

The Senate Committee on Ethics offered the following substitute to HB 333:

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 provide that no
5 political action committee which is affiliated with or which coordinates with a member of
6 the General Assembly or such member's campaign committee or is affiliated with or
7 coordinates with a public officer elected state wide or such public officer's campaign
8 committee shall seek or accept a contribution or pledge of a contribution to such political
9 action committee during a legislative session; to revise requirements for certain accounts, the
10 disposition and expenditure of certain contributions, filings, registrations, and records of
11 accounts; to revise how maximum contribution limits are implemented; to revise certain
12 financial disclosure requirements; to revise purposes requiring registration with the
13 commission; to provide for related matters; to provide for an effective date; to repeal
14 conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

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

18 **SECTION 2.**

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

21 "21-5-1.

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

24 **SECTION 3.**

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

27 "(16.2) 'Loan' means a thing that is borrowed, especially a sum of money that is expected
28 to be paid back with interest to the lender."

29 "(19.1) 'Personal asset' means any asset in the form of money, chattels, or any item of
30 economic value, including nominal loans, owned by an individual or corporation,
31 especially that which could be converted to cash, including but not limited to, cash,
32 securities, accounts receivable, inventory, office equipment, real estate and automobiles."

33 "(22) 'Public officer' means:

34 (A) The Governor, Lieutenant Governor, Secretary of State, Attorney General,
35 Commissioner of Labor, Commissioner of Agriculture, Commissioner of Insurance,
36 and State School Superintendent Every constitutional officer;

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

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

40 (D) Each member of the General Assembly;

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

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

45 (G) Every elected municipal official."

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

49 **SECTION 4.**

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

52 "21-5-5.

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

58 **SECTION 5.**

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

62 "(7) Except as provided for in subsection (c) of Code Section 21-5-33, to ~~To~~ adopt in
 63 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' any
 64 rules and regulations necessary and appropriate for carrying out the purposes of this
 65 chapter; provided, however, that the commission shall not require the reporting or

66 disclosure of more information on any campaign contribution disclosure report or
67 personal financial disclosure statement than is expressly required to be reported or
68 disclosed by this chapter, ~~unless such information was required to be reported or~~
69 ~~disclosed by rules and regulations of the commission which were in effect as of January~~
70 ~~1, 2013, so long as such rules and regulations do not conflict with this chapter; and"~~

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

81 (10)(A) To conduct a preliminary investigation, subject to the limitations contained in
82 Code Section 21-5-7.1, of the merits of a written complaint by any person, including
83 a staff attorney employed by the commission, who believes that a violation of this
84 chapter has occurred, verified under oath to the best information, knowledge, and belief
85 by the person or staff attorney making such complaint. If there are found no reasonable
86 grounds to believe that a violation has occurred, the complaint shall be dismissed,
87 subject to being reopened upon discovery of additional evidence or relevant material.
88 If the commission determines that there are such reasonable grounds to believe that a
89 violation has occurred, it shall give notice by summoning the persons believed to have
90 committed the violation to a hearing. The hearing shall be conducted in all respects in
91 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'
92 The commission may file, through a staff attorney employed by the commission, a

93 complaint charging violations of this chapter, and any person aggrieved by the final
94 decision of the commission is entitled to judicial review in accordance with Chapter 13
95 of Title 50; provided, however, that nothing in this Code section shall be construed to
96 limit or encumber the right of the commission to initiate on probable cause an
97 investigation on its own cognizance as it deems necessary to fulfill its obligations under
98 this chapter.

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

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

107 **SECTION 6.**

108 Said chapter is further amended by revising Code Section 21-5-7, relating to initiation of
109 complaints, as follows:

110 "21-5-7.

111 The commission shall not initiate any investigation or inquiry into any matter under its
112 jurisdiction based upon the complaint of any person, including a staff attorney employed
113 by the commission, unless that person or staff attorney shall produce the same in writing
114 and verify the same under oath to the best information, knowledge, and belief of such
115 person, the falsification of which shall be punishable as false swearing under Code Section
116 16-10-71. The person against whom any complaint is made shall be furnished by hand
117 delivery or statutory overnight delivery or mailed by certified mail, return receipt
118 requested, a copy of the complaint by the commission within two business days of the

119 commission's receipt of such complaint and prior to any other public dissemination of such
120 complaint. ~~Nothing in this Code section, however, shall be construed to limit or encumber~~
121 ~~the right of the commission to initiate on probable cause an investigation on its own~~
122 ~~cognizance as it deems necessary to fulfill its obligations under this chapter."~~

123 **SECTION 7.**

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

126 "21-5-13.

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

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

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

140 **SECTION 8.**

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

143 "21-5-32.

144 (a) The candidate or treasurer of each campaign committee shall keep detailed accounts,
145 current within not more than five business days after the date of receiving a contribution
146 or making an expenditure, of all contributions received and all expenditures made by or on
147 behalf of the candidate or committee. The candidate or treasurer shall also keep detailed
148 accounts of all deposits and of all withdrawals made to the separate campaign depository
149 account and of all interest earned on any such deposits.

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

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

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

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

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

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

172 **SECTION 9.**

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

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

179 (A) As ~~contributions~~ donations to any charitable organization described in 26 U.S.C.
180 170(c) as said federal statute exists on March 1, 1986, and which additionally shall
181 include educational, eleemosynary, and nonprofit organizations subject to the
182 prohibitions contained in paragraph (2) of this subsection;

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

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

188 (D) For use in future campaigns for only that elective office for which those
189 contributions were received. With respect to contributions held on January 1, 1992, or
190 received thereafter, in the event the candidate, campaign committee, or public officer
191 holding elective office has not designated, prior to receiving contributions to which this
192 Code section is applicable, the office for which campaign contributions are received
193 thereby, those contributions shall be deemed to have been received for the elective
194 office which the candidate held at the time the contributions were received or, if the

195 candidate did not then hold elective office, those contributions shall be deemed to have
196 been received for that elective office for which that person was a candidate most
197 recently following the receipt of such contributions; or

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

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

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

215 **SECTION 9A.**

216 Said chapter is further amended by revising subsection (a) of Code Section 21-5-35, relating
217 to acceptance of contributions or pledges during legislative sessions, as follows:

218 "(a)(1) No member of the General Assembly or that member's campaign committee or
219 public officer elected state wide or campaign committee of such public officer shall seek
220 or accept a contribution or a pledge of a contribution to the member, the member's

221 campaign committee, or public officer elected state wide, or campaign committee of such
 222 public officer during a legislative session.

223 (2) No political action committee which is affiliated with or which coordinates with a
 224 member of the General Assembly or such member's campaign committee or is affiliated
 225 with or coordinates with a public officer elected state wide or such public officer's
 226 campaign committee shall seek or accept a contribution or pledge of a contribution to
 227 such political action committee during a legislative session."

228 **SECTION 10.**

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

231 "~~(k) At the end of the each gubernatorial election cycle applicable to each public office as~~
 232 ~~to which campaign contributions are limited by this Code section and every four years for~~
 233 ~~all other elections to which this Code section is applicable,~~ the contribution limitations in
 234 this Code section shall be raised or lowered in increments of \$100.00 by regulation order
 235 of the commission pursuant to a ~~determination~~ consideration by the commission of
 236 inflation or deflation during such cycle or four-year period, as determined by the Consumer
 237 Price Index published by the Bureau of Labor Statistics of the United States Department
 238 of Labor, and such limitations shall apply until next revised by the commission. The
 239 commission shall adopt rules and regulations for the implementation of this subsection."

240 **SECTION 11.**

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

244 "(c) Contributions remaining unexpended after the date of ~~the~~ an election in which the
 245 candidate does appear on the ballot may be expended for any future election in the same

246 election cycle without regard to the limitations of Code Section 21-5-41. If there are no
247 further elections in the election cycle or if the candidate or the candidate of the campaign
248 committee is not on the ballot of a further election in the election cycle, ~~such~~ any remaining
249 contributions may be used only as provided in Code Section 21-5-33.

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

255 (e) For purposes of separate accounting, a candidate shall be deemed to have advanced to
256 the next election in the election cycle upon the official certification of the election result
257 by the Secretary of State, or upon the concession of the candidate's election opponents, or
258 upon receiving a preliminary consolidated election return of 50 percent plus one for
259 advancement to a general election, or upon receiving a preliminary consolidated election
260 return of 50 percent or less for a runoff election and placing in one of the two spots that
261 will advance to the runoff election, whichever event shall first occur. In the event that the
262 official certification of the election result by the Secretary of State differs from or is in
263 conflict with a preliminary consolidated election return for advancement to a general or
264 runoff election, the official certification of the election result by the Secretary of State shall
265 control for purposes of this Code section.

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

269

SECTION 12.

270 Said chapter is further amended by revising subsection (a), paragraph (3) of subsection (c),
271 and subsection (g) of Code Section 21-5-50, relating to filing by public officers, filing by

272 candidates for public office, filing by elected officials and members of the General
273 Assembly, electronic filing, and transfer of filings from the Secretary of State to the
274 commission, as follows:

275 "(a)(1) Except as modified in subsection (c) of this Code section with respect to
276 candidates for state-wide elected public office, each public officer, as defined in
277 subparagraphs (A) through (D) of paragraph (22) of Code Section 21-5-3, shall file with
278 the commission not before the first day of January nor later than July 1 of each year in
279 which such public officer holds office other than an election year a financial disclosure
280 statement for the preceding calendar year; and each person who qualifies as a candidate
281 for election as a public officer, as defined in subparagraphs (A) through (D) of
282 paragraph (22) of Code Section 21-5-3, shall file with the commission, no later than the
283 fifteenth day following the date of qualifying as a candidate, a financial disclosure
284 statement for the preceding calendar year.

285 (2) Except as set forth in paragraph (3) of this subsection, a public officer, as defined in
286 subparagraph (E) of paragraph (22) of Code Section 21-5-3, shall not be required to file
287 a financial disclosure statement pursuant to this Code section. Each such public officer
288 shall, however, be deemed to be a public official for purposes of Code Section 45-10-26
289 and shall be subject to the disclosure requirements set forth in Code Section 45-10-26.
290 In addition, each such public officer shall file with the commission, prior to January 31
291 each year, an affidavit confirming that such public officer took no official action in the
292 previous calendar year that had a material effect on such public officer's private financial
293 or business interests; provided, however, that if a public officer as defined in
294 subparagraph (E) of paragraph (22) of Code Section 21-5-3 has previously filed a
295 financial disclosure statement with the commission pursuant to paragraph (2) of
296 subsection (a) of Code Section 21-5-50, and said financial disclosure statement covers
297 the same calendar year as would be covered by the affidavit required by this Code
298 section, the public officer shall be exempted from filing an affidavit.

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

306 (3.1) A public officer and candidates for election as a public officer, as defined in
307 subparagraphs (F) and (G) of paragraph (22) of Code Section 21-5-3, shall make filings
308 of the same kind and in the same manner as provided in paragraph (1) of this subsection
309 for other public officers and candidates for election as a public officer except that filings
310 under this paragraph shall be made with the election superintendent of the county in the
311 case of public officers and candidates for election as a public officer as defined in said
312 subparagraph (F) and shall be made with the municipal clerk in the municipality of
313 election or, if there is no clerk, with the chief executive officer of the municipality in the
314 case of public officers as defined in said subparagraph (G). The election superintendent,
315 municipal clerk, or chief executive officer, as applicable, shall transmit, electronically by
316 eFiling or eFax, a copy of each such report to the commission not later than 30 days after
317 the close of the reporting period. No fine, fee, or sanction, including but not limited to
318 identifying a public officer or candidate for election as a public officer as having filed late
319 or failed to file, shall be imposed by the commission on the public officer or candidate
320 for election as a public officer for the failure of the election superintendent, municipal
321 clerk, or chief executive officer to timely transmit a copy of such report.

322 (4) Each member of the State Transportation Board shall file a financial disclosure
323 statement for the preceding calendar year no later than the sixtieth day following such
324 member's election to the State Transportation Board. Thereafter, each board member
325 shall file by January 31 of each year a financial disclosure statement for the preceding

326 year. In addition, each board member shall file with the commission, prior to January 31
327 of each year, an affidavit confirming that such board member took no official action in
328 the previous calendar year that had a material effect on such board member's private
329 financial or business interests.

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

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

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

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

347 **SECTION 13.**

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

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

358 **SECTION 14.**

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

361 **SECTION 15.**

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