

The Senate Committee on Rules offered the following substitute to HB 485:

A BILL TO BE ENTITLED
AN ACT

1 To amend the Official Code of Georgia Annotated, so as to repeal various provisions enacted
2 prior to 2013 which are contingent upon funding and which remain unfunded; to revise
3 various provisions to update outdated terminology or references; to repeal various Code
4 sections or portions thereof held to be unconstitutional; to repeal and replace Code Sections
5 40-13-60, 48-7-2, and 48-13-6, relating to disposition of traffic violations and jurisdiction
6 of bureau, unlawful failure to pay income tax, file return, keep records, supply information,
7 or exhibit books and penalty, and levy of occupation tax by counties and municipalities on
8 businesses and practitioners of professions and occupations and hearing on tax increase,
9 respectively, so as to correct unconstitutional provisions; to provide for conforming changes;
10 to amend an Act revising the "Georgia Veterinary Practice Act," approved June 3, 2003 (Ga.
11 L. 2003, p. 615/HB 347), so as to repeal provisions which are contingent upon funding and
12 which remain unfunded; to provide for appointment of chairperson and vice chairperson for
13 the Geo. L. Smith II Georgia World Congress Center Oversight Authority; to provide for
14 related matters; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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PART I

Contingency provisions

SECTION 1-1.

19 The Official Code of Georgia Annotated is amended by repealing and reserving the
20 following:

21 (1) Article 12 of Chapter 4 of Title 26, relating to prescription medication integrity.

22 (2) Chapter 30 of Title 31, relating to reports on veterans exposed to Agent Orange.

23 (3) Subsections (d) and (f) of Code Section 35-8-26, relating to TASER and electronic
24 control weapons, requirements for use, establishment of policies, and training.

25 (4) Subsection (k) of Code Section 43-34-8, relating to authority of Georgia Composite
26 Medical Board to refuse license, certificate, or permit or issue discipline, suspension,
27 restoration, investigations, hearings on fitness, immunity, and publication of final
28 disciplinary actions.

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SECTION 1-2.

30 Said Code is further amended in Code Section 31-8-302, relating to procedures for donation
31 and dispensing of unused over-the-counter and prescription drugs, by revising subsection (i)
32 as follows:

33 "(i) The donation, brokering, or other facilitation of a donation of a drug pursuant to this
34 program shall not be considered wholesale distribution ~~as defined in Code Section~~
35 ~~26-4-201~~ and shall not be subject to or require licensure as a wholesale distributor pursuant
36 to Chapter 4 of Title 26."

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SECTION 1-3.

38 An Act revising the "Georgia Veterinary Practice Act," approved June 3, 2003
39 (Ga. L. 2003, p. 615/HB 347), is amended by repealing Part II.

40 **PART II**

41 *Terminology modernizations and various clean up*

42 **SECTION 2-1.**

43 The Official Code of Georgia Annotated is amended by revising Code Section 7-4-8, relating
44 to commission to third person does not make lawful interest usurious, as follows:

45 "7-4-8.

46 ~~Except as the application of this Code section is modified by Code Section 7-3-5, where~~
47 Where the lender neither takes nor contracts to take more than lawful interest, the loan is
48 not rendered usurious by money paid or agreed to be paid others by the borrower in order
49 to obtain the loan."

50 **SECTION 2-2.**

51 Said Code is further amended in Code Section 20-2-206, relating to alternative teacher
52 certification program and creditable service, by revising subsection (b) as follows:

53 "(b)(1) Each local school system may provide an alternative teacher certification program
54 upon approval by the Professional Standards Commission for a secondary school teacher
55 candidate to teach a course or courses in a core academic subject who:

56 (A) Possesses a master's degree, doctoral degree, or Juris Doctor in each academic
57 subject in which the candidate will teach;

58 (B) Receives high-quality professional development that is sustained, intensive, and
59 classroom focused in order to have a positive and lasting impact on classroom
60 instruction, before and while teaching;

61 (C) Participates in a program of intensive supervision that consists of structured
62 guidance and regular ongoing support for teachers or a teacher mentoring program;

63 (D) Assumes functions as a teacher only for a specified period of time not to exceed
64 three years; and

65 (E) Demonstrates satisfactory progress toward full certification as prescribed by the
66 Professional Standards Commission.

67 (2) The Professional Standards Commission shall apply the least restrictive standards
68 when approving a school system developed program under this subsection.

69 ~~(3) Any teacher certified pursuant to this subsection shall be considered a highly~~
70 ~~qualified teacher for purposes of the federal No Child Left Behind Act (P.L. 107-110)."~~

71 **SECTION 2-3.**

72 Said Code is further amended in Code Section 20-2-1160, relating to local boards to be
73 tribunals to determine school law controversies, appeals, and special provisions for disabled
74 children, by revising subsection (f) as follows:

75 "(f) The procedures provided in subsections (a) through (e) of this Code section shall not
76 be applicable to disabled children when a hearing is necessary to decide a complaint made
77 under the federal ~~Education for All Handicapped Children Act of 1975~~ Individuals with
78 Disabilities Education Act. The state board shall promulgate by rules and regulations an
79 impartial due process procedure for hearing and determining any matter of local
80 controversy in reference to the construction or administration of the school law with respect
81 to disabled children as such term is defined by the state board. Any tribunal which the state
82 board shall empower to hear such cases shall have the power to summon witnesses and take
83 testimony as such tribunal deems it necessary. In promulgating such rules and regulations,
84 the state board shall consult with local boards of education and other local school officials
85 in order to establish procedures required by this subsection which will coordinate, to the
86 extent practicable, with the administrative practices of such local boards."

87 **SECTION 2-4.**

88 Said Code is further amended in Code Section 20-2-2116, relating to amount of scholarship
89 for special needs students and method of payments, by revising subsection (c) as follows:

90 "(c) Scholarship students shall be counted in the enrollment of their resident school system;
91 provided, however, that this count shall only be for purposes of determining the amount of
92 the scholarship and the scholarship students shall not be included as enrolled for purposes
93 of state or federal accountability requirements, including, but not limited to, the federal
94 Elementary and Secondary Education Act, as amended by the ~~No Child Left Behind Act~~
95 ~~of 2001 (P.L. 107-110)~~ federal Every Student Succeeds Act of 2015, 20 U.S.C. Section
96 6301. The funds needed to provide a scholarship shall be subtracted from the allotment
97 payable to the resident school system."

98 **SECTION 2-5.**

99 Said Code is further amended in Code Section 20-2-2131, relating to enrollment of students
100 in school to which not originally assigned, procedure, annual notification, and exception, by
101 revising paragraph (4) of subsection (a) as follows:

102 "(4) This subsection shall not be construed to affect any student currently attending a
103 school other than the school to which the student has been assigned by the local board of
104 education pursuant to a transfer authorized under the federal ~~No Child Left Behind Act~~
105 ~~(P.L. 107-110)~~ Every Student Succeeds Act of 2015, 20 U.S.C. Section 6301."

106 **SECTION 2-6.**

107 Said Code is further amended by repealing Code Section 40-5-4.1, relating to authorized
108 delay in compliance with federal Real ID Act.

109 **SECTION 2-7.**

110 Said Code is further amended by revising Code Section 40-6-56, relating to procedure for
111 passing a bicyclist, as follows:

112 "40-6-56.

113 (a) The operator of a motor vehicle approaching a bicycle shall approach the bicycle with
114 due caution and, when traveling in the same direction, shall proceed as follows:

115 (1) Make a lane change into a lane not adjacent to the bicycle if possible in the existing
116 road and traffic conditions; or

117 (2) If a lane change under paragraph (1) of this subsection would be impossible,
118 prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and
119 proper speed for the existing road and traffic conditions, which speed shall be at least ten
120 miles per hour less than the posted speed limit or 25 miles per hour, whichever is more,
121 and proceed around the bicycle with at least three feet between such vehicle and the
122 bicycle at all times.

123 (b) Any violation of this Code section shall be a misdemeanor punished by a fine of not
124 more than \$250.00."

125 **SECTION 2-8.**

126 Said Code is further amended in Code Section 43-15-13.1, relating to requirements for
127 professional land surveyors engaged in design of storm-water management plans, facilities,
128 water distribution lines, and sanitary sewer collection systems, by revising paragraph (2) as
129 follows:

130 "(2) Complete an additional three semester hours of coursework in hydrology, possess
131 the requisite experience required by the board, and pass the hydrology exam. The
132 licensing record for such individual as available to the public shall be marked as
133 'hydrology and design authorized.'"

134 **SECTION 2-9.**

135 Said Code is further amended by revising Code Section 43-20-11, relating to apprentice
136 dispenser's permit and training permits, as follows:

137 "43-20-11.

138 (a) An apprentice dispenser's permit shall be issued by the division director on behalf of
139 the board only when:

140 (1) Application has been made;

141 (2) A statement of supervision has been provided by a licensed dispenser;

142 (3) A statement has been made by the supervising dealer that the applicant is capable of
143 making the tests and applying the techniques required to dispense hearing aids in
144 accordance with this chapter;

145 (4) Proof of age has been made. ~~Apprentice dispensers' permits are limited to one year
146 in duration and shall not be renewed;~~ and

147 (5) The applicant has passed the practical portion of the examination.

148 (b) Apprentice dispensers' permits are limited to one year in duration and shall not be
149 renewed.

150 (c) Training permits shall be issued by the division director on behalf of the board only
151 when application has been made and a statement of supervision has been provided by a
152 licensed dispenser. The permit should authorize the person to dispense hearing aids only
153 under direct supervision and immediate observation of the licensed dispenser who shall be
154 responsible for the trainees' compliance with this chapter. Proof of age shall also be made.
155 Training permits should be for a duration of six months and may be renewed as often as
156 necessary for additional six-month time periods so long as the requirements of this Code
157 section for issuance of permits are met for each renewal."

158 **SECTION 2-10.**

159 Said Code is further amended by revising Code Section 44-3-234, relating to application of
160 article relative to property owners' associations, as follows:

161 "44-3-234.

162 The limitations provided in subsection (b) and paragraphs (1), (2), and (4) of subsection (d)
163 of Code Section 44-5-60 shall not apply to any covenants contained in any instrument
164 created pursuant to or submitted pursuant to this article."

165 **SECTION 2-11.**

166 Said Code is further amended in Code Section 50-8-60, relating to definitions relative to
167 conflicts of interest in contract administration by the Department of Community Affairs, by
168 revising paragraph (4) as follows:

169 "(4) Reserved. ~~'Council member' means any member of the council of a regional~~
170 ~~commission established under Article 2 of this chapter."~~

171 **PART III**

172 *Unconstitutional provisions*

173 **SECTION 3-1.**

174 Said Code is further amended by repealing Code Section 3-7-43, relating to issuance of
175 alcoholic beverage licenses to private clubs by governing authorities of certain counties and
176 municipalities, privileges conferred by licenses, rules and regulations, and sale by
177 wholesalers to licensees.

178 **SECTION 3-2.**

179 Said Code is further amended by repealing and reserving the following:

180 (1) Paragraph (6) of Code Section 10-1-233, relating to acts of gasoline distributor violating
181 article relative to gasoline marketing practices.

182 (2) Code Section 16-11-34, relating to preventing or disrupting lawful meetings, gatherings,
183 or processions.

184 (3) Code Section 20-2-1182, relating to persons other than students who insult or abuse
185 school teachers in presence of pupils may be ordered to leave school premises.

186 (4) Code Section 36-1-16, relating to garbage, trash, waste, or refuse not to be transported
187 across state or county boundaries for dumping without permission and exemption.

188 (5) Code Section 36-6-27, relating to execution against county treasurer for failure to pay
189 over money.

190 (6) Code Section 40-1-4, relating to stickers, decals, or emblems upon motor vehicles
191 containing profane or lewd words describing sexual acts, excretory functions, or parts of the
192 human body.

193 (7) Code Section 40-2-111, relating to highway use permit required for certain unregistered
194 motor trucks, application, fee, and identification tag to be displayed and permit to be carried
195 in truck.

196 (8) Code Section 40-2-112, relating to additional fee for each round trip by an unregistered
197 motor truck into state.

198 (9) Paragraph (1) of subsection (a) of Code Section 40-2-114, relating to unlawful acts and
199 penalties.

200 (10) Subparagraph (B.1) of paragraph (3) of Code Section 48-5-2, relating to definitions
201 relative to ad valorem taxation of property.

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SECTION 3-3.

203 Said Code is further amended by repealing Code Section 40-13-60, relating to disposition of
204 traffic violations and jurisdiction of bureau, and enacting a new Code Section 40-13-60 to
205 read as follows:

206 "40-13-60.

207 Any traffic violation under the jurisdiction of the traffic violations bureau shall be
208 characterized and classified as a traffic violation and shall not be considered as a
209 misdemeanor. Whenever any traffic violation is transferred from another court to a court

210 which has a traffic violations bureau, if such offense is classified as a traffic violation on
211 the traffic violations bureau schedule of the receiving court, such violation shall be handled
212 and disposed of by such traffic violations bureau. Where a defendant demands a trial on
213 a traffic violation, it shall be transferred to a court in the jurisdiction which established the
214 traffic violations bureau; provided, however, that such request for a trial shall not result in
215 a loss of jurisdiction by the traffic violations bureau."

216 **SECTION 3-4.**

217 Said Code is further amended by repealing Code Section 48-7-2, relating to unlawful failure
218 to pay income tax, file return, keep records, supply information, or exhibit books and penalty,
219 and enacting a new Code Section 48-7-2 to read as follows:

220 "48-7-2.

221 (a) It shall be unlawful for any person who is required under this chapter to pay any tax,
222 make any return, keep any records, supply any information, or exhibit any books or records
223 for the purpose of computation, assessment, or collection of any tax imposed by this
224 chapter to fail to:

225 (1) Pay the tax;

226 (2) Make the return;

227 (3) Keep the records; or

228 (4) When requested to do so by the commissioner:

229 (A) Supply the information; or

230 (B) Exhibit the books or records.

231 (b) In addition to other penalties provided by law, any person who violates subsection (a)
232 of this Code section shall be guilty of a misdemeanor; provided, however, that punishment
233 for failure to pay tax owed shall be limited to a fine of not more than \$1,000.00."

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SECTION 3-5.

235 Said Code is further amended by repealing Code Section 48-13-6, relating to levy of
236 occupation tax by counties and municipalities on businesses and practitioners of professions
237 and occupations and hearing on tax increase, and enacting a new Code Section 48-13-6 to
238 read as follows:

239 "48-13-6.

240 (a) Except as to those businesses and practitioners of professions and occupations excluded
241 by subsection (a) of Code Section 48-13-16, those persons excluded by Code
242 Section 43-12-1, and those persons engaged in the authorized practice of law, the
243 governing authority of each county shall be authorized but not required to:

244 (1) Provide by local ordinance or resolution for the levy, assessment, and collection of
245 occupation tax on those businesses and practitioners of professions and occupations with
246 one or more locations or offices in the unincorporated part of the county and to provide
247 for the punishment of violation of such a local ordinance or resolution;

248 (2) Classify businesses and practitioners of professions and occupations and to assess
249 different taxes on different classes of businesses and practitioners; and

250 (3) Provide by local ordinance or resolution for requiring information from businesses
251 and practitioners of professions and occupations doing business in the unincorporated
252 part of the county regarding the site of any location or office and payment of occupation
253 taxes or regulatory fees to other local governments and to provide for the punishment for
254 violation of such a local ordinance or resolution.

255 (b) Except as to those businesses and practitioners of professions and occupations
256 excluded by subsection (a) of Code Section 48-13-16, those persons excluded by Code
257 Section 43-12-1, and those persons engaged in the authorized practice of law, the
258 governing authority of each municipal corporation shall be authorized but not required to:

259 (1) Provide by local ordinance or resolution for the levy, assessment, and collection of
260 occupation tax on those businesses and practitioners of professions and occupations with

261 one or more locations or offices within the corporate limits of the municipality and to
 262 provide for the punishment of violation of such a local ordinance or resolution;
 263 (2) Classify businesses and practitioners of professions and occupations and to assess
 264 different taxes on different classes of businesses and practitioners; and
 265 (3) Provide by local ordinance or resolution for requiring information from businesses
 266 and practitioners of professions and occupations doing business within the corporate
 267 limits of the municipality regarding the site of any location or office and payment of
 268 occupation taxes or regulatory fees to other local governments and to provide for the
 269 punishment for violation of such a local ordinance or resolution.
 270 (c) After April 11, 1995, any local government shall conduct at least one public hearing
 271 prior to the adoption of any ordinance or resolution regarding an occupation tax authorized
 272 by this Code section.
 273 (d) This Code section shall supercede any provision of local law or city charter that
 274 authorizes taxes upon professions set forth in this Code section."

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PART IV

Geo. L. Smith II Georgia World Congress Center

SECTION 4-1.

278 Article 2 of Chapter 9 of Title 10 of the Official Code of Georgia Annotated, relating to
 279 overview committee of the Geo. L. Smith II Georgia World Congress Center, is amended by
 280 revising Code Section 10-9-20, relating to Geo. L. Smith II Georgia World Congress Center
 281 Authority Overview Committee created, composition, officers, and duties, as follows:
 282 "10-9-20.
 283 There is created as a joint committee of the General Assembly the Geo. L. Smith II Georgia
 284 World Congress Center Authority Overview Committee to be composed of five members
 285 of the House of Representatives appointed by the Speaker of the House, one of whom shall

286 be a member of the minority party, five members of the Senate appointed by the Senate
287 Committee on Assignments, one of whom shall be a member of the minority party, the
288 chairperson of the House Committee on Economic Development and Tourism or his or her
289 designee, and the chairperson of the Senate Committee on Economic Development and
290 Tourism or his or her designee. The members of the committee shall serve two-year terms
291 concurrent with their terms as members of the General Assembly. The chairperson and
292 vice chairperson shall be appointed from the membership of the committee. From the
293 effective date of this Act until the third Monday of January, 2027, and every two years
294 thereafter, the chairperson of the committee shall be appointed by the Senate Committee
295 on Assignments ~~from the membership of the committee~~, and the vice chairperson of the
296 committee shall be appointed by the Speaker of the House ~~from the membership of the~~
297 ~~committee of Representatives. On the third Tuesday of January, 2027, and every two years~~
298 thereafter, the chairperson of the committee shall be appointed by the Speaker of the House
299 of Representatives and the vice chairperson shall be appointed by the Senate Committee
300 on Assignments. The chairperson and vice chairperson shall serve terms of two years
301 concurrent with their terms as members of the General Assembly. Vacancies in an
302 appointed member's position or in the offices of chairperson or vice chairperson of the
303 committee shall be filled for the unexpired term in the same manner as the original
304 appointment. The committee shall periodically inquire into and review the operations of
305 the Geo. L. Smith II Georgia World Congress Center Authority, as well as periodically
306 review and evaluate the success with which the authority is accomplishing its statutory
307 duties and functions as provided in this chapter."

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PART V

309

Repealer

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SECTION 5-1.

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