

House Bill 310

By: Representative Wilkinson of the 52<sup>nd</sup>

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 definitions; to provide for the method of filing certain  
3 disclosure reports; to provide for the method of notifying candidates of late fees due; to  
4 eliminate the grace period on certain reports; to provide for the notice of dissolution of a  
5 campaign or committee; to provide for related matters; to provide an effective date; to repeal  
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in  
10 government, is amended by revising paragraphs (7), (18), and (22) of Code Section 21-5-3,  
11 relating to definitions, as follows:

12 "(7) 'Contribution' means a gift, subscription, membership, loan, forgiveness of debt,  
13 advance or deposit of money or anything of value conveyed or transferred for the purpose  
14 of influencing the nomination for election or election of any person for office, bringing  
15 about the recall of a public officer holding elective office or opposing the recall of a  
16 public officer holding elective office, or the influencing of voter approval or rejection of  
17 a proposed constitutional amendment, a state-wide referendum, or a proposed question  
18 which is to appear on the ballot in this state or in a county or a municipal election in this  
19 state. The term specifically shall not include the value of personal services performed by  
20 persons who serve without compensation from any source and on a voluntary basis. The  
21 term 'contribution' shall include other forms of payment made to candidates for office or  
22 who hold office when such fees and compensation made can be reasonably construed as  
23 a campaign contribution designed to encourage or influence a candidate or public officer  
24 holding elective office. The term 'contribution' shall also encompass transactions wherein  
25 a qualifying fee required of the candidate is furnished or paid by anyone ~~other than~~  
26 including the candidate."

27 "(18) 'Ordinary and necessary expenses' shall include, but shall not be limited to,  
 28 expenditures made during the reporting period for office costs and rent, lodging,  
 29 equipment, travel, advertising, postage, staff salaries, consultants, files storage, polling,  
 30 special events, volunteers, reimbursements to volunteers, repayment of any loans  
 31 received except as restricted under subsection (i) of Code Section 21-5-41, contributions  
 32 to nonprofit organizations, ~~and~~ flowers for special occasions, which shall include, but are  
 33 not limited to, birthdays and funerals, attorney fees connected to and in the furtherance  
 34 of the campaign, and all other expenditures contemplated in Code Section 21-5-33."

35 "(22) 'Public officer' means:

36 (A) Every constitutional officer;

37 (B) Every elected state official;

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 **SECTION 2.**

47 Said chapter is further amended by revising Code Section 21-5-34, relating to disclosure  
 48 reports, as follows:

49 "21-5-34.

50 (a)(1)(A) The candidate or the chairperson or treasurer of each campaign committee  
 51 organized to bring about the nomination or election of a candidate for any office and  
 52 the chairperson or treasurer of every campaign committee designed to bring about the  
 53 recall of a public officer or to oppose the recall of a public officer or designed to bring  
 54 about the approval or rejection by the voters of any proposed constitutional amendment,  
 55 state-wide proposed question, or state-wide referendum shall electronically sign and file  
 56 with the commission the required campaign contribution disclosure reports.

57 (B) The chairperson or treasurer of each independent committee shall file the required  
 58 disclosure reports with the commission.

59 (2)(A) Any campaign committee which accepts contributions or makes expenditures  
 60 designed to bring about the approval or rejection by the voters of any proposed question  
 61 which is to appear on the ballot in this state or in a county or a municipal election in this  
 62 state shall register with the commission and file campaign contribution disclosure

63 reports as prescribed by this chapter; provided, however, that such reports shall only be  
64 required if such campaign committee has received contributions which total more than  
65 \$500.00 or if such campaign committee has made expenditures which total more than  
66 \$500.00. All advertising pertaining to referendums shall identify the principal officer  
67 of such campaign committee by listing or stating the name and title of the principal  
68 officer.

69 (B) If a campaign committee is required to file a report under subparagraph (A) of this  
70 paragraph, such report shall be electronically filed with the commission. Any such  
71 report shall be filed 15 days prior to the date of the election; and a final report shall be  
72 filed prior to December 31 of the election year.

73 (b)(1) All reports shall list the following:

74 (A) As to any contribution of more than \$100.00, its amount and date of receipt, the  
75 election for which the contribution has been accepted and allocated, along with the  
76 name and mailing address of the contributor, and, if the contributor is an individual, that  
77 individual's occupation and the name of his or her employer. Such contributions shall  
78 include, but shall not be limited to, the purchase of tickets for events such as dinners,  
79 luncheons, rallies, and similar fundraising events coordinated for the purpose of raising  
80 campaign contributions for the reporting person;

81 (B) As to any expenditure of more than \$100.00, its amount and date of expenditure,  
82 the name and mailing address of the recipient receiving the expenditure, and, if that  
83 recipient is an individual, that individual's occupation and the name of his or her  
84 employer and the general purpose of the expenditure;

85 (C) When a contribution consists of a loan, advance, or other extension of credit, the  
86 report shall also contain the name of the lending institution or party making the advance  
87 or extension of credit and the names, mailing addresses, occupations, and places of  
88 employment of all persons having any liability for repayment of the loan, advance, or  
89 extension of credit; and, if any such persons shall have a fiduciary relationship to the  
90 lending institution or party making the advance or extension of credit, the report shall  
91 specify such relationship;

92 (D) Total contributions received and total expenditures shall be reported for an election  
93 cycle as follows:

94 (i) The first report of an election cycle shall list the cash on hand brought forward  
95 from the previous election cycle, if any, and the total contributions received during  
96 the period covered by the report;

97 (ii) Subsequent reports shall list the total contributions received during the period  
98 covered by the report and the cumulative total of contributions received during the  
99 election cycle;

- 100 (iii) The first report of an election cycle shall list the total expenditures made during  
 101 the period covered by the report;
- 102 (iv) Subsequent reports shall list the total expenditures made during the period  
 103 covered by the report, the cumulative total of expenditures made during the election  
 104 cycle, and net balance on hand; and
- 105 (v) If a public officer seeks reelection to the same public office, or if the public  
 106 officer is a member of the General Assembly seeking reelection in another district as  
 107 a result of redistricting, the net balance on hand at the end of the current election cycle  
 108 shall be carried forward to the first report of the applicable new election cycle;
- 109 (E) The corporate, labor union, or other affiliation of any political action committee or  
 110 independent committee making a contribution of more than \$100.00;
- 111 (F) Any investment made with funds of a campaign committee, independent  
 112 committee, or political action committee and held outside such committee's official  
 113 depository account during each reporting period for which an investment exists or a  
 114 transaction applying to an identifiable investment is made. The report shall identify the  
 115 name of the entity or person with whom such investment was made, the initial and any  
 116 subsequent amount of such investment if such investment was made during the  
 117 reporting period, and any profit or loss from the sale of such investment occurred  
 118 during such reporting period; and
- 119 (G) Total debt owed on the last day of the reporting period.
- 120 (2) Each report shall be in such form as will allow for the separate identification of a  
 121 contribution or contributions which are less than \$100.00 but which become reportable  
 122 due to the receipt of an additional contribution or contributions which when combined  
 123 with such previously received contribution or contributions cumulatively equal or exceed  
 124 \$100.00.
- 125 (c) Candidates or campaign committees which accept contributions, make expenditures  
 126 designed to bring about the nomination or election of a candidate, or have filed a  
 127 declaration of intention to accept campaign contributions pursuant to subsection (g) of  
 128 Code Section 21-5-30 shall file campaign contribution disclosure reports in compliance  
 129 with the following schedule:
- 130 (1) In each nonelection year on June 30 and December 31;
- 131 (2) In each election year:
- 132 (A) On March 31, June 30, September 30, October 25, and December 31;
- 133 (B) Six days before any run-off primary or election in which the candidate is listed on  
 134 the ballot; and
- 135 (C) During the period of time between the last report due prior to the date of any  
 136 election for which the candidate is qualified and the date of such election, all

137 contributions of \$1,000.00 or more shall be reported within two business days of receipt  
 138 to the commission and also reported on the next succeeding regularly scheduled  
 139 campaign contribution disclosure report;

140 (3) If the candidate is a candidate in a special primary or special primary runoff, 15 days  
 141 prior to the special primary and six days prior to the special primary runoff; and

142 (4) If the candidate is a candidate in a special election or special election runoff, 15 days  
 143 prior to the special election and six days prior to the special election runoff.

144 All persons or entities required to file reports shall have a five-day grace period in filing  
 145 the required reports, except that the grace period shall be two days for required reports  
 146 prior to run-off primaries or run-off elections, and no grace period shall apply to  
 147 contributions required to be reported within two business days. Reports required to be filed  
 148 within two business days of a contribution shall be reported by ~~facsimile~~ or electronic filing  
 149 transmission to the commission. Each report required in the election year shall contain  
 150 cumulative totals of all contributions which have been received and all expenditures which  
 151 have been made in support of the campaign in question and which are required, or  
 152 previously have been required, to be reported.

153 (d) In the event any candidate covered by this chapter has no opposition in either a primary  
 154 or a general election and receives no contribution of more than \$100.00, such candidate  
 155 shall only be required to make the initial and final report as required under this chapter.

156 (e) Any person who makes contributions to, accepts contributions for, or makes  
 157 expenditures on behalf of candidates, and any independent committee, shall file a  
 158 registration with the commission in the same manner as is required of campaign  
 159 committees prior to accepting or making contributions or expenditures. Such persons,  
 160 other than independent committees, shall also file campaign contribution disclosure reports  
 161 with the commission at the same times as required of the candidates they are supporting.  
 162 The following persons shall be exempt from the foregoing registration and reporting  
 163 requirements:

164 (1) Individuals making aggregate contributions of \$25,000.00 or less directly to  
 165 candidates or the candidates' campaign committees in one calendar year;

166 (2) Persons other than individuals making aggregate contributions and expenditures to  
 167 or on behalf of candidates of \$25,000.00 or less in one calendar year; and

168 (3) Contributors who make contributions to only one candidate during one calendar year.

169 (f)(1) Any independent committee which accepts contributions or makes expenditures  
 170 for the purpose of affecting the outcome of an election or advocates the election or defeat  
 171 of any candidate shall register with the commission prior to accepting contributions or  
 172 making expenditures and shall file disclosure reports with the commission as follows:

173 (A) On the first day of each of the two calendar months preceding any such election;

- 174 (B) Two weeks prior to the date of such election; and  
175 (C) Within the two-week period prior to the date of such election the independent  
176 committee shall report within two business days any contributions or expenditure of  
177 more than \$1,000.00.

178 The independent committee shall file a final report prior to December 31 of the election  
179 year and shall file supplemental reports on June 30 and December 31 of each year that  
180 such independent committee continues to accept contributions or make expenditures.

181 (2) Reports filed by independent committees shall list the following:

182 (A) The amount and date of receipt, along with the name, mailing address, occupation,  
183 and employer of any person making a contribution of more than \$100.00;

184 (B) The name, mailing address, occupation, and employer of any person to whom an  
185 expenditure or provision of goods or services of the value of more than \$100.00 is made  
186 and the amount, date, and general purpose thereof, including the name of the candidate  
187 or candidates, if any, on behalf of whom, or in support of or in opposition to whom, the  
188 expenditure or provision was made;

189 (C) Total expenditures made as follows:

190 (i) Expenditures shall be reported for the applicable reporting year;

191 (ii) The first report of a reporting year shall list the total expenditures made during  
192 the period covered by the report; and

193 (iii) Subsequent reports shall list the total expenditures made during the period  
194 covered by the report, the cumulative total of expenditures made during the reporting  
195 year, and net balance on hand; and

196 (D) The corporate, labor union, or other affiliation of any political action committee,  
197 candidate, campaign committee, or independent committee making a contribution of  
198 the value of more than \$100.00.

199 (3) Whenever any independent committee makes an expenditure for the purpose of  
200 financing any communication intended to affect the outcome of an election, such  
201 communication shall clearly state that it has been financed by such independent  
202 committee.

203 (g) Any campaign committee which accepts contributions or makes expenditures designed  
204 to bring about the recall of a public officer or to oppose the recall of a public officer shall  
205 file campaign contribution disclosure reports with the commission as follows:

206 (1) An initial report shall be filed within 15 days after the date when the official recall  
207 petition forms were issued to the sponsors;

208 (2) A second report shall be filed 45 days after the filing of the initial report;

209 (3) A third report shall be filed within 20 days after the election superintendent certifies  
210 legal sufficiency or insufficiency of a recall petition; and

211 (4) A final report shall be filed prior to December 31 of the year in which the recall  
 212 election is held or, in any case where such recall election is not held, a final report shall  
 213 be filed prior to December 31 of any year in which such campaign committee accepts  
 214 such contributions or makes such expenditures.

215 (h) Any campaign committee which accepts contributions or makes expenditures designed  
 216 to bring about the approval or rejection by the voters of a proposed constitutional  
 217 amendment or a state-wide referendum shall file a campaign contribution disclosure report  
 218 with the commission 75, 45, and 15 days prior to the date of the election and shall file a  
 219 final report prior to December 31 of the election year.

220 (i)(1) Any person elected to a public office who is required to file campaign contribution  
 221 disclosure reports pursuant to this article shall, upon leaving public office with excess  
 222 contributions, be required to file supplemental campaign contribution disclosure reports  
 223 on June 30 and December 31 of each year until such contributions are expended in a  
 224 campaign for elective office or used as provided in subsection (b) of Code Section  
 225 21-5-33.

226 (2) Any person who is an unsuccessful candidate in an election and who is required to  
 227 file campaign contribution disclosure reports pursuant to this article shall for the  
 228 remainder of the election cycle file such reports at the same times as a successful  
 229 candidate and thereafter, upon having excess contributions from such campaign, be  
 230 required to file a supplemental campaign contribution disclosure report no later than  
 231 December 31 of each year until such contributions are expended in a campaign for  
 232 elective office or used as provided in subsection (b) of Code Section 21-5-33. Any  
 233 unsuccessful candidate in an election who is required to file campaign contribution  
 234 disclosure reports pursuant to this article and who receives contributions following such  
 235 election to retire debts incurred in such campaign for elective office shall be required to  
 236 file a supplemental campaign contribution disclosure report no later than December 31  
 237 of each year until such unpaid expenditures from such campaign are satisfied.

238 (j) Notwithstanding any other provision of this chapter to the contrary, soil and water  
 239 conservation district supervisors elected pursuant to Article 2 of Chapter 6 of Title 2, the  
 240 'Soil and Water Conservation Districts Law,' shall not be required to file campaign  
 241 contribution disclosure reports under this Code section.

242 (k)(1) In addition to other penalties provided under this chapter, a late fee of \$125.00  
 243 shall be imposed for each report that is filed late, and notice of such late fee shall be sent  
 244 to the candidate and the candidate's committee ~~by registered or in the same manner by~~  
 245 which the penalized report was filed with the commission. However, if the report in  
 246 question was filed with the commission in a manner other than electronic filing or  
 247 certified mail or statutory overnight delivery, return receipt requested, and the

248 commission shall utilize certified mail, return receipt requested, to notify the candidate  
 249 and the candidate's committee of the late fee due. The notice shall include the schedule  
 250 of increasing late fees for late filings and the dates upon which such late fees shall be  
 251 increased. In addition, a late fee of \$250.00 shall be imposed on the fifteenth day after  
 252 the due date for such report if the report has not been filed by such date; ~~provided,~~  
 253 ~~however, that a 15 day extension period shall be granted on the final report.~~ A late fee  
 254 of \$1,000.00 shall be imposed on the forty-fifth day after the due date for such report if  
 255 such report has not been filed. Campaign committee funds shall not be used to pay such  
 256 penalty. Notice by electronic means does not satisfy the requirements of this paragraph;  
 257 and any increased late fees shall be stayed until at least ten days after proper notice has  
 258 been given as specified in this paragraph.

259 (2) The commission shall retain \$25.00 of the first late fee received for processing  
 260 pursuant to the provisions of Code Section 45-12-92.1.

261 (1) It shall be the duty of the commission when it receives for filing any disclosure report  
 262 or statement or other document that may be filed by mail to maintain with the filed  
 263 document a copy of the postal markings or statutory overnight delivery service markings  
 264 of any envelope, package, or wrapping in which the document was delivered for filing if  
 265 mailed or sent after the date such filing was due.

266 (m) Except as provided for electronic filing, the mailing of such reports by United States  
 267 mail with adequate postage affixed within the required filing time as determined by the  
 268 official United States postage date cancellation shall be prima facie evidence of filing.

269 ~~(m)~~(n) Any person or entity which is required to be registered with the commission shall  
 270 file a termination statement together with its final campaign contribution disclosure report  
 271 as required by this Code section within ten days of the dissolution of a campaign or  
 272 committee. The termination statement shall identify the person responsible for maintaining  
 273 campaign records as required by this chapter.

274 ~~(n)~~(o) The commission shall not require the reporting of any more information in a  
 275 campaign contribution disclosure report than is expressly required to be disclosed by this  
 276 Code section."

### 277 **SECTION 3.**

278 Said chapter is further amended by revising paragraph (1) of subsection (f) of Code  
 279 Section 21-5-50, relating to filing by public officers, filing by candidates for public office,  
 280 filing by elected officials and members of the General Assembly, electronic filing, and  
 281 transfer of filings from the Secretary of State to the commission, as follows:

282 "(f)(1) In addition to other penalties provided in this chapter, a late fee of \$125.00 shall  
 283 be imposed for each financial disclosure statement that is filed late, and notice of such



284 late fee shall be sent to the board member, candidate, and the candidate's committee in  
 285 the same manner in which the penalized report was filed with the commission. However,  
 286 if the report in question was filed with the commission in a manner other than electronic  
 287 filing or by registered or certified mail or statutory overnight delivery, return receipt  
 288 requested, and the commission shall use certified mail, return receipt requested, to notify  
 289 the candidate and the candidate's committee of the late fee due. The notice shall include  
 290 the schedule of increasing late fees for late filings and the dates upon which such late fees  
 291 shall be increased. In addition, a late fee of \$250.00 shall be imposed on the fifteenth day  
 292 after the due date for such statement if such statement has not been filed. A late fee of  
 293 \$1,000.00 shall be imposed on the forty-fifth day after the due date for such statement if  
 294 the statement has not been filed. Campaign committee funds shall not be used to pay  
 295 such penalty. Notice by electronic means shall not satisfy the requirements of this  
 296 paragraph; and any increased late fees shall be stayed until at least ten days after proper  
 297 notice has been given as specified in this paragraph."

298 **SECTION 4.**

299 Said chapter is further amended by adding a new Code section to Article 3 to read as follows:  
 300 "21-5-52.  
 301 The mailing of the notarized financial disclosure statement by United States mail with  
 302 adequate postage affixed within the required filing time as determined by the official  
 303 United States postage date cancellation shall be prima facie evidence of filing when the  
 304 disclosure statement is not filed electronically."

305 **SECTION 5.**

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

308 **SECTION 6.**

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