

**ADOPTED**

Senator Watson of the 1st offered the following amendment #1:

1 *Amend the House substitute to SB 586 (LC 63 0178S) by replacing lines 1 through 86 with*  
2 *the following:*

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

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

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

16 "45-2-1.1.

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

20 (b) In addition to the provisions of Code Section 45-2-1, the following persons are  
21 ineligible to hold any public offices provided for in subsection (c) of this Code section; and

22 the existence of any of the following facts shall be a sufficient reason for vacating any  
 23 office held by a public official, provided that the acts of such official, while holding a  
 24 commission, shall be valid as the acts of an officer de facto when a person, for himself or  
 25 herself or on behalf of any business, or for any business in which such person or member  
 26 of his or her family has a financial interest, to:

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

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

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

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

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

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

35 **SECTION 2.**

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

39 "45-10-20.

40 As used in this part, the term:

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

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

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

- 48 (4) 'Family' means spouse and dependents.
- 49 (5) 'Financial interest' means any direct or indirect ownership, interest in a partnership,  
50 or holding of stock in a corporation, except where such holding constitutes less than 3  
51 percent of the total proprietary interest of such corporation.
- 52 ~~(5)(6)~~ (6) 'Full-time' means 30 hours of work for the state per week for more than 26 weeks  
53 per calendar year.
- 54 ~~(6)(7)~~ (7) 'Limited powers' means those powers other than state-wide powers.
- 55 ~~(7)(8)~~ (8) 'Part-time' means any amount of work other than full-time work.
- 56 ~~(8)(9)~~ (9) 'Person' means any person, corporation, partnership, proprietorship, firm,  
57 enterprise, franchise, association, organization, or other legal entity.
- 58 ~~(9)(10)~~ (10) 'Public official' means any person elected to a state office and means any person  
59 appointed to a state office where in the conduct of such office the person so appointed has  
60 administrative and discretionary authority to receive and expend public funds and to  
61 perform certain functions concerning the public which are assigned to him or her by law,  
62 regardless of whether or not such person is serving with or without compensation on a  
63 full-time, part-time, intermittent, or consultant basis.
- 64 ~~(10)~~ ~~'State-wide powers' means those powers exercised by public officials which affect~~  
65 ~~and influence all of state government. Public officials who exercise such powers include~~  
66 ~~but are not limited to the Governor, the Lieutenant Governor, members of the General~~  
67 ~~Assembly, Justices of the Supreme Court, Judges of the Court of Appeals, the Secretary~~  
68 ~~of State, the Attorney General, the state auditor, the state accounting officer, the~~  
69 ~~commissioner of administrative services, members of the State Personnel Board, the~~  
70 ~~director of the Office of Planning and Budget, judges of the superior courts, and district~~  
71 ~~attorneys.~~
- 72 (11) 'Substantial interest' means the direct or indirect ownership of more than 25 percent  
73 of the assets or stock of any business.

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

79 **SECTION 3.**

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

83 "45-10-22.

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

87 (1) Transact ~~transact~~ any business with any agency; or

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

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

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

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

92 ~~(2) It shall be unlawful for any public official who has limited powers, for himself or on~~  
 93 ~~behalf of any business, or for any business in which such public official or member of his~~  
 94 ~~family has a substantial interest to transact any business with the agency for which such~~  
 95 ~~public official serves.~~

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

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

99 ~~(2) Any transaction when the amount of a single transaction does not exceed \$250.00 and~~  
 100 ~~when the aggregate of all such transactions does not exceed \$9,000.00 per calendar year;~~  
 101 ~~and~~  
 102 ~~(3) Any transaction involving the lease of real property to or from any agency if such~~  
 103 ~~transaction has been approved by the State Properties Commission or the Space~~  
 104 ~~Management Division of the Department of Administrative Services.~~  
 105 ~~(c)(b)~~ Any person who knowingly violates subsection (a) of this Code section shall be  
 106 subject to the penalties provided for in Code Section 45-10-28."

107 **SECTION 4.**

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

111 "45-10-24.

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

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

120 (b) The provisions of subsection (a) of this Code section shall not apply to:

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

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

- 124 (3) Any transaction involving the lease of real property to or from any agency if such  
125 transaction has been approved by the State Properties Commission or the Space  
126 Management Division of the Department of Administrative Services; and  
127 (4) Any transaction involving the purchase of surplus state property at a public auction.  
128 (c) Any person who knowingly violates subsection (a) of this Code section shall be subject  
129 to the penalties provided for in Code Section 45-10-28."

130

**SECTION 5.**

131 Said part is further amended by revising Code Section 45-10-24.1, relating to exemption for  
132 transactions by family owned business when university system employee has interest, and  
133 requirements, as follows:

134 "45-10-24.1.

135 Subsection (a) of Code Section 45-10-23 and ~~paragraph (2)~~ of subsection (a) of Code  
136 Section 45-10-24 shall not apply to a transaction with a unit of the University System of  
137 Georgia by a family owned business in which an employee of the university system or a  
138 member of the employee's family has an ownership interest where all of the following  
139 apply:

140 (1) The employee or one or more members of the employee's family or both have an  
141 ownership interest in a family owned business, but the employee is not actively engaged  
142 in the day-to-day management of the business;

143 (2) The employee is employed by a department of the unit of the university system in a  
144 position below that of department head; and

145 (3) The transaction is:

146 (A) With a unit of the university system different than the unit employing the  
147 employee; or

148 (B) With a department of the employing unit of the university system different than the  
149 department employing the employee."



176 does not exceed \$250.00 and when the aggregate of all transactions does not exceed  
177 \$9,000.00 per calendar year.  
178 (c) Any person who fails to file a disclosure statement as required in subsection (a) of this  
179 Code section shall be subject to the penalties provided for in Code Section 45-10-28."

180

**SECTION 8.**

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