

House Bill 572 (COMMITTEE SUBSTITUTE)

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 provide that certain judges shall not be required to file certain
6 affidavits; to remove provisions regarding contribution reports sent by United States mail;
7 to remove a provision regarding repayment of loans to campaign committees; to amend Code
8 Sections 36-62-5 and 37-2-6.1 and Title 45 of the Official Code of Georgia Annotated,
9 relating to development authority directors, officers, compensation, adoption of bylaws,
10 delegation of powers and duties, conflicts of interest, and audits, community service boards,
11 executive director, staff, budget, facilities, powers and duties, and exemption from state and
12 local taxation, and public officers and employees, respectively, so as to provide for
13 cross-references; to provide for related matters; to repeal conflicting laws; and for other
14 purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 572 (SUB)

16 **SECTION 1.**

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

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

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

25 **SECTION 2.**

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

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

37 **SECTION 3.**

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

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

51 **SECTION 4.**

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

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

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

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

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

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

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

109 **SECTION 5.**

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

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

117 **SECTION 6.**

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

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

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

143 ~~postage affixed within the required filing time as determined by the official United States~~
144 ~~postage date cancellation shall be prima-facie evidence of filing."~~

145 **SECTION 7.**

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

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

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

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

166 **SECTION 8.**

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

171 "(2) The executive director or any full-time or part-time employee of a community
172 service board shall have a responsibility to avoid any conflict of interest in a manner that
173 is consistent with the declarations found in Code Section 45-10-21. Such employees shall
174 not transact any business with that community service board as prohibited in Code
175 Section 45-10-23 unless any such transaction falls under the exceptions granted in Code
176 Section 45-10-25. Transactions that fall under such exceptions shall be disclosed to the
177 governing board of the community service board in the manner as such governing board
178 shall determine and yearly to the ~~Georgia Government Transparency and Campaign~~
179 ~~Finance Commission~~ State Ethics Commission as prescribed in Code Section 45-10-26.
180 The governing board of the community service board shall promulgate policies and
181 procedures governing executive director and employee conflicts of interest and establish
182 a code of ethics for the executive director and employees of the community service
183 board."

184 **SECTION 9.**

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

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

190 **SECTION 10.**

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

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

206 **SECTION 11.**

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

210 "(a) Except as provided in subsection (b) of this Code section, any public official or
 211 employee, whether for himself, herself, or on behalf of any business, or any business in
 212 which such public official or employee or any member of his or her family has a substantial
 213 interest who transacts business with the state or any agency thereof shall disclose such
 214 transactions. Such disclosure shall be submitted prior to January 31 each year to the
 215 ~~Georgia Government Transparency and Campaign Finance Commission~~ State Ethics

216 Commission on such forms as it shall prescribe and shall include an itemized list of the
217 previous year's transactions with the dollar amount of each transaction reported and totaled.
218 Such disclosure statements shall be public records."

219

SECTION 12.

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