

## House Bill 333 (COMMITTEE SUBSTITUTE)

By: Representatives Efration of the 104<sup>th</sup>, Holcomb of the 81<sup>st</sup>, Nix of the 69<sup>th</sup>, and Smyre of the 135<sup>th</sup>

## 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 powers and duties of the Georgia Government  
3 Transparency and Campaign Finance Commission; to provide for and revise a short title; to  
4 revise definitions; to revise procedures for the initiation of complaints; to revise requirements  
5 for certain accounts, the disposition and expenditure of certain contributions, filings,  
6 registrations, and records of accounts; to revise how maximum contribution limits are  
7 implemented; to revise certain financial disclosure requirements; to revise purposes requiring  
8 registration with the commission; to provide for related matters; to provide for an effective  
9 date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 This act shall be known as and may be cited as the "Ethics in Government Act of 2021."

13 **SECTION 2.**

14 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in  
15 government, is amended by revising Code Section 21-5-1, relating to a short title, as follows:

H. B. 333 (SUB)

16 "21-5-1.

17 This chapter shall be known as and may be cited as the ~~'Ethics in Government Act.'~~  
 18 'Georgia Government Transparency and Campaign Finance Act.'"

19 **SECTION 3.**

20 Said chapter is further amended by revising paragraph (22) of Code Section 21-5-3, relating  
 21 to definitions, and by adding new paragraphs to read as follows:

22 "(16.2) 'Loan' means a thing that is borrowed, especially a sum of money that is expected  
 23 to be paid back with interest to the lender."

24 "(19.1) 'Personal asset' means any asset in the form of money, chattels, or any item of  
 25 economic value, including nominal loans, owned by an individual or corporation,  
 26 especially that which could be converted to cash, including but not limited to, cash,  
 27 securities, accounts receivable, inventory, office equipment, real estate and automobiles."

28 "(22) 'Public officer' means:

29 (A) The Governor, Lieutenant Governor, Secretary of State, Attorney General,  
 30 Commissioner of Labor, Commissioner of Agriculture, Commissioner of Insurance,  
 31 and State School Superintendent ~~Every constitutional officer;~~

32 (B) Every other elected state official not listed in subparagraph (A) of this paragraph;

33 (C) The executive head of every state department or agency, whether elected or  
 34 appointed;

35 (D) Each member of the General Assembly;

36 (E) The executive director of each state board, commission, council, or authority and  
 37 the members thereof;

38 (F) Every elected county official and every elected member of a local board of  
 39 education; and

40 (G) Every elected municipal official."

41 "(25) 'Staff attorney' means a licensed member of the Georgia Bar Association that is  
42 employed by the Georgia Government Transparency and Campaign Finance  
43 Commission."

44 **SECTION 4.**

45 Said chapter is further amended by revising Code Section 21-5-5, relating to operating  
46 expenses, as follows:

47 "21-5-5.

48 The funds necessary to carry out this chapter shall come from the funds appropriated to and  
49 available to the commission and from any other available funds. The commission shall be  
50 a budget unit as defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act';  
51 provided, however, that the commission shall be assigned for administrative purposes only  
52 to the ~~Secretary of State~~ State Accounting Office."

53 **SECTION 5.**

54 Said chapter is further amended by revising paragraph (7) of subsection (a) and  
55 paragraphs (9), (10), and (23) of subsection (b) of Code Section 21-5-6, relating to powers  
56 and duties of the commission, as follows:

57 "(7) Except as provided for in subsection (c) of Code Section 21-5-33, to To adopt in  
58 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' any  
59 rules and regulations necessary and appropriate for carrying out the purposes of this  
60 chapter; provided, however, that the commission shall not require the reporting or  
61 disclosure of more information on any campaign contribution disclosure report or  
62 personal financial disclosure statement than is expressly required to be reported or  
63 disclosed by this chapter, ~~unless such information was required to be reported or~~  
64 ~~disclosed by rules and regulations of the commission which were in effect as of January~~  
65 ~~1, 2013, so long as such rules and regulations do not conflict with this chapter; and"~~

66 "(9) To make investigations, subject to the limitations contained in Code  
67 Section 21-5-7.1, with respect to the statements and reports filed under this chapter and  
68 with respect to alleged failure to file any statements or reports required under this chapter  
69 and upon receipt of the written complaint of any person, including a staff attorney  
70 employed by the commission, verified under oath to the best information, knowledge, and  
71 belief by the person or staff attorney making such complaint with respect to an alleged  
72 violation of any provision of this chapter, provided that nothing in this Code section shall  
73 be construed to limit or encumber the right of the commission to initiate on probable  
74 cause an investigation on its own cognizance as it deems necessary to fulfill its  
75 obligations under this chapter;

76 (10)(A) To conduct a preliminary investigation, subject to the limitations contained in  
77 Code Section 21-5-7.1, of the merits of a written complaint by any person, including  
78 a staff attorney employed by the commission, who believes that a violation of this  
79 chapter has occurred, verified under oath to the best information, knowledge, and belief  
80 by the person or staff attorney making such complaint. If there are found no reasonable  
81 grounds to believe that a violation has occurred, the complaint shall be dismissed,  
82 subject to being reopened upon discovery of additional evidence or relevant material.  
83 If the commission determines that there are such reasonable grounds to believe that a  
84 violation has occurred, it shall give notice by summoning the persons believed to have  
85 committed the violation to a hearing. The hearing shall be conducted in all respects in  
86 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'  
87 The commission may file, through a staff attorney employed by the commission, a  
88 complaint charging violations of this chapter, and any person aggrieved by the final  
89 decision of the commission is entitled to judicial review in accordance with Chapter 13  
90 of Title 50; provided, however, that nothing in this Code section shall be construed to  
91 limit or encumber the right of the commission to initiate on probable cause an

92 investigation on its own cognizance as it deems necessary to fulfill its obligations under  
93 this chapter.

94 (B) In any such preliminary investigation referenced in subparagraph (A) of this  
95 paragraph, until such time as the commission determines that there are reasonable  
96 grounds to believe that a violation has occurred, it shall not be necessary to give the  
97 notice by summons nor to conduct a hearing in accordance with Chapter 13 of Title 50,  
98 the 'Georgia Administrative Procedure Act';"

99 "(23) To award attorneys' fees to the party complained against if the commission deems  
100 the complaint to be frivolous, legally or factually, ~~or if the complaining party fails,~~  
101 ~~without good cause, to appear at the preliminary hearing on the complaint; and"~~

102 **SECTION 6.**

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

118 **SECTION 7.**

119 Said chapter is further amended by revising Code Section 21-5-13, relating to limitation of  
120 actions, as follows:

121 "21-5-13.

122 Any action alleging a violation of this chapter shall be commenced within three years after  
123 ~~the date of filing of the first report containing the alleged violation on which the violation,~~  
124 wrongful act, or omission occurred; provided, however, that any action alleging a violation  
125 of this chapter shall be commenced within five years after the date ~~of filing of the first~~  
126 ~~report containing the alleged violation on which the violation, wrongful act, or omission~~  
127 occurred when involving any person elected to serve for a term of four or more years or  
128 any candidate for an office with a term of four or more years. For purposes of this Code  
129 section, an action shall be deemed to have commenced against a person only when either:

130 (1) A complaint has been accepted or filed by the commission in compliance with Code  
131 Section 21-5-7; or

132 (2) The commission or Attorney General serves on such person a notice of summons or  
133 hearing, in accordance with Chapter 13 of Title 50, the 'Georgia Administrative  
134 Procedure Act,' that alleges that such person has violated this chapter."

135 **SECTION 8.**

136 Said chapter is further amended by revising Code Section 21-5-32, relating to accounts to be  
137 kept by candidate or campaign committee treasurer, as follows:

138 "21-5-32.

139 (a) The candidate or treasurer of each campaign committee shall keep detailed accounts,  
140 current within not more than five business days after the date of receiving a contribution  
141 or making an expenditure, of all contributions received and all expenditures made by or on  
142 behalf of the candidate or committee. The candidate or treasurer shall also keep detailed

143 accounts of all deposits and of all withdrawals made to the separate campaign depository  
144 account and of all interest earned on any such deposits.

145 (b) Accounts kept by the candidate or treasurer of a campaign committee pursuant to this  
146 Code section may be inspected under reasonable circumstances before, during, or after the  
147 election to which the accounts refer by any authorized representative of the commission.  
148 The right of inspection may be enforced by appropriate writ issued by any court of  
149 competent jurisdiction.

150 (c) ~~Records of such accounts; kept by the candidate or campaign committee shall be~~  
151 ~~preserved for three years from the termination date of the campaign for elective office~~  
152 ~~conducted by the candidate or of the campaign committee for any candidate or for three~~  
153 ~~years from the election to bring about the approval or rejection by the voters of any~~  
154 ~~proposed constitutional amendment, referendum, or local issue or of any recall vote~~

155 (1) For a person campaigning for an elective office with a term of less than four years,  
156 shall be preserved for three years from the date of the contribution, expenditure, gift,  
157 investment, or loan;

158 (2) For a person campaigning for an elective office with a term of four or more years, but  
159 fewer than six years, shall be preserved for five years from the date of the contribution,  
160 expenditure, gift, investment, or loan;

161 (3) For a person campaigning for an elective office with a term of six or more years,  
162 shall be preserved for seven years from the date of the contribution, expenditure, gift,  
163 investment, or loan; and

164 (4) For any proposed constitutional amendment, referendum, or local issue or any recall  
165 vote, shall be preserved for three years from the date of contribution, expenditure, gift,  
166 investment, or loan.

167 **SECTION 9.**

168 Said chapter is further amended by revising subsection (b) of Code Section 21-5-33, relating  
169 to disposition of contributions, as follows:

170 "(b)(1) All contributions received by a candidate or such candidate's campaign committee  
171 or a public officer holding elective office in excess of those necessary to defray expenses  
172 pursuant to subsection (a) of this Code section and as determined by such candidate or  
173 such public officer may only be used as follows:

174 (A) As ~~contributions~~ donations to any charitable organization described in 26 U.S.C.  
175 170(c) as said federal statute exists on March 1, 1986, and which additionally shall  
176 include educational, eleemosynary, and nonprofit organizations subject to the  
177 prohibitions contained in paragraph (2) of this subsection;

178 (B) Except as otherwise provided in subparagraph (D) of this paragraph, for transferral  
179 without limitation to any national, state, or local committee of any political party or to  
180 any candidate;

181 (C) For transferral without limitation to persons making such contributions, not to  
182 exceed the total amount cumulatively contributed by each such transferee;

183 (D) For use in future campaigns for only that elective office for which those  
184 contributions were received. With respect to contributions held on January 1, 1992, or  
185 received thereafter, in the event the candidate, campaign committee, or public officer  
186 holding elective office has not designated, prior to receiving contributions to which this  
187 Code section is applicable, the office for which campaign contributions are received  
188 thereby, those contributions shall be deemed to have been received for the elective  
189 office which the candidate held at the time the contributions were received or, if the  
190 candidate did not then hold elective office, those contributions shall be deemed to have  
191 been received for that elective office for which that person was a candidate most  
192 recently following the receipt of such contributions; or

193 (E) For repayment of any prior campaign obligations incurred as a candidate.

194 (2) Nothing in this Code section shall permit or authorize a candidate to utilize campaign  
 195 funds for the purpose of making loans or investments directly to the candidate, the  
 196 candidate's business, candidate's trust, any nonprofit organization of which the candidate  
 197 is on the payroll of or has a controlling interest, or a member of the family of the  
 198 candidate.

199 (3) Any candidate or public officer holding elective office may provide in the will of  
 200 such candidate or such public officer that the contributions shall be spent in any of the  
 201 authorized manners upon the death of such candidate or such public officer; and, in the  
 202 absence of any such direction in the probated will of such candidate or such public  
 203 officer, the contributions shall be paid to the treasury of the state party with which such  
 204 candidate or such public officer was affiliated in such candidate's or such public officer's  
 205 last election or elective office after the payment of any expenses pursuant to  
 206 subsection (a) of this Code section. Notwithstanding any other provisions of this  
 207 paragraph, the personal representative or executor of the estate shall be allowed to use or  
 208 pay out funds in the campaign account in any manner authorized in subparagraphs (A)  
 209 through (E) of paragraph (1) of this subsection."

210

### SECTION 10.

211 Said chapter is further amended by revising subsection (k) of Code Section 21-5-41, relating  
 212 to maximum allowable contributions, as follows:

213 "(k) At the end of ~~the~~ each gubernatorial election cycle ~~applicable to each public office as~~  
 214 ~~to which campaign contributions are limited by this Code section and every four years for~~  
 215 ~~all other elections to which this Code section is applicable~~, the contribution limitations in  
 216 this Code section shall be raised or lowered in increments of \$100.00 by regulation order  
 217 of the commission pursuant to a ~~determination~~ consideration by the commission of  
 218 inflation or deflation during such cycle or four-year period, as determined by the Consumer  
 219 Price Index published by the Bureau of Labor Statistics of the United States Department

220 of Labor, and such limitations shall apply until next revised by the commission. The  
 221 commission shall adopt rules and regulations for the implementation of this subsection."

222 **SECTION 11.**

223 Said chapter is further amended by revising subsections (c) and (d) of Code Section 21-5-43,  
 224 relating to accounting for and expenditure of campaign contributions, and by adding a new  
 225 subsection to read as follows:

226 "(c) Contributions remaining unexpended after the date of ~~the~~ an election in which the  
 227 candidate does appear on the ballot may be expended for any future election in the same  
 228 election cycle without regard to the limitations of Code Section 21-5-41. If there are no  
 229 further elections in the election cycle or if the candidate or the candidate of the campaign  
 230 committee is not on the ballot of a further election in the election cycle, ~~such~~ any remaining  
 231 contributions may be used only as provided in Code Section 21-5-33.

232 (d) Contributions accepted and separately accounted for in an election in which the  
 233 candidate does not occur or for which the candidate does not qualify appear on the ballot,  
 234 if unexpended, shall be returned to the contributors thereof pro rata without interest. Any  
 235 portion thereof which cannot be returned to the original contributor thereof shall be  
 236 expended only as provided in Code Section 21-5-33.

237 (e) For purposes of separate accounting, a candidate shall be deemed to have advanced to  
 238 the next election in the election cycle upon the official certification of the election result  
 239 by the Secretary of State, or upon the concession of the candidate's election opponents, or  
 240 upon receiving a preliminary consolidated election return of 50 percent plus one for  
 241 advancement to a general election, or upon receiving a preliminary consolidated election  
 242 return of 50 percent or less for a runoff election and placing in one of the two spots that  
 243 will advance to the runoff election, whichever event shall first occur. In the event that the  
 244 official certification of the election result by the Secretary of State differs from or is in  
 245 conflict with a preliminary consolidated election return for advancement to a general or

246 runoff election, the official certification of the election result by the Secretary of State shall  
247 control for purposes of this Code section.

248 (f) The commission shall adopt such rules and regulations as are necessary to carry out the  
249 purposes of this Code section in accordance with Chapter 13 of Title 50, the 'Georgia  
250 Administrative Procedure Act.'"

251 **SECTION 12.**

252 Said chapter is further amended by revising subsection (a), paragraph (3) of subsection (c),  
253 and subsection (g) of Code Section 21-5-50, relating to filing by public officers, filing by  
254 candidates for public office, filing by elected officials and members of the General  
255 Assembly, electronic filing, and transfer of filings from the Secretary of State to the  
256 commission, as follows:

257 "(a)(1) Except as modified in subsection (c) of this Code section with respect to  
258 candidates for state-wide elected public office, each public officer, as defined in  
259 subparagraphs (A) through (D) of paragraph (22) of Code Section 21-5-3, shall file with  
260 the commission not before the first day of January nor later than July 1 of each year in  
261 which such public officer holds office other than an election year a financial disclosure  
262 statement for the preceding calendar year; and each person who qualifies as a candidate  
263 for election as a public officer, as defined in subparagraphs (A) through (D) of  
264 paragraph (22) of Code Section 21-5-3, shall file with the commission, no later than the  
265 fifteenth day following the date of qualifying as a candidate, a financial disclosure  
266 statement for the preceding calendar year.

267 (2) Except as set forth in paragraph (3) of this subsection, a public officer, as defined in  
268 subparagraph (E) of paragraph (22) of Code Section 21-5-3, shall not be required to file  
269 a financial disclosure statement pursuant to this Code section. Each such public officer  
270 shall, however, be deemed to be a public official for purposes of Code Section 45-10-26  
271 and shall be subject to the disclosure requirements set forth in Code Section 45-10-26.

272 In addition, each such public officer shall file with the commission, prior to January 31  
273 each year, an affidavit confirming that such public officer took no official action in the  
274 previous calendar year that had a material effect on such public officer's private financial  
275 or business interests; provided, however, that if a public officer as defined in  
276 subparagraph (E) of paragraph (22) of Code Section 21-5-3 has previously filed a  
277 financial disclosure statement with the commission pursuant to paragraph (2) of  
278 subsection (a) of Code Section 21-5-50, and said financial disclosure statement covers  
279 the same calendar year as would be covered by the affidavit required by this Code  
280 section, the public officer shall be exempted from filing an affidavit.

281 (3) A public officer, as defined in subparagraph (E) of paragraph (22) of Code  
282 Section 21-5-3, who serves as a member of the commission shall be subject to the  
283 requirements for filing financial disclosure statements set forth in paragraph (1) of this  
284 subsection. In addition, each such public officer shall file with the commission, together  
285 with the financial disclosure statement, an affidavit confirming that such public officer  
286 took no official action in the previous calendar year that had a material effect on such  
287 public officer's private financial or business interests.

288 (3.1) A public officer and candidates for election as a public officer, as defined in  
289 subparagraphs (F) and (G) of paragraph (22) of Code Section 21-5-3, shall make filings  
290 of the same kind and in the same manner as provided in paragraph (1) of this subsection  
291 for other public officers and candidates for election as a public officer except that filings  
292 under this paragraph shall be made with the election superintendent of the county in the  
293 case of public officers and candidates for election as a public officer as defined in said  
294 subparagraph (F) and shall be made with the municipal clerk in the municipality of  
295 election or, if there is no clerk, with the chief executive officer of the municipality in the  
296 case of public officers as defined in said subparagraph (G). The election superintendent,  
297 municipal clerk, or chief executive officer, as applicable, shall transmit, electronically by  
298 eFiling or eFax, a copy of each such report to the commission not later than 30 days after

299 the close of the reporting period. No fine, fee, or sanction, including but not limited to  
300 identifying a public officer or candidate for election as a public officer as having filed late  
301 or failed to file, shall be imposed by the commission on the public officer or candidate  
302 for election as a public officer for the failure of the election superintendent, municipal  
303 clerk, or chief executive officer to timely transmit a copy of such report.

304 (4) Each member of the State Transportation Board shall file a financial disclosure  
305 statement for the preceding calendar year no later than the sixtieth day following such  
306 member's election to the State Transportation Board. Thereafter, each board member  
307 shall file by January 31 of each year a financial disclosure statement for the preceding  
308 year. In addition, each board member shall file with the commission, prior to January 31  
309 of each year, an affidavit confirming that such board member took no official action in  
310 the previous calendar year that had a material effect on such board member's private  
311 financial or business interests.

312 (5) The commission or the applicable official under paragraph (3.1) of this subsection  
313 shall review each financial disclosure statement to determine that such statement is in  
314 compliance with the requirements of this chapter.

315 (6) A public officer shall not, however, be required to file such a financial disclosure  
316 statement for the preceding calendar year in an election year if such public officer does  
317 not qualify for nomination for election to succeed himself or herself or for election to any  
318 other public office subject to this chapter. For purposes of this paragraph, a public officer  
319 shall not be deemed to hold office in a year in which the public officer holds office for  
320 fewer than 15 days."

321 "(3) The financial disclosure statement required by paragraph (1) of this subsection shall  
322 be accompanied by a financial statement of the candidate's financial affairs for the five  
323 calendar year years prior to the year in which the election is held and the first quarter of  
324 the calendar year in which the election is held."

325 "(g) Notwithstanding any other provision of this chapter to the contrary, soil and water  
326 conservation district supervisors elected pursuant to Article 2 of Chapter 6 of Title 2 shall  
327 not be required to file personal financial disclosure statements under this Code section.  
328 ~~Reserved.~~"

329 **SECTION 13.**

330 Said chapter is further amended by revising subsection (c) of Code Section 21-5-71, relating  
331 to registration required, application for registration, supplemental registration, expiration,  
332 docket, fees, identification cards, public rosters, and exemptions, as follows:

333 "(c) The lobbyist shall, prior to any substantial or material change or addition in their  
334 registration, file a supplemental registration indicating such substantial or material change  
335 or addition to the registration prior to its expiration. Previously filed information may be  
336 incorporated by reference. Substantial or material changes or additions shall include, but  
337 are not limited to, the pertinent information concerning changes or additions to client and  
338 employment information required by paragraphs (2), (3), (4), (6), and (7) and conviction  
339 status required by paragraph (8) of subsection (b) of this Code section."

340 **SECTION 14.**

341 This Act shall become effective upon its approval by the Governor or upon its becoming law  
342 without such approval.

343 **SECTION 15.**

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