive officer of the municipality, or county election
79 superintendent, as applicable, shall transmit a copy of each such report to the
80 commission, electronically by eFiling or eFax, not later than 30 days after the end of the
81 grace period. No fine, fee, or sanction, including but not limited to identifying a
82 candidate as having filed late or failed to file, shall be imposed by the commission on a
83 candidate for the failure of the municipal clerk, chief executive officer of the county, or
84 county election superintendent to timely transmit a copy of such report. The commission
85 is authorized to impose civil penalties pursuant to subparagraph (b)(14)(C) of Code
86 Section 21-5-6 against a municipal clerk, chief executive officer of the county, or county
87 election superintendent who fails to properly transmit a copy of each such report, upon
88 finding that said municipal clerk, chief executive officer of the county, or county election
89 superintendent willfully failed to comply with the provisions of this chapter."

90 "(C) During the period of time between the last report due prior to the date of any
91 election for which the candidate is qualified and the date of such election, all

92 contributions of \$1,000.00 or more shall be reported within two business days of receipt
93 and also reported on the next succeeding regularly scheduled campaign contribution
94 disclosure report; provided, however, that this subparagraph shall only apply to
95 contributions of \$1,000.00 or more that are designated for the same actual election as
96 the one for which the individual is currently a candidate. Nothing in this Code section
97 shall be construed to require a contribution of \$1,000.00 or more that is designated as
98 a general election contribution to be reported during the two business day report period
99 of a primary election;"

100 "~~(m) Except when electronic filing is required, the mailing of such reports by United States~~
101 ~~mail with adequate postage affixed within the required filing time as determined by the~~
102 ~~official United States postage date cancellation shall be prima-facie evidence of filing.~~
103 Any person or entity which is required to be registered under this Code section shall file
104 a termination statement together with its final campaign contribution disclosure report as
105 required by this Code section within ten days of the dissolution of a campaign or
106 committee. The termination statement shall identify the person responsible for maintaining
107 campaign records as required by this chapter."

108 **SECTION 5.**

109 Said chapter is further amended in Code Section 21-5-41, relating to maximum allowable
110 contributions, by revising subsection (h) as follows:

111 "~~(h) Any candidate or campaign committee who incurs loans on or after January 9, 2006,~~
112 ~~in connection with the candidate's campaign for election shall not repay, directly or~~
113 ~~indirectly, such loans from any contributions made to such candidate or any authorized~~
114 ~~committee of such candidate after the date of the election for which the loan was made to~~
115 ~~the extent that such loans exceed \$250,000.00. Reserved.~~"

116

SECTION 6.

117 Said chapter is further amended in Code Section 21-5-50, relating to filing by public officers,
118 filing by candidates for public office, filing by elected officials and members of the General
119 Assembly, and electronic filing, by revising paragraph (2) of subsection (a) and
120 subsection (d) as follows:

121 "(2) Except as set forth in paragraph (3) of this subsection, a public officer, as defined
122 in subparagraph (E) of paragraph (22) of Code Section 21-5-3, shall not be required to
123 file a financial disclosure statement pursuant to this Code section. Each such public
124 officer shall, however, be deemed to be a public official for purposes of Code
125 Section 45-10-26 and shall be subject to the disclosure requirements set forth in Code
126 Section 45-10-26. In addition, each such public officer shall file with the commission,
127 prior to January 31 each year, an affidavit confirming that such public officer took no
128 official action in the previous calendar year that had a material effect on such public
129 officer's private financial or business interests; provided, however, that, if a public officer
130 as defined in subparagraph (E) of paragraph (22) of Code Section 21-5-3 has previously
131 filed or is subject to filing a financial disclosure statement with the commission pursuant
132 to this paragraph, and said financial disclosure statement covers the same calendar year
133 as would be covered by the affidavit required by this Code section, the public officer shall
134 be exempted from filing an affidavit."

135 "(d) All state-wide elected officials and members of the General Assembly shall file
136 financial disclosure statements electronically with the commission. Local officials referred
137 to in subparagraph (F) or (G) of paragraph (22) of Code Section 21-5-3 may file
138 electronically if such method is made available or may file by certified mail, statutory
139 overnight delivery, or personal delivery. ~~Except when electronic filing is required, the~~
140 ~~mailing of the notarized financial disclosure statement by United States mail with adequate~~
141 ~~postage affixed within the required filing time as determined by the official United States~~
142 ~~postage date cancellation shall be prima-facie evidence of filing."~~

143

SECTION 7.

144 Code Section 36-62-5 of the Official Code of Georgia Annotated, relating to development
145 authority directors, officers, compensation, adoption of bylaws, delegation of powers and
146 duties, conflicts of interest, and audits, is amended by revising paragraph (3) of
147 subsection (e) as follows:

148 "(3)(A) Concurrent jurisdiction to enforce this subsection is granted to the ~~Georgia~~
149 ~~Government Transparency and Campaign Finance Commission~~ State Ethics
150 Commission created under Code Section 21-5-4.

151 (B) Upon formal charges being filed with an alternate enforcement authority provided
152 for in subparagraph (A) of this paragraph relative to a violation of this subsection on
153 the part of a member of any such development authority, the enforcement authority or
154 its designated agent shall conduct a hearing for the purpose of receiving evidence
155 relative to the merits of such charges. The development authority member so charged
156 shall be given at least 30 days' notice prior to such hearing. If such charges are found
157 to be true, the enforcement authority shall forthwith remove such member from office
158 and the vacancy shall be filled as provided by law. Such hearing shall be held in
159 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'
160 and judicial review of any such decision shall be in accordance with such chapter.

161 (C) The ~~Georgia Government Transparency and Campaign Finance Commission~~ State
162 Ethics Commission is vested with the same powers with respect to this Code section as
163 enumerated in Code Section 21-5-6."

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SECTION 8.

165 Code Section 37-2-6.1 of the Official Code of Georgia Annotated, relating to community
166 service boards, executive director, staff, budget, facilities, powers and duties, and exemption
167 from state and local taxation, is amended by revising paragraph (2) of subsection (a) as
168 follows:

194 System of Georgia, the director of the State Forestry Commission, the director of the
195 Georgia Bureau of Investigation, the executive director of the Georgia Franchise Practices
196 Commission, the commissioner of human services, the commissioner of economic
197 development, the commissioner of natural resources, the commissioner of public safety,
198 the chancellor of the University System of Georgia, the president or executive director of
199 the Georgia Student Finance Commission, the executive director of the State Soil and
200 Water Conservation Commission, the executive secretary-treasurer of the Teachers
201 Retirement System of Georgia, the commissioner of transportation, and the executive
202 director of the ~~Georgia Government Transparency and Campaign Finance Commission~~
203 State Ethics Commission."

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SECTION 11.

205 Said title is further amended in Code Section 45-10-26, relating to annual disclosure
206 statements concerning business transactions with state and public records, by revising
207 subsection (a) as follows:

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

217

SECTION 12.

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