

The Senate Committee on Ethics offered the following substitute to SB 368:

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 prohibit foreign nationals from
3 contributing to candidates or campaign, independent, or political action committees; to
4 prohibit candidates and campaign, independent, and political action committees from
5 accepting contributions from foreign nationals; to provide for definitions; to require agents
6 of foreign principals to register with the State Ethics Commissioner; to provide for
7 registration requirements; to require agents of foreign principals to disclose to government
8 agencies and the General Assembly when such agents are advocating on behalf of a foreign
9 principal; to provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to government
13 transparency and campaign finance, is amended in Code Section 21-5-3, relating to
14 definitions, by adding a new paragraph to read as follows:

15 "(13.1) 'Foreign national' means an individual who:

16 (A) Is not a citizen of the United States; or

17 (B) Is a national of the United States who is not lawfully admitted for permanent
18 residence as provided for by federal law."

19 **SECTION 2.**

20 Said chapter is further amended by revising Code Section 21-5-31, which is currently
21 reserved, as follows:

22 "21-5-31.

23 (a) No foreign national shall make a contribution to a candidate, campaign committee,
24 independent committee, or political action committee.

25 (b) No candidate, campaign committee, independent committee, or political action
26 committee shall knowingly accept any contributions from foreign nationals Reserved."

27 **SECTION 3.**

28 Said chapter is further amended in Code Section 21-5-70, relating to definitions, by adding
29 new paragraphs to read as follows:

30 "(1) 'Agent of a foreign principal' means:

31 (A) Any person who acts as an agent, representative, employee, or servant, or any
32 person who acts in any other capacity at the order, request, or under the direction or
33 control of a foreign principal or of a person any of whose activities are directly or
34 indirectly supervised, directed, controlled, financed, or subsidized in whole or in major
35 part by a foreign principal, and who directly or through any other person:

36 (i) Engages within the State of Georgia in political activities for or in the interests of
37 such foreign principal;

38 (ii) Acts within the State of Georgia as a public relations counsel, publicity agent,
39 information-service employee or political consultant for or in the interests of such
40 foreign principal;

41 (iii) Within the State of Georgia solicits, collects, disburses, or dispenses
42 contributions, loans, money, or other things of value for or in the interest of such
43 foreign principal; or

44 (iv) Within the State of Georgia represents the interests of such foreign principal
45 before any agency or official of the State of Georgia or any political subdivision
46 thereof; and

47 (B) Any person who agrees, consents, assumes or purports to act as, or who is or holds
48 himself or herself out to be, whether or not pursuant to contractual relationship, an
49 agent of a foreign principal as defined in subparagraph (A) of this paragraph,
50 provided, however, that such term shall not include any news or press service or
51 association organized under the laws of the United States or of any state or other place
52 subject to the jurisdiction of the United States, or any newspaper, magazine, periodical, or
53 other publication for which there is on file with the United States Postal Service
54 information in compliance with 39 U.S.C. Section 3685 published in the United States,
55 solely by virtue of any bona fide news or journalistic activities, including the solicitation
56 or acceptance of advertisements, subscriptions, or other compensation therefor, so long as
57 it is at least 80% beneficially owned by, and its officers and directors, if any, are citizens
58 of the United States, and such news or press service or association, newspaper, magazine,
59 periodical, or other publication is not owned, directed, supervised, controlled, subsidized,
60 or financed, and none of its policies are determined by any foreign principal or by any
61 agent of a foreign principal required to register under Code Section 21-5-77."

62 "(2.1) 'Foreign political party' means any organization or any other combination of
63 individuals in a country other than the United States, or any unit or branch thereof, having
64 for an aim or purpose, or which is engaged in any activity devoted in whole or in part to,
65 the establishment, administration, control, or acquisition of administration or control, of
66 a government of a foreign country or a subdivision thereof, or the furtherance or

67 influencing of the political or public interests, policies, or relations of a government of
68 a foreign country or a subdivision thereof.

69 (2.2) 'Foreign principal' means:

70 (A) A government of a foreign country and a foreign political party;

71 (B) A person outside of the United States, unless it is established that such person is
72 an individual and a citizen of and domiciled within the United States, or that such
73 person is not an individual and is organized under or created by the laws of the United
74 States or of any State or other place subject to the jurisdiction of the United States and
75 has its principal place of business within the United States; and

76 (C) A partnership, association, corporation, organization, or other combination of
77 persons organized under the laws of or having its principal place of business in a
78 foreign country.

79 (2.3) 'Government of a foreign country' means any person or group of persons exercising
80 sovereign de facto or de jure political jurisdiction over any country, other than the United
81 States, or over any part of such country, and includes any subdivision of any such group
82 and any group or agency to which such sovereign de facto or de jure authority or
83 functions are directly or indirectly delegated. Such term shall include any faction or body
84 of insurgents within a country assuming to exercise governmental authority whether such
85 faction or body of insurgents has or has not been recognized by the United States."

86

SECTION 4.

87 Said chapter is further amended by adding two new Code sections to read as follows:

88 "21-5-77.

89 (a) No person shall act as an agent of a foreign principal unless he or she has filed with the
90 commission a true and complete registration statement and supplements thereto as required
91 by this Code section or unless he or she is exempt from registration under the provisions
92 of this Code section. Except as hereinafter provided, every person who becomes an agent

93 of a foreign principal shall, within ten days thereafter, file with the commissioner a
94 registration statement, under oath, on a form prescribed by the commission. The obligation
95 of an agent of a foreign principal to file a registration statement shall, after the tenth day
96 of his becoming such agent, continue from day to day, and termination of such status shall
97 not relieve such agent from his obligation to file a registration statement for the period
98 during which he was an agent of a foreign principal. The registration statement shall
99 include the following, which shall be regarded as material for the purposes of this Code
100 section:

101 (1) Registrant's name, principal business address, and all other business addresses in the
102 United States or elsewhere, and all residence addresses, if any;

103 (2) Status of the registrant:

104 (A) If an individual, his or her nationality;

105 (B) If a partnership, the name, residence addresses, and nationality of each partner, as
106 well as a true and complete copy of its articles of copartnership; and

107 (C) If an association, corporation, organization, or any other combination of individual,
108 the name, residence addresses, and nationality of each director and officer and of each
109 person performing the functions of a director or officer and a true and complete copy
110 of its charter, articles of incorporation, association, constitution, and bylaws, and
111 amendments thereto; a copy of every other instrument or document and a statement of
112 the terms and conditions of every oral agreement relating to its organization, powers,
113 and purposes; and a statement of its ownership and control;

114 (3) A comprehensive statement of the nature of registrant's business, including a
115 complete list of registrant's employees;

116 (4) A statement of the nature of the work of each foreign principal for whom the
117 registrant is acting, assuming or purporting to act or has agreed to act, the character of the
118 business or other activities of every such foreign principal. If any such foreign principal
119 be other than a natural person, such statement shall also detail the ownership and control

120 to which each such foreign principal is supervised, directed, owned, controlled, financed,
121 or subsidized, in whole or in part, by any government of a foreign country or foreign
122 political party, or by any other foreign principal;

123 (5) The nature and amount of contributions, income, money, or thing of value, if any,
124 that the registrant has received within the preceding 60 days from each such foreign
125 principal, either as compensation or for disbursement or otherwise, and the form and time
126 of each such payment and from whom received;

127 (6) A detailed statement of every activity which the registrant is performing or is
128 assuming or purporting or has agreed to perform for himself or herself or any other
129 person other than a foreign principal and which requires his registration hereunder;

130 (7) The name, business, and residence addresses, and if an individual, the nationality, of
131 any person other than a foreign principal for whom the registrant is acting, assuming or
132 purporting to act or has agreed to act under such circumstances as require his or her
133 registration hereunder;

134 (8) The nature and amount of contributions, income, money, or thing of value, if any,
135 that the registrant has received during the preceding 60 days from each such person in
136 connection with any of the activities referred to in paragraph (6) of this subsection;

137 (9) A detailed statement of the money and other things of value spent or disposed of by
138 the registrant during the preceding 60 days in furtherance of or in connection with
139 activities which require the registrant's registration hereunder and which have been
140 undertaken by the registrant either as an agent of a foreign principal or for himself or
141 herself or any other person or in connection with any activities relating to the registrant
142 becoming an agent of such principal;

143 (10) A detailed statement of any contributions of money or other things of value made
144 by the registrant during the preceding 60 days to bring about the nomination or election
145 of a candidate for any office, to bring about the recall of a public officer holding elective
146 office, to oppose the recall of a public officer holding elective office, to bring about the

147 approval or rejection by the voters of any proposed constitutional amendment, a
148 state-wide referendum, or a proposed question which is to appear on the ballot in this
149 state or in a county or a municipal election in this state; and

150 (11) Such other statements, information, or documents pertinent to the purposes of this
151 Code section as the commission may from time to time require.

152 (b) Every agent of a foreign principal who has filed a registration statement required by
153 subsection (a) of this Code section shall, within 30 days after the expiration of each
154 six-month period succeeding such filing, file with the commission a supplement thereto,
155 under oath, on a form prescribed by the commission, which shall set forth with respect to
156 such preceding six-month period such facts as the commission may deem necessary to
157 make the information required under subsection (a) of this Code section accurate,
158 complete, and current with respect to such period.

159 (c) The registration statement shall be executed under oath as follows:

160 (1) If the registrant is an individual, by him or her;

161 (2) If the registrant is a partnership, by the majority of the members thereof; and

162 (3) If the registrant is a person other than an individual or a partnership, by a majority
163 of the officers thereof or persons performing the functions of officers or by a majority of
164 the board of directors thereof or persons performing the functions of directors, if any.

165 (d) A registration statement or supplement required to be filed under this Code section
166 shall be filed in electronic form, in addition to any other form that may be required by the
167 commission.

168 21-5-78.

169 Whenever any agent of a foreign principal required to register under Code Section 21-5-77
170 appears before any elected official, agency, as such term is defined in Code Section
171 50-14-1, officer, official, or employees of an agency, or a committee of General Assembly,
172 to advocate, lobby, or testify for or in the interests of such foreign principal, such agent

173 shall, at the time of such appearance, affirmatively state that he or she is acting as an agent
174 of a foreign principal and disclose the identify of such foreign principal."

175

SECTION 5.

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