

House Bill 580

By: Representatives McLaurin of the 51st, Frye of the 118th, and Smyre of the 135th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 45 of the Official Code of Georgia Annotated, relating to public officers and
2 employees, so as to prohibit former public officials and employees from conducting certain
3 transactions with state agencies; to provide for exceptions; to provide for penalties; to
4 provide a definition; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
9 is amended by adding a new Code section to read as follows:

10 "45-10-23.1.

11 (a) For a period of one year from the date of termination of state employment, it shall be
12 unlawful for any former public official or employee or any business in which a former
13 public official or employee or family member of such former public official or employee
14 has a substantial interest to transact any business with any agency.

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

- 16 (1) Any transaction involving employment with the University System of Georgia or a
 17 unit thereof or the Technical College System of Georgia or an institution thereof;
 18 (2) Any transaction made pursuant to sealed competitive bids;
 19 (3) Any transaction in which the amount of a single transaction does not exceed \$250.00
 20 and the aggregate of all such transactions does not exceed \$9,000.00 per calendar year;
 21 and
 22 (4) Any transaction involving the lease of real property to or from any agency if such
 23 transaction has been approved by the State Properties Commission or the Space
 24 Management Division of the Department of Administrative Services.
 25 (c) Any person who knowingly violates subsection (a) of this Code section shall be subject
 26 to the penalties provided for in Code Section 45-10-28."

27 **SECTION 2.**

28 Said title is further amended by revising subsection (a) of Code Section 45-10-25, relating
 29 to exceptions to prohibitions on transactions with state agencies, as follows:

30 "(a) For purposes of this Code section, 'public official or employee' includes any current
 31 public official or employee and any former public official or employee whose employment
 32 with the state was terminated within the prior year.

33 ~~(a)~~(b) The provisions of Code Sections 45-10-22, 45-10-23, 45-10-23.1, and 45-10-24
 34 shall not apply to:

- 35 (1) Any transaction involving the sale of real property to the state or any agency through
 36 eminent domain;
 37 (2) Any transaction involving the purchase by the public official or employee of any
 38 health or life insurance, disability benefits, or retirement or pension benefits offered as
 39 a part of a public official's or employee's service or employment;
 40 (3) Any transaction between a public official or employee or any business in which such
 41 public official or employee or any member of his or her family has a substantial interest

42 and any person, the cost of which transaction is paid directly or indirectly by state funds,
43 if the property or services involved in the transaction are for the private use and benefit
44 of the person to whom such property or services are sold or rendered and such person
45 does not subsequently sell or lease such property or services to an agency;

46 (4) Any transaction between a public official or employee or any business in which such
47 public official or employee or any member of his or her family has a substantial interest
48 and the state or any agency thereof under which it is agreed that the public official or
49 employee or any business in which such public official or employee or any member of
50 his or her family has a substantial interest is to provide Medicaid and related services and
51 benefits or medicare and related services and benefits, or both, and under which it is
52 agreed that the state or any agency thereof is to reimburse or pay for the services and
53 benefits so provided;

54 (5) Any transaction between a public official or employee or any business in which such
55 public official or employee or any member of his or her family has a substantial interest
56 and the state or any agency thereof under which the public official or employee or any
57 business in which such public official or employee or any member of his or her family
58 has a substantial interest directly or indirectly receives reimbursement or payment from
59 the state or any agency thereof for providing Medicaid and related services and benefits
60 or medicare and related services and benefits, or both, and under which the state or any
61 agency thereof reimburses or pays the public official or employee or any business in
62 which such public official or employee or any member of his or her family has a
63 substantial interest for providing Medicaid and related services and benefits or medicare
64 and related services and benefits, or both;

65 (6) Any transaction between a public official or employee or any business in which such
66 public official or employee or any member of his or her family has a substantial interest
67 and any state contractor if there was no agreement prior to the transaction that the public
68 official or employee would assist, other than by providing goods or services as required

69 under the terms of the agreement underlying the transaction, the contractor in obtaining,
70 retaining, or fulfilling the state contract and if the public official or employee does not
71 assist, other than by providing goods or services as required under the terms of the
72 agreement underlying the transaction, the contractor in obtaining, retaining, or fulfilling
73 the state contract;

74 (7) Any transaction involving part-time employment by the Georgia Building Authority
75 or the Department of Natural Resources of custodial and cleaning workers or cooks who
76 work for other agencies;

77 (8) Any transaction involving part-time employment by any agency of a chaplain;
78 firefighter; any person holding a doctoral or master's degree from an accredited college
79 or university; a licensed physician, dentist, or psychologist; a registered nurse or licensed
80 practical nurse; or a certified oral or manual interpreter for deaf persons, if employed by
81 the state, if:

82 (A) The chief executive officer of the department, agency, commission, or authority
83 which desires to obtain the services of a chaplain; firefighter; any person holding a
84 doctoral or master's degree from an accredited college or university; a licensed
85 physician, dentist, or psychologist; a registered nurse or licensed practical nurse; or a
86 certified oral or manual interpreter for deaf persons presently employed by another
87 department, agency, commission, or authority of the state shall certify in writing the
88 need for the services and set forth why the best interest of the state will be served by
89 obtaining the part-time services of such a person in lieu of obtaining such services from
90 a person not presently employed by the state;

91 (B) The chief executive officer of the department, agency, commission, or authority
92 presently employing the chaplain; firefighter; any person holding a doctoral or master's
93 degree from an accredited college or university; the licensed physician, dentist, or
94 psychologist; the registered nurse or licensed practical nurse; or the certified oral or
95 manual interpreter for deaf persons shall certify in writing that the person whose

96 services are desired is available to perform such services, that the performance of such
97 services will not detract or have a detrimental effect on the performance of said person's
98 employment and, where appropriate, that the part-time employment of such person by
99 the department, agency, commission, or authority desirous of obtaining the services will
100 be in the best interest of the state; and

101 (C) The departments, agencies, commissions, or authorities, after having complied with
102 subparagraphs (A) and (B) of this paragraph shall, by agreement, establish the
103 procedures under which the employee shall perform the additional services. The
104 agreement shall specify the means of employment either as a part-time employee or as
105 a consultant, the compensation, and other pertinent details and conditions of the
106 employment relationship. The agreement shall be terminable at any time by either of
107 the departments, agencies, commissions, or authorities;

108 (9) Any transaction involving the Public Service Commission's employment of any state
109 employee who has any particular expertise or knowledge which may be of assistance to
110 the Georgia Public Service Commission in fulfilling its duties and responsibilities under
111 Title 46. The terms and conditions of such employment shall be solely determined by the
112 Georgia Public Service Commission; but, in any event, the employee may not provide
113 services to the Georgia Public Service Commission during such times as he or she is
114 regularly scheduled to be at his or her primary place of employment unless the employee
115 has received permission to do so from his or her regular employer or unless the employee
116 is on annual leave or leave without pay;

117 (10) Any transaction involving an emergency purchase by any agency which must be
118 made to protect the health, safety, or welfare of the citizens or property of Georgia;

119 (11) Any transaction involving property or a service for which the only source of supply
120 in the State of Georgia is from the public official or employee or a business in which such
121 public official or employee or member of his or her family has a substantial interest;

122 (12) Any transaction occurring prior to March 1, 1983;

123 (13) Any transaction occurring prior to qualifying to run for elective office, accepting
124 appointment to public office, or accepting public employment and any transaction
125 occurring after qualifying to run for elective office, accepting appointment to public
126 office, or accepting public employment if the legal obligation and duty to undertake such
127 transaction arose prior to qualifying to run for elective office, accepting appointment to
128 public office, or accepting public employment;

129 (14) Any transaction whereby a public official or employee or any business in which
130 such public official or employee or any member of his or her family has a substantial
131 interest collects a fee or commission as compensation for performing a service for the
132 state when such performance is required or authorized by law, including, but not limited
133 to, the collection of state sales tax, the collection of license fees, and the collection of
134 excise taxes;

135 (15) Any transaction whereby an appointed public official or employee, under the
136 procedures specified in this paragraph, sells to a unit of the University System of Georgia
137 services as a teacher or instructor of an evening or night course or program, if:

138 (A) The chief executive officer of the unit of the University System of Georgia shall
139 certify in writing the need for the services and set forth why the best interest of the state
140 will be served by obtaining the services of such state official or employee in lieu of
141 obtaining such services from a person not presently employed by the state;

142 (B) The chief executive officer of the department, agency, commission, or authority
143 presently employing the state official or employee shall certify in writing that the
144 person whose services are desired is available to perform such services, that the
145 performance of such services will not detract or have a detrimental effect on the
146 performance of said person's full-time employment, and, where appropriate, that the
147 employment of such person by the unit of the University System of Georgia will be in
148 the best interest of the state; and

149 (C) The departments, agencies, commissions, authorities, and units, after having
150 complied with subparagraphs (A) and (B) of this paragraph, shall, by agreement,
151 establish the procedures under which the official or employee shall perform the
152 additional services. The agreement shall specify the means of employment, the
153 compensation, and other pertinent details and conditions of the employment
154 relationship. The agreement shall be terminable at any time by any of the departments,
155 agencies, commissions, authorities, or units; or

156 (16) Any transaction involving the lease for the purpose of small business and economic
157 development of laboratory and research facilities owned by the Board of Regents of the
158 University System of Georgia during times when the laboratory and research facilities are
159 not in use."

160 **SECTION 3.**

161 Said title is further amended by adding a new paragraph to subsection (a) of Code Section
162 45-10-28, relating to penalties for violation of part, civil actions by Attorney General to
163 collect penalties, and violations by public official, agency head, or employee, as follows:

164 "(4) Any person who violates Code Section 45-10-23.1 shall be subject to:

165 (A) A civil fine not to exceed \$10,000.00; and

166 (B) Restitution to the state for any pecuniary benefit received as a result of such
167 violation."

168 **SECTION 4.**

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