

House Bill 1362

By: Representatives Ridley of the 6th, Rhodes of the 124th, Burchett of the 176th, Smith of the 18th, Corbett of the 174th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 2 of Title 45 of the Official Code of Georgia Annotated,
2 relating to general provisions for eligibility and qualifications for office, so as to provide that
3 persons having certain financial interest shall be ineligible to hold certain public offices; to
4 amend Part 1 of Article 2 of Chapter 10 of Title 45 of the Official Code of Georgia
5 Annotated, relating to general provisions for conflicts of interest, so as to prohibit state public
6 officials from having financial interest in certain state contracts or from transacting business
7 with the state; to revise disclosure provisions; to revise definitions; to provide for related
8 matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 1 of Chapter 2 of Title 45 of the Official Code of Georgia Annotated, relating to
12 general provisions for eligibility and qualifications for office, is amended by adding a new
13 Code section to read as follows:

14 "45-2-1.1.

15 (a) As used in this Code section, the terms 'agency,' 'family,' 'financial interest,' 'public
16 official,' and 'transact business' or 'transact any business' shall have the same meanings as
17 provided for in Code Section 45-10-20.

18 (b) In addition to the provisions of Code Section 45-2-1, the following persons are
19 ineligible to hold any public offices provided for in subsection (c) of this Code section; and
20 the existence of any of the following facts shall be a sufficient reason for vacating any
21 office held by a public official, provided that the acts of such official, while holding a
22 commission, shall be valid as the acts of an officer de facto when a person, for himself or
23 herself or on behalf of any business, or for any business in which such person or member
24 of his or her family has a financial interest, to:

25 (1) Transact any business with any agency; or

26 (2) Have a financial interest, directly or indirectly, in:

27 (A) A contract made by a state agency; or

28 (B) Which the state or a state agency is an interested party,

29 and of which interest such person has knowledge and reason to know.

30 (c) This Code section shall apply to the public offices of Governor, Lieutenant Governor,
31 Secretary of State, Attorney General, State School Superintendent, and the Commissioners
32 of Agriculture, Labor, and Insurance."

33 **SECTION 2.**

34 Part 1 of Article 2 of Chapter 10 of Title 45 of the Official Code of Georgia Annotated,
35 relating to general provisions for conflicts of interest, is amended by revising Code Section
36 45-10-20, relating to definitions, as follows:

37 "45-10-20.

38 As used in this part, the term:

39 (1) 'Agency' means any agency, authority, department, board, bureau, commission,
40 committee, office, or instrumentality of executive, legislative, or judicial branch of the
41 State of Georgia but shall not mean a political subdivision of the State of Georgia.

42 (2) 'Business' means any corporation, partnership, proprietorship, firm, enterprise,
43 franchise, association, organization, self-employed individual, trust, or other legal entity.

44 (3) 'Employee' means any person who, pursuant to a written or oral contract, is employed
45 by an agency.

46 (4) 'Family' means spouse and dependents.

47 (5) 'Financial interest' means any direct or indirect ownership, interest in a partnership,
48 or holding of stock in a corporation, except where such holding constitutes less than 3
49 percent of the total proprietary interest of such corporation.

50 ~~(5)~~(6) 'Full-time' means 30 hours of work for the state per week for more than 26 weeks
51 per calendar year.

52 ~~(6)~~(7) 'Limited powers' means those powers other than state-wide powers.

53 ~~(7)~~(8) 'Part-time' means any amount of work other than full-time work.

54 ~~(8)~~(9) 'Person' means any person, corporation, partnership, proprietorship, firm,
55 enterprise, franchise, association, organization, or other legal entity.

56 ~~(9)~~(10) 'Public official' means any person elected to a state office and means any person
57 appointed to a state office where in the conduct of such office the person so appointed has
58 administrative and discretionary authority to receive and expend public funds and to
59 perform certain functions concerning the public which are assigned to him or her by law,
60 regardless of whether or not such person is serving with or without compensation on a
61 full-time, part-time, intermittent, or consultant basis.

62 ~~(10) 'State-wide powers' means those powers exercised by public officials which affect~~
63 ~~and influence all of state government. Public officials who exercise such powers include~~
64 ~~but are not limited to the Governor, the Lieutenant Governor, members of the General~~
65 ~~Assembly, Justices of the Supreme Court, Judges of the Court of Appeals, the Secretary~~

66 of State, the Attorney General, the state auditor, the state accounting officer, the
 67 commissioner of administrative services, members of the State Personnel Board, the
 68 director of the Office of Planning and Budget, judges of the superior courts, and district
 69 attorneys.

70 (11) 'Substantial interest' means the direct or indirect ownership of more than 25 percent
 71 of the assets or stock of any business.

72 (12) 'Transact business' or 'transact any business' means to sell or lease any personal
 73 property, real property, or services on behalf of oneself or on behalf of any third party as
 74 an agent, broker, dealer, or representative and means to purchase surplus real or personal
 75 property on behalf of oneself or on behalf of any third party as an agent, broker, dealer,
 76 or representative."

77 **SECTION 3.**

78 Said part is further amended by revising Code Section 45-10-22, relating to full-time public
 79 officials with state-wide powers prohibitions, and public officials or employees with limited
 80 powers prohibitions, as follows:

81 "45-10-22.

82 (a)(1) It shall be unlawful for any full-time public official who has state-wide powers,
 83 for himself or herself or on behalf of any business, or for any business in which such
 84 public official or member of his or her family has a substantial financial interest, to:

85 (1) Transact transact any business with any agency; or

86 (2) Have a financial interest, directly or indirectly, in:

87 (A) A contract made by a state agency; or

88 (B) Which the state or a state agency is an interested party,

89 and of which interest a public official has knowledge and reason to know.

90 (2) ~~It shall be unlawful for any public official who has limited powers, for himself or on~~
 91 ~~behalf of any business, or for any business in which such public official or member of his~~

92 family has a substantial interest to transact any business with the agency for which such
 93 public official serves.

94 (b) ~~The provisions of paragraph (1) of subsection (a) of this Code section shall not apply~~
 95 ~~to:~~

96 ~~(1) Any transaction made pursuant to sealed competitive bids;~~

97 ~~(2) Any transaction when the amount of a single transaction does not exceed \$250.00 and~~
 98 ~~when the aggregate of all such transactions does not exceed \$9,000.00 per calendar year;~~
 99 ~~and~~

100 ~~(3) Any transaction involving the lease of real property to or from any agency if such~~
 101 ~~transaction has been approved by the State Properties Commission or the Space~~
 102 ~~Management Division of the Department of Administrative Services.~~

103 ~~(c) Any person who knowingly violates subsection (a) of this Code section shall be subject~~
 104 ~~to the penalties provided for in Code Section 45-10-28."~~

105 SECTION 4.

106 Said part is further amended by revising Code Section 45-10-24, relating to part-time public
 107 officials with state-wide powers prohibitions, part-time employees prohibitions, and
 108 exceptions to prohibitions, as follows:

109 "45-10-24.

110 ~~(a)(1) Except as provided in subsection (b) of this Code section, it shall be unlawful for~~
 111 ~~any part-time public official who has state-wide powers, for himself or on behalf of any~~
 112 ~~business, or for any business in which such public official or member of his family has~~
 113 ~~a substantial interest to transact any business with any agency.~~

114 ~~(2) Except as provided in subsection (b) of this Code section, it shall be unlawful for any~~
 115 ~~part-time employee, for himself or on behalf of any business, or for any business in which~~
 116 ~~such employee or member of his family has a substantial interest to transact any business~~
 117 ~~with the agency by which such employee is employed.~~

- 118 (b) The provisions of subsection (a) of this Code section shall not apply to:
- 119 (1) Any transaction made pursuant to sealed competitive bids;
- 120 (2) Any transaction when the amount of a single transaction does not exceed \$250.00 and
- 121 when the aggregate of all such transactions does not exceed \$9,000.00 per calendar year;
- 122 (3) Any transaction involving the lease of real property to or from any agency if such
- 123 transaction has been approved by the State Properties Commission or the Space
- 124 Management Division of the Department of Administrative Services; and
- 125 (4) Any transaction involving the purchase of surplus state property at a public auction.
- 126 (c) Any person who knowingly violates subsection (a) of this Code section shall be subject
- 127 to the penalties provided for in Code Section 45-10-28."

128 **SECTION 5.**

129 Said part is further amended by revising Code Section 45-10-24.1, relating to exemption for

130 transactions by family owned business when university system employee has interest, and

131 requirements, as follows:

132 "45-10-24.1.

133 Subsection (a) of Code Section 45-10-23 and ~~paragraph (2)~~ of subsection (a) of Code

134 Section 45-10-24 shall not apply to a transaction with a unit of the University System of

135 Georgia by a family owned business in which an employee of the university system or a

136 member of the employee's family has an ownership interest where all of the following

137 apply:

- 138 (1) The employee or one or more members of the employee's family or both have an
- 139 ownership interest in a family owned business, but the employee is not actively engaged
- 140 in the day-to-day management of the business;
- 141 (2) The employee is employed by a department of the unit of the university system in a
- 142 position below that of department head; and
- 143 (3) The transaction is:

- 144 (A) With a unit of the university system different than the unit employing the
 145 employee; or
 146 (B) With a department of the employing unit of the university system different than the
 147 department employing the employee."

148 **SECTION 6.**

149 Said part is further amended by revising the introductory language of subsection (a) of Code
 150 Section 45-10-25, relating to exceptions to prohibitions on transactions with state agencies,
 151 as follows:

152 "45-10-25.

153 (a) The provisions of Code Sections ~~45-10-22~~, 45-10-23; and 45-10-24 shall not apply to:"

154 **SECTION 7.**

155 Said part is further amended by revising Code Section 45-10-26, relating to annual disclosure
 156 statements concerning business transactions with state and public records, as follows:

157 "45-10-26.

158 (a) Except as provided in subsection (b) of this Code section, any public ~~official or~~
 159 employee, whether for himself, herself, or on behalf of any business, or any business in
 160 which such public official or employee or any member of his or her family has a substantial
 161 interest who transacts business with the state or any agency thereof shall disclose such
 162 transactions. Such disclosure shall be submitted prior to January 31 each year to the State
 163 Ethics Commission on such forms as it shall prescribe and shall include an itemized list of
 164 the previous year's transactions with the dollar amount of each transaction reported and
 165 totaled. Such disclosure statements shall be public records.

166 (a.1) Except as provided in subsection (b) of this Code section, any public official, whether
 167 for himself, herself, or on behalf of any business, or any business in which such public
 168 official or employee or any member of his or her family has an interest less than a financial

169 interest who transacts business with the state or any agency thereof, shall disclose such
170 transactions. Such disclosure shall be made in the same manner as the disclosures required
171 by subsection (a) of this Code section.

172 (b) The requirement to disclose certain transactions as provided in subsection (a) of this
173 Code section shall not apply to any transaction when the amount of a single transaction
174 does not exceed \$250.00 and when the aggregate of all transactions does not exceed
175 \$9,000.00 per calendar year.

176 (c) Any person who fails to file a disclosure statement as required in subsection (a) of this
177 Code section shall be subject to the penalties provided for in Code Section 45-10-28."

178 **SECTION 8.**

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