

The Senate Ethics Committee offered the following substitute to HB 310:

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:

SECTION 1.

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

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

20 "(22) 'Public officer' means:

- 21 (A) Every constitutional officer;
22 (B) Every elected state official;
23 (C) The executive head of every state department or agency, whether elected or
24 appointed;
25 (D) Each member of the General Assembly;
26 (E) The executive director of each state board, commission, council, or authority and
27 the members thereof;

- 28 (F) Every elected county official and every elected member of a local board of
 29 education; and
 30 (G) Every elected municipal official."

31 **SECTION 2.**

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

34 "21-5-34.

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

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

44 (2)(A) Any campaign committee which accepts contributions or makes expenditures
 45 designed to bring about the approval or rejection by the voters of any proposed question
 46 which is to appear on the ballot in this state or in a county or a municipal election in this
 47 state shall register with the commission and file campaign contribution disclosure
 48 reports as prescribed by this chapter; provided, however, that such reports shall only be
 49 required if such campaign committee has received contributions which total more than
 50 \$500.00 or if such campaign committee has made expenditures which total more than
 51 \$500.00. All advertising pertaining to referendums shall identify the principal officer
 52 of such campaign committee by listing or stating the name and title of the principal
 53 officer.

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

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

59 (A) As to any contribution of more than \$100.00, its amount and date of receipt, the
 60 election for which the contribution has been accepted and allocated, along with the
 61 name and mailing address of the contributor, and, if the contributor is an individual, that
 62 individual's occupation and the name of his or her employer. Such contributions shall
 63 include, but shall not be limited to, the purchase of tickets for events such as dinners,

64 luncheons, rallies, and similar fundraising events coordinated for the purpose of raising
65 campaign contributions for the reporting person;

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

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

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

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

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

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

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

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

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

96 (F) Any investment made with funds of a campaign committee, independent
97 committee, or political action committee and held outside such committee's official
98 depository account during each reporting period for which an investment exists or a
99 transaction applying to an identifiable investment is made. The report shall identify the
100 name of the entity or person with whom such investment was made, the initial and any

101 subsequent amount of such investment if such investment was made during the
 102 reporting period, and any profit or loss from the sale of such investment occurred
 103 during such reporting period; and

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

105 (2) Each report shall be in such form as will allow for the separate identification of a
 106 contribution or contributions which are less than \$100.00 but which become reportable
 107 due to the receipt of an additional contribution or contributions which when combined
 108 with such previously received contribution or contributions cumulatively equal or exceed
 109 \$100.00.

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

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

116 (2) In each election year:

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

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

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

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

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

129 All persons or entities required to file reports shall have a five-day grace period in filing
 130 the required reports, except that the grace period shall be two days for required reports
 131 prior to run-off primaries or run-off elections, and no grace period shall apply to
 132 contributions required to be reported within two business days. Reports required to be filed
 133 within two business days of a contribution shall be reported by facsimile or electronic filing
 134 transmission to the commission. Any facsimile filing shall also have an identical electronic
 135 filing within five business days following the transmission of such facsimile filing. Each
 136 report required in the election year shall contain cumulative totals of all contributions
 137 which have been received and all expenditures which have been made in support of the

138 campaign in question and which are required, or previously have been required, to be
139 reported.

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

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

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

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

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

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

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

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

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

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

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

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

171 (B) The name, mailing address, occupation, and employer of any person to whom an
172 expenditure or provision of goods or services of the value of more than \$100.00 is made
173 and the amount, date, and general purpose thereof, including the name of the candidate

174 or candidates, if any, on behalf of whom, or in support of or in opposition to whom, the
 175 expenditure or provision was made;

176 (C) Total expenditures made as follows:

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

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

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

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

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

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

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

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

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

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

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

207 (i)(1) Any person elected to a public office who is required to file campaign contribution
 208 disclosure reports pursuant to this article shall, upon leaving public office with excess
 209 contributions, be required to file supplemental campaign contribution disclosure reports
 210 on June 30 and December 31 of each year until such contributions are expended in a

211 campaign for elective office or used as provided in subsection (b) of Code
212 Section 21-5-33.

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

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

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

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

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

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

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

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

264

SECTION 3.

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

269 "(f)(1) In addition to other penalties provided in this chapter, a late fee of \$125.00 shall
 270 be imposed for each financial disclosure statement that is filed late, and notice of such
 271 late fee shall be sent to the board member, candidate, and the candidate's committee ~~by~~
 272 ~~registered or~~ in the same manner in which the penalized report was filed with the
 273 commission. However, if the report in question was not filed or was filed with the
 274 commission in a manner other than electronic filing or certified mail or statutory
 275 overnight delivery, return receipt requested, and the commission shall use certified mail,
 276 return receipt requested, to notify the candidate and the candidate's committee of the late
 277 fee due. The notice shall include the schedule of increasing late fees for late filings and
 278 the dates upon which such late fees shall be increased. In addition, a late fee of \$250.00
 279 shall be imposed on the fifteenth day after the due date for such statement if such
 280 statement has not been filed. A late fee of \$1,000.00 shall be imposed on the forty-fifth
 281 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.