

House Bill 310 (COMMITTEE SUBSTITUTE)

By: Representative Wilkinson of the 52nd

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in government, so as to revise definitions; to provide for the method of filing certain disclosure reports; to provide for the method of notifying candidates of late fees due; to eliminate the grace period on certain reports; to provide for the notice of dissolution of a campaign or committee; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

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

"(22) 'Public officer' means:

- (A) Every constitutional officer;
- (B) Every elected state official;
- (C) The executive head of every state department or agency, whether elected or appointed;
- (D) Each member of the General Assembly;

- (E) The executive director of each state board, commission, council, or authority and the members thereof;
- (F) Every elected county official and every elected member of a local board of education; and
- (G) Every elected municipal official."

SECTION 2.

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

"21-5-34.

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

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

(2)(A) Any campaign committee which accepts contributions or makes expenditures designed to bring about the approval or rejection by the voters of any proposed question which is to appear on the ballot in this state or in a county or a municipal election in this state shall register with the commission and file campaign contribution disclosure reports as prescribed by this chapter; provided, however, that such reports shall only be required if such campaign committee has received contributions which total more than \$500.00 or if such campaign committee has made expenditures which total more than \$500.00. All advertising pertaining to referendums shall identify the principal officer of such campaign committee by listing or stating the name and title of the principal officer.

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

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

(A) As to any contribution of more than \$100.00, its amount and date of receipt, the election for which the contribution has been accepted and allocated, along with the name and mailing address of the contributor, and, if the contributor is an individual, that

individual's occupation and the name of his or her employer. Such contributions shall include, but shall not be limited to, the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events coordinated for the purpose of raising campaign contributions for the reporting person;

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

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

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

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

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

(iii) The first report of an election cycle shall list the total expenditures made during the period covered by the report;

(iv) Subsequent reports shall list the total expenditures made during the period covered by the report, the cumulative total of expenditures made during the election cycle, and net balance on hand; and

(v) If a public officer seeks reelection to the same public office, or if the public officer is a member of the General Assembly seeking reelection in another district as a result of redistricting, the net balance on hand at the end of the current election cycle shall be carried forward to the first report of the applicable new election cycle;

(E) The corporate, labor union, or other affiliation of any political action committee or independent committee making a contribution of more than \$100.00;

(F) Any investment made with funds of a campaign committee, independent committee, or political action committee and held outside such committee's official depository account during each reporting period for which an investment exists or a

transaction applying to an identifiable investment is made. The report shall identify the name of the entity or person with whom such investment was made, the initial and any subsequent amount of such investment if such investment was made during the reporting period, and any profit or loss from the sale of such investment occurred during such reporting period; and

(G) Total debt owed on the last day of the reporting period.

(2) Each report shall be in such form as will allow for the separate identification of a contribution or contributions which are less than \$100.00 but which become reportable due to the receipt of an additional contribution or contributions which when combined with such previously received contribution or contributions cumulatively equal or exceed \$100.00.

(c) Candidates or campaign committees which accept contributions, make expenditures designed to bring about the nomination or election of a candidate, or have filed a declaration of intention to accept campaign contributions pursuant to subsection (g) of Code Section 21-5-30 shall file campaign contribution disclosure reports in compliance with the following schedule:

(1) In each nonelection year on June 30 and December 31;

(2) In each election year:

(A) On March 31, June 30, September 30, October 25, and December 31;

(B) Six days before any run-off primary or election in which the candidate is listed on the ballot; and

(C) During the period of time between the last report due prior to the date of any election for which the candidate is qualified and the date of such election, all contributions of \$1,000.00 or more shall be reported within two business days of receipt to the commission and also reported on the next succeeding regularly scheduled campaign contribution disclosure report;

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

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

All persons or entities required to file reports shall have a five-day grace period in filing the required reports, except that the grace period shall be two days for required reports prior to run-off primaries or run-off elections, and no grace period shall apply to contributions required to be reported within two business days. Reports required to be filed within two business days of a contribution shall be reported by facsimile or electronic filing transmission to the commission. Any facsimile filing shall also have an identical electronic filing within five business days following the transmission of such facsimile filing. Each

report required in the election year shall contain cumulative totals of all contributions which have been received and all expenditures which have been made in support of the campaign in question and which are required, or previously have been required, to be reported.

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

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

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

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

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

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

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

(B) Two weeks prior to the date of such election; and

(C) Within the two-week period prior to the date of such election the independent committee shall report within two business days any contributions or expenditure of more than \$1,000.00.

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

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

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

(B) The name, mailing address, occupation, and employer of any person to whom an expenditure or provision of goods or services of the value of more than \$100.00 is made

and the amount, date, and general purpose thereof, including the name of the candidate or candidates, if any, on behalf of whom, or in support of or in opposition to whom, the expenditure or provision was made;

(C) Total expenditures made as follows:

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

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

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

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

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

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

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

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

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

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

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

(i)(1) Any person elected to a public office who is required to file campaign contribution disclosure reports pursuant to this article shall, upon leaving public office with excess contributions, be required to file supplemental campaign contribution disclosure reports

on June 30 and December 31 of each year until such contributions are expended in a campaign for elective office or used as provided in subsection (b) of Code Section 21-5-33.

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

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

(k)(1) In addition to other penalties provided under this chapter, a late fee of \$125.00 shall be imposed for each report that is filed late, and notice of such late fee shall be sent to the candidate and the candidate's committee ~~by registered or in the same manner by which the penalized report was filed with the commission. However, if the report in question was not filed or was filed with the commission in a manner other than electronic filing or certified mail or statutory overnight delivery, return receipt requested, and the commission shall utilize certified mail, return receipt requested, to notify the candidate and the candidate's committee of the late fee due. The notice shall include the schedule of increasing late fees for late filings and the dates upon which such late fees shall be increased. In addition, a late fee of \$250.00 shall be imposed on the fifteenth day after the due date for such report if the report has not been filed by such date; provided, however, that a 15 day extension period shall be granted on the final report.~~ A late fee of \$1,000.00 shall be imposed on the forty-fifth day after the due date for such report if such report has not been filed. Campaign committee funds shall not be used to pay such penalty. Notice by electronic means does not satisfy the requirements of this paragraph; and any increased late fees shall be stayed until at least ten days after proper notice has been given as specified in this paragraph.

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

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

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

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

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

SECTION 3.

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

"(f)(1) In addition to other penalties provided in this chapter, a late fee of \$125.00 shall be imposed for each financial disclosure statement that is filed late, and notice of such late fee shall be sent to the board member, candidate, and the candidate's committee ~~by registered or in the same manner in which the penalized report was filed with the commission.~~ However, if the report in question was not filed or was filed with the commission in a manner other than electronic filing or certified mail or statutory overnight delivery, return receipt requested, and the commission shall use certified mail, return receipt requested, to notify the candidate and the candidate's committee of the late fee due. The notice shall include the schedule of increasing late fees for late filings and the dates upon which such late fees shall be increased. In addition, a late fee of \$250.00 shall be imposed on the fifteenth day after the due date for such statement if such statement has not been filed. A late fee of \$1,000.00 shall be imposed on the forty-fifth day after the due date for such statement if the statement has not been filed. Campaign

282 committee funds shall not be used to pay such penalty. Notice by electronic means shall
283 not satisfy the requirements of this paragraph; and any increased late fees shall be stayed
284 until at least ten days after proper notice has been given as specified in this paragraph."

285 **SECTION 4.**

286 Said chapter is further amended by adding a new Code section to Article 3 to read as follows:
287 "21-5-52.

288 The mailing of the notarized financial disclosure statement by United States mail with
289 adequate postage affixed within the required filing time as determined by the official
290 United States postage date cancellation shall be prima-facie evidence of filing when the
291 disclosure statement is not filed electronically."

292 **SECTION 5.**

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

295 **SECTION 6.**

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