

Senate Bill 600

By: Senators Parkes of the 7th, Orrock of the 36th, Parent of the 44th, Jones II of the 22nd,
Merritt of the 9th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 14 of the Official Code of Georgia Annotated, relating to corporations,
2 partnerships, and associations, so as to restrict the powers of business corporations, nonprofit
3 corporations, partnerships, limited partnerships, and limited liability companies to only the
4 powers the General Assembly expressly grants; to prohibit business corporations, nonprofit
5 corporations, partnerships, limited partnerships, and limited liability companies from
6 engaging in ballot issue activity and election activity; to provide for civil enforcement and
7 enforcement by the Attorney General; to provide for equitable remedies; to provide for
8 definitions; to provide for a short title; to provide for legislative findings; to provide for
9 purposes; to provide for related matters; to provide for an effective date and applicability; to
10 repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 This Act shall be known and may be cited as the "Georgia Corporate Power Reset Act."

14

SECTION 2.

15 The General Assembly finds that:

- 16 (1) All political power in this state is inherent in the people of this state;
- 17 (2) A corporation or other artificial person is a creation of statute and only exists by virtue
18 of the authority granted by the state. Such creation is a privilege, not a right;
- 19 (3) Under the Constitution of Georgia and Code Section 14-2-102, the General Assembly
20 has expressly reserved the power to amend or repeal the laws governing corporations and
21 other artificial persons, and all such entities exist subject to that reservation of power;
- 22 (4) Broad statutory grants of power to corporations and other natural persons, including
23 provisions authorizing corporations and other artificial persons to have the same power as
24 an individual to do all things necessary or convenient to carry out their purposes, have been
25 construed to include powers to spend money or other things of value to influence elections
26 and other ballot measures; and
- 27 (5) Such political spending authority was never intended to be among the powers granted
28 to corporations and other artificial entities organized or authorized under the laws of this
29 state.

30

SECTION 3.

31 The purposes of this Act are to:

- 32 (1) Revoke any prior grants of powers that may be construed to authorize election activity
33 or ballot-issue activity;
- 34 (2) Grant only those powers necessary or convenient to carry out lawful business,
35 charitable, or professional purposes while expressly excluding political activity;
- 36 (3) Apply a uniform rule across artificial persons governed by Title 14;
- 37 (4) Preserve the constitutional rights of natural persons; and
- 38 (5) Define the powers that apply to corporations and other natural persons and not regulate
39 speech by natural persons.

40

SECTION 4.

41 Title 14 of the Official Code of Georgia Annotated, relating to corporations, partnerships,
 42 and associations, is amended in Chapter 2, relating to business corporations, by revising
 43 Code Section 14-2-302, relating to general powers, as follows:

44 "14-2-302.

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

46 (1) 'Ballot issue activity' means paying, contributing, or expending money or anything
 47 of value to support or oppose the recall of a public officer holding elective office, any
 48 proposed constitutional amendment, a state-wide referendum, or a proposed question
 49 which is to appear on the ballot in any state, county, or municipal election.

50 (2) 'Election activity' means paying, contributing, or expending money or anything of
 51 value to support or oppose a candidate, political party or body, or political committee,
 52 whether established pursuant to federal or state law.

53 (b) Every corporation has perpetual duration and succession in its corporate name, unless
 54 its articles of incorporation adopted on or after April 1, 1969, or an amendment thereto
 55 adopted on or after April 1, 1969, provides otherwise. ~~Unless its articles of incorporation~~
 56 ~~provide otherwise, every corporation has the same powers as an individual to do all things~~
 57 ~~necessary or convenient to carry out its business and affairs; A corporation only has the~~
 58 ~~powers expressly prescribed to it by the General Assembly, including to without limitation~~
 59 ~~power:~~

60 (1) ~~To sue~~ Sue, be sued, complain, and defend in its corporate name;

61 (2) ~~To have~~ Have a corporate seal which may be altered at will, and to use it, or a
 62 facsimile of it, by impressing or affixing it or in any other manner reproducing it;

63 (3) ~~To make~~ Make and amend bylaws, not inconsistent with its articles of incorporation
 64 or with the laws of this state, for managing the business and regulating the affairs of the
 65 corporation;

- 66 (4) ~~To purchase~~ Purchase, receive, lease, or otherwise acquire, own, hold, improve, use,
67 and otherwise deal with real or personal property or any legal or equitable interest in
68 property, wherever located;
- 69 (5) ~~To sell~~ Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all
70 or any part of its property;
- 71 (6) ~~To purchase~~ Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote,
72 use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or
73 other interests in, or obligations of, any other entity;
- 74 (7) ~~To make~~ Make contracts and guarantees, incur liabilities, borrow money, issue its
75 notes, bonds, and other obligations (which may be convertible into or include the option
76 to purchase other securities of the corporation), and secure any of its obligations by
77 mortgage or pledge of any of its property, franchises, or income;
- 78 (8) ~~To lend~~ Lend money, invest and reinvest its funds, and receive and hold real and
79 personal property as security for repayment;
- 80 (9) ~~To be~~ Be a promoter, partner, member, associate, or manager of any partnership, joint
81 venture, trust, or other entity;
- 82 (10) ~~To conduct~~ Conduct its business, locate offices, and exercise the powers granted by
83 this chapter within or without this state;
- 84 (11) ~~To elect~~ Elect directors and appoint officers, employees, and agents of the
85 corporation, define their duties, fix their compensation, and lend them money and credit;
- 86 (12) ~~To pay~~ Pay pensions and establish pension plans, pension trusts, profit sharing
87 plans, share bonus plans, share option plans, and benefit or incentive plans for any or all
88 of its current or former directors, officers, employees, and agents;
- 89 (13) ~~To make~~ Make donations for the public welfare or for charitable, scientific, or
90 educational purposes;
- 91 (14) ~~To transact~~ Transact any lawful business that will aid governmental policy;

92 (15) ~~To provide~~ Provide insurance for its benefit on the life or physical or mental ability
93 of any of its directors, officers, or employees or any other person whose death or physical
94 or mental disability might cause financial loss to the corporation; or, pursuant to any
95 contractual arrangement with any shareholder concerning the reacquisition of shares
96 owned by him at his death or disability, on the life or physical or mental ability of that
97 shareholder, for the purpose of carrying out such contractual arrangement; or, pursuant
98 to any contract obligating the corporation, as part of compensation arrangements, or
99 pursuant to any contract obligating the corporation as guarantor or surety, on the life of
100 the principal obligor, and for these purposes the corporation is deemed to have an
101 insurable interest in such persons; and

102 (16) ~~To make~~ Make payments or donations or do any other act not inconsistent with law
103 that furthers the business and affairs of the corporation.

104 (c) A corporation shall not have the power to conduct ballot issue activity or election
105 activity.

106 (d) Ballot issue activity and election activity do not include any bona fide news story,
107 commentary, or editorial distributed through the facilities of any broadcasting station or of
108 any print, online, or digital newspaper, magazine, blog, or any other periodical publication,
109 unless such broadcasting, print, online, or digital facilities are owned or controlled by a
110 political party, political committee, or candidate."

111 **SECTION 5.**

112 Said title is further amended in said chapter by adding a new subsection to Code Section
113 14-2-304, relating to ultra vires, to read as follows:

114 "(d) Any ballot issue activity or election activity, as defined in Code Section 14-2-302,
115 conducted by a corporation is ultra vires and void. Such activities shall be subject to civil
116 action by a member or shareholder for injunctive relief, or the Attorney General for civil

117 penalties totaling the value of the ballot issue activity or election activity, injunctive relief,
 118 or revocation of the corporate charter."

119 **SECTION 6.**

120 Said title is further amended in Chapter 3, relating to nonprofit corporations, by revising
 121 Code Section 14-3-302, relating to duration and powers of corporation, as follows:

122 "14-3-302.

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

124 (1) 'Ballot issue activity' means paying, contributing, or expending money or anything
 125 of value to support or oppose the recall of a public officer holding elective office, any
 126 proposed constitutional amendment, a state-wide referendum, or a proposed question
 127 which is to appear on the ballot in any state, county, or municipal election.

128 (2) 'Election activity' means paying, contributing, or expending money or anything of
 129 value to support or oppose a candidate, political party or body, or political committee,
 130 whether established pursuant to federal or state law.

131 (b) Every corporation has perpetual duration and succession in its corporate name, unless
 132 its articles of incorporation adopted on or after April 1, 1969, or in the case of a corporation
 133 existing prior to or on April 1, 1969, an amendment thereto adopted on or after
 134 April 1, 1969, provides otherwise. ~~Unless its articles of incorporation provide otherwise,~~
 135 ~~every corporation has the same powers as an individual to do all things necessary or~~
 136 ~~convenient to carry out its business and affairs, A corporation only has the powers~~
 137 ~~expressly prescribed to it by the General Assembly, including to without limitation power:~~

138 (1) ~~To sue~~ Sue, be sued, complain, and defend in its corporate name;

139 (2) ~~To have~~ Have a corporate seal, which may be altered at will, and to use it, or a
 140 facsimile of it, by impressing or affixing or in any other manner reproducing it;

141 (3) ~~To make~~ Make and amend bylaws, not inconsistent with its articles of incorporation
 142 or with the laws of this state, for regulating and managing the affairs of the corporation;

- 143 (4) ~~To purchase~~ Purchase, receive, lease, or otherwise acquire, own, hold, improve, use,
144 and otherwise deal with real or personal property or any legal or equitable interest in
145 property, wherever located;
- 146 (5) ~~To sell~~ Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all
147 or any part of its property;
- 148 (6) ~~To purchase~~ Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote,
149 use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or
150 other interests in, or obligations of, any entity;
- 151 (7) ~~To make~~ Make contracts and guaranties; incur liabilities; borrow money; issue notes,
152 bonds, and other obligations; and secure any of its obligations by mortgage or pledge of
153 any of its property, franchises, or income;
- 154 (8) ~~To lend~~ Lend money, invest and reinvest its funds, and receive and hold real and
155 personal property as security for repayment, except as limited by Code Sections 14-3-860
156 through 14-3-864;
- 157 (9) ~~To be~~ Be a promoter, fiduciary, shareholder, partner, member, associate, or manager
158 of any partnership, joint venture, trust, or other entity;
- 159 (10) ~~To conduct~~ Conduct its activities, locate offices, and exercise the powers granted
160 by this chapter within or without this state;
- 161 (11) ~~To elect~~ Elect or appoint directors, officers, delegates, employees, and agents of the
162 corporation; define their duties; fix their compensation; and lend them money and credit;
- 163 (12) ~~To pay~~ Pay pensions and establish pension plans, pension trusts, and other benefit
164 and incentive plans for any or all of its current or former directors, officers, employees,
165 and agents;
- 166 (13) ~~To make~~ Make donations not inconsistent with law for the public welfare or for
167 charitable, religious, scientific, or educational purposes and for other purposes that further
168 the corporate interest;

169 (14) ~~To impose~~ Impose dues, assessments, admission fees, and transfer fees upon its
170 members;

171 (15) ~~To provide~~ Provide insurance for its benefit on the life or physical or mental ability
172 of any of its directors, officers, or employees or any other person whose death or physical
173 or mental disability might cause financial loss to the corporation; or, pursuant to any
174 contract obligating the corporation, as part of compensation arrangements, or pursuant
175 to any contract obligating the corporation as guarantor or surety, on the life of the
176 principal obligor, and for these purposes the corporation is deemed to have an insurable
177 interest in such persons;

178 (16) ~~To establish~~ Establish conditions for admission of members, admit members, and
179 issue memberships;

180 (17) ~~To carry~~ Carry on a business; and

181 (18) ~~To do~~ Do all things necessary or convenient, not inconsistent with law, to further
182 the activities and affairs of the corporation.

183 (c) A corporation shall not have the power to conduct ballot issue activity or election
184 activity.

185 (d) Ballot issue activity and election activity do not include any bona fide news story,
186 commentary, or editorial distributed through the facilities of any broadcasting station or of
187 any print, online, or digital newspaper, magazine, blog, or any other periodical publication,
188 unless such broadcasting, print, online, or digital facilities are owned or controlled by a
189 political party, political committee, or candidate."

190 **SECTION 7.**

191 Said title is further amended in said chapter by adding a new subsection to Code Section
192 14-3-304, relating to ultra vires, to read as follows:

193 "(d) Any ballot issue activity or election activity, as defined in Code Section 14-3-302,
194 conducted by a corporation is ultra vires and void. Such activities shall be subject to civil

195 action by a member or shareholder for injunctive relief, or the Attorney General for civil
196 penalties totaling the value of the ballot issue activity or election activity, injunctive relief,
197 or revocation of the corporate charter."

198 **SECTION 8.**

199 Said title is further amended in Chapter 8, relating to partnerships, by adding a new Code
200 section to read as follows:

201 "14-8-65.

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

203 (1) 'Ballot issue activity' means paying, contributing, or expending money or anything
204 of value to support or oppose the recall of a public officer holding elective office, any
205 proposed constitutional amendment, a state-wide referendum, or a proposed question
206 which is to appear on the ballot in any state, county, or municipal election.

207 (2) 'Election activity' means paying, contributing, or expending money or anything of
208 value to support or oppose a candidate, political party or body, or political committee,
209 whether established pursuant to federal or state law.

210 (b) A partnership only has the powers expressly prescribed to it by the General Assembly.

211 (c) A partnership shall not have the power to conduct ballot issue activity or election
212 activity.

213 (d) Ballot issue activity and election activity do not include any bona fide news story,
214 commentary, or editorial distributed through the facilities of any broadcasting station or of
215 any print, online, or digital newspaper, magazine, blog, or any other periodical publication,
216 unless such broadcasting, print, online, or digital facilities are owned or controlled by a
217 political party, political committee, or candidate.

218 (e) Any ballot issue activity or election activity conducted by a partnership is void. Such
219 activities shall be subject to civil action by any partner for injunctive relief, or the Attorney

220 General for civil penalties totaling the value of the ballot issue activity or election activity,
221 injunctive relief, or dissolution of such partnership."

222 **SECTION 9.**

223 Said title is further amended in Chapter 9, the "Georgia Revised Uniform Limited Partnership
224 Act," by adding a new Code section to read as follows:

225 "14-9-110.

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

227 (1) 'Ballot issue activity' means paying, contributing, or expending money or anything
228 of value to support or oppose the recall of a public officer holding elective office, any
229 proposed constitutional amendment, a state-wide referendum, or a proposed question
230 which is to appear on the ballot in any state, county, or municipal election.

231 (2) 'Election activity' means paying, contributing, or expending money or anything of
232 value to support or oppose a candidate, political party or body, or political committee,
233 whether established pursuant to federal or state law.

234 (b) A limited partnership only has the powers expressly prescribed to it by the General
235 Assembly.

236 (c) A limited partnership shall not have the power to conduct ballot issue activity or
237 election activity.

238 (d) Ballot issue activity and election activity do not include any bona fide news story,
239 commentary, or editorial distributed through the facilities of any broadcasting station or of
240 any print, online, or digital newspaper, magazine, blog, or any other periodical publication,
241 unless such broadcasting, print, online, or digital facilities are owned or controlled by a
242 political party, political committee, or candidate.

243 (e) Any ballot issue activity or election activity conducted by a limited partnership is void.
244 Such activities shall be subject to civil action by any general partner for injunctive relief,

245 or the Attorney General for civil penalties totaling the value of the ballot issue activity or
246 election activity, injunctive relief, or dissolution of such partnership."

247 **SECTION 10.**

248 Said title is further amended in Chapter 9A, related to limited partnerships, by adding a new
249 Code section to read as follows:

250 "14-9A-6.

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

252 (1) 'Ballot issue activity' means paying, contributing, or expending money or anything
253 of value to support or oppose the recall of a public officer holding elective office, any
254 proposed constitutional amendment, a state-wide referendum, or a proposed question
255 which is to appear on the ballot in any state, county, or municipal election.

256 (2) 'Election activity' means paying, contributing, or expending money or anything of
257 value to support or oppose a candidate, political party or body, or political committee,
258 whether established pursuant to federal or state law.

259 (b) A limited partnership only has the powers expressly prescribed to it by the General
260 Assembly.

261 (c) A limited partnership shall not have the power to conduct ballot issue activity or
262 election activity.

263 (d) Ballot issue activity and election activity do not include any bona fide news story,
264 commentary, or editorial distributed through the facilities of any broadcasting station or of
265 any print, online, or digital newspaper, magazine, blog, or any other periodical publication,
266 unless such broadcasting, print, online, or digital facilities are owned or controlled by a
267 political party, political committee, or candidate.

268 (e) Any ballot issue activity or election activity conducted by a limited partnership is void.
269 Such activities shall be subject to civil action by any general partner or the Attorney
270 General for injunctive relief or dissolution of such partnership."

271 **SECTION 11.**

272 Said title is further amended in Chapter 11, relating to limited liability companies, by
273 revising Code Section 14-11-202, relating to powers of limited liability companies, as
274 follows:

275 "14-11-202.

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

277 (1) 'Ballot issue activity' means paying, contributing, or expending money or anything
278 of value to support or oppose the recall of a public officer holding elective office, any
279 proposed constitutional amendment, a state-wide referendum, or a proposed question
280 which is to appear on the ballot in any state, county, or municipal election.

281 (2) 'Election activity' means paying, contributing, or expending money or anything of
282 value to support or oppose a candidate, political party or body, or political committee,
283 whether established pursuant to federal or state law.

284 (b) Each limited liability company formed in this state shall have only the powers
285 expressly prescribed to it by the General Assembly same powers as any person has to do
286 all things necessary to carry out its purpose, business, and affairs.

287 (c) A limited liability corporation shall not have the power to conduct ballot issue activity
288 or election activity.

289 (d) Ballot issue activity and election activity do not include any bona fide news story,
290 commentary, or editorial distributed through the facilities of any broadcasting station or of
291 any print, online, or digital newspaper, magazine, blog, or any other periodical publication,
292 unless such broadcasting, print, online, or digital facilities are owned or controlled by a
293 political party, political committee, or candidate.

294 (e) Any ballot issue activity or election activity conducted by a limited liability company
295 is void. Such activities shall be subject to civil action by a member, shareholder for
296 injunctive relief, or the Attorney General for civil penalties totaling the value of the ballot
297 issue activity or election activity, injunctive relief, or dissolution."

298

SECTION 12.

299 This Act shall become effective upon its approval by the Governor or upon its becoming law
300 without such approval and shall be applicable to ballot issue activity and election activity
301 carried out on or after such date.

302

SECTION 13.

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