

The House Committee on Judiciary offers the following substitute to SB 120:

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 the powers and duties of the Georgia Government
3 Transparency and Campaign Finance Commission; to provide for and revise a short title; to
4 revise and provide definitions; to provide for assignment for administrative purposes; to
5 revise procedures for the initiation of complaints; to revise requirements for certain accounts,
6 the disposition and expenditure of certain contributions, filings, registrations, and records of
7 accounts; to revise how maximum contribution limits are implemented; to revise certain
8 financial disclosure requirements; to revise purposes requiring registration with the
9 commission; to provide for related matters; to provide for an effective date; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 This act shall be known as and may be cited as the "Ethics in Government Act of 2021."

14

SECTION 2.

15 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in
16 government, is amended by revising Code Section 21-5-1, relating to a short title, as follows:

17 "21-5-1.

18 This chapter shall be known as and may be cited as the ~~'Ethics in Government Act.'~~

19 'Georgia Government Transparency and Campaign Finance Act.'"

20

SECTION 3.

21 Said chapter is further amended by revising paragraph (22) of Code Section 21-5-3, relating
22 to definitions, and by adding new paragraphs to read as follows:

23 "(16.2) 'Loan' means a thing that is borrowed, especially a sum of money that is expected
24 to be paid back with interest to the lender."

25 "(22) 'Public officer' means:

26 (A) The Governor, Lieutenant Governor, Secretary of State, Attorney General,
27 Commissioner of Labor, Commissioner of Agriculture, Commissioner of Insurance,
28 and State School Superintendent ~~Every constitutional officer;~~

29 (B) Every other elected state official not listed in subparagraph (A) of this paragraph;

30 (C) The executive head of every state department or agency, whether elected or
31 appointed;

32 (D) Each member of the General Assembly;

33 (E) The executive director of each state board, commission, council, or authority and
34 the members thereof;

35 (F) Every elected county official and every elected member of a local board of
36 education; and

37 (G) Every elected municipal official."

38 "(25) 'Staff attorney' means a licensed member of the Georgia Bar Association that is
 39 employed by the Georgia Government Transparency and Campaign Finance
 40 Commission."

41 **SECTION 4.**

42 Said chapter is further amended by revising Code Section 21-5-5, relating to operating
 43 expenses, as follows:

44 "21-5-5.

45 The funds necessary to carry out this chapter shall come from the funds appropriated to and
 46 available to the commission and from any other available funds. The commission shall be
 47 a budget unit as defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act';
 48 provided, however, that the commission shall be assigned for administrative purposes only
 49 to the ~~Secretary of State~~ State Accounting Office."

50 **SECTION 5.**

51 Said chapter is further amended by revising paragraph (7) of subsection (a) and
 52 paragraphs (9), (10), and (23) of subsection (b) of Code Section 21-5-6, relating to powers
 53 and duties of the commission, as follows:

54 "(7) Except as provided for in subsection (c) of Code Section 21-5-33, to ~~To~~ adopt in
 55 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' any
 56 rules and regulations necessary and appropriate for carrying out the purposes of this
 57 chapter; provided, however, that the commission shall not require the reporting or
 58 disclosure of more information on any campaign contribution disclosure report or
 59 personal financial disclosure statement than is expressly required to be reported or
 60 disclosed by this chapter, ~~unless such information was required to be reported or~~
 61 ~~disclosed by rules and regulations of the commission which were in effect as of January~~
 62 ~~1, 2013, so long as such rules and regulations do not conflict with this chapter; and"~~

63 "(9) To make investigations, subject to the limitations contained in Code
64 Section 21-5-7.1, with respect to the statements and reports filed under this chapter and
65 with respect to alleged failure to file any statements or reports required under this chapter
66 and upon receipt of the written complaint of any person, including a staff attorney
67 employed by the commission, verified under oath to the best information, knowledge, and
68 belief by the person or staff attorney making such complaint with respect to an alleged
69 violation of any provision of this chapter, provided that nothing in this Code section shall
70 be construed to limit or encumber the right of the commission to initiate on probable
71 cause an investigation on its own cognizance as it deems necessary to fulfill its
72 obligations under this chapter;

73 (10)(A) To conduct a preliminary investigation, subject to the limitations contained in
74 Code Section 21-5-7.1, of the merits of a written complaint by any person, including
75 a staff attorney employed by the commission, who believes that a violation of this
76 chapter has occurred, verified under oath to the best information, knowledge, and belief
77 by the person or staff attorney making such complaint. If there are found no reasonable
78 grounds to believe that a violation has occurred, the complaint shall be dismissed,
79 subject to being reopened upon discovery of additional evidence or relevant material.
80 If the commission determines that there are such reasonable grounds to believe that a
81 violation has occurred, it shall give notice by summoning the persons believed to have
82 committed the violation to a hearing. The hearing shall be conducted in all respects in
83 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'
84 The commission may file, through a staff attorney employed by the commission, a
85 complaint charging violations of this chapter, and any person aggrieved by the final
86 decision of the commission is entitled to judicial review in accordance with Chapter 13
87 of Title 50; provided, however, that nothing in this Code section shall be construed to
88 limit or encumber the right of the commission to initiate on probable cause an

89 investigation on its own cognizance as it deems necessary to fulfill its obligations under
90 this chapter.

91 (B) In any such preliminary investigation referenced in subparagraph (A) of this
92 paragraph, until such time as the commission determines that there are reasonable
93 grounds to believe that a violation has occurred, it shall not be necessary to give the
94 notice by summons nor to conduct a hearing in accordance with Chapter 13 of Title 50,
95 the 'Georgia Administrative Procedure Act';"

96 "(23) To award attorneys' fees to the party complained against if the commission deems
97 the complaint to be frivolous, legally or factually, ~~or if the complaining party fails,~~
98 ~~without good cause, to appear at the preliminary hearing on the complaint; and"~~

99

SECTION 6.

100 Said chapter is further amended by revising Code Section 21-5-7, relating to initiation of
101 complaints, as follows:

102 "21-5-7.

103 The commission shall not initiate any investigation or inquiry into any matter under its
104 jurisdiction based upon the complaint of any person, including a staff attorney employed
105 by the commission, unless that person or staff attorney shall produce the same in writing
106 and verify the same under oath to the best information, knowledge, and belief of such
107 person, the falsification of which shall be punishable as false swearing under Code Section
108 16-10-71. The person against whom any complaint is made shall be furnished by hand
109 delivery or statutory overnight delivery or mailed by certified mail, return receipt
110 requested, a copy of the complaint by the commission within two business days of the
111 commission's receipt of such complaint and prior to any other public dissemination of such
112 complaint. ~~Nothing in this Code section, however, shall be construed to limit or encumber~~
113 ~~the right of the commission to initiate on probable cause an investigation on its own~~
114 ~~cognizance as it deems necessary to fulfill its obligations under this chapter."~~

115 **SECTION 6A.**

116 Said chapter is further amended by adding a new Code section to read as follows:

117 "21-5-9.1.

118 No person who has served or is serving as a member of the General Assembly shall be
119 eligible to qualify to seek election or reelection to the General Assembly until and unless
120 all fines and fees owing to the commission have been paid, all disclosure reports due have
121 been filed, and all outstanding taxes have been paid."

122 **SECTION 7.**

123 Said chapter is further amended by revising Code Section 21-5-13, relating to limitation of
124 actions, as follows:

125 "21-5-13.

126 (a) Any action alleging a violation of this chapter shall be commenced within three years
127 after the date of filing of the first report containing the alleged violation; provided,
128 however, that any action alleging a violation of this chapter shall be commenced within
129 five years after the date of filing of the first report containing the on which the violation,
130 wrongful action, or omission occurred, unless otherwise provided by subsections (b) or (c)
131 of this Code section.

132 (b) Any action alleging a ~~alleged~~ violation involving any person elected to serve for a term
133 of four or more years, but fewer than six years, or involving any candidate for an office
134 with a term of four ~~or more~~ years, but fewer than six years, shall be commenced within five
135 years after the date on which the violation, wrongful action, or omission occurred.

136 (c) Any action alleging a violation of this chapter involving any person elected to serve a
137 term of six or more years or involving any candidate for an office with a term of six or
138 more years shall be commenced within seven years after the date on which the violation,
139 wrongful act, or omission occurred.

140 (d) For purposes of this Code section, an action shall be deemed to have commenced
141 against a person only when either:

142 (1) A complaint has been accepted by the commission in compliance with Code Section
143 21-5-7; or

144 (2) The commission or Attorney General serves on such person a notice of summons or
145 hearing, in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
146 Procedure Act,' that alleges that such person has violated this chapter."

147

SECTION 8.

148 Said chapter is further amended by revising Code Section 21-5-32, relating to accounts to be
149 kept by candidate or campaign committee treasurer, as follows:

150 "21-5-32.

151 (a) The candidate or treasurer of each campaign committee shall keep detailed accounts,
152 current within not more than five business days after the date of receiving a contribution
153 or making an expenditure, of all contributions received and all expenditures made by or on
154 behalf of the candidate or committee. The candidate or treasurer shall also keep detailed
155 accounts of all deposits and of all withdrawals made to the separate campaign depository
156 account and of all interest earned on any such deposits.

157 (b) Accounts kept by the candidate or treasurer of a campaign committee pursuant to this
158 Code section may be inspected under reasonable circumstances before, during, or after the
159 election to which the accounts refer by any authorized representative of the commission.
160 The right of inspection may be enforced by appropriate writ issued by any court of
161 competent jurisdiction.

162 (c) ~~Records of such accounts; kept by the candidate or campaign committee shall be~~
163 ~~preserved for three years from the termination date of the campaign for elective office~~
164 ~~conducted by the candidate or of the campaign committee for any candidate or for three~~

165 ~~years from the election to bring about the approval or rejection by the voters of any~~
 166 ~~proposed constitutional amendment, referendum, or local issue or of any recall vote~~

167 (1) For a person or a campaign committee campaigning for an elective office with a term
 168 of less than four years, shall be preserved for three years from the date of the
 169 contribution, expenditure, gift, investment, or loan;

170 (2) For a person or a campaign committee campaigning for an elective office with a term
 171 of four or more years, but fewer than six years, shall be preserved for five years from the
 172 date of the contribution, expenditure, gift, investment, or loan;

173 (3) For a person or a campaign committee campaigning for an elective office with a term
 174 of six or more years, shall be preserved for seven years from the date of the contribution,
 175 expenditure, gift, investment, or loan; and

176 (4) For any proposed constitutional amendment, referendum, or local issue or any recall
 177 vote, shall be preserved for three years from the date of contribution, expenditure, gift,
 178 investment, or loan."

179 **SECTION 9.**

180 Said chapter is further amended by revising subsection (b) of Code Section 21-5-33, relating
 181 to disposition of contributions, as follows:

182 "(b)(1) All contributions received by a candidate or such candidate's campaign committee
 183 or a public officer holding elective office in excess of those necessary to defray expenses
 184 pursuant to subsection (a) of this Code section and as determined by such candidate or
 185 such public officer may only be used as follows:

186 (A) As ~~contributions~~ donations to any charitable organization described in 26 U.S.C.
 187 170(c) as said federal statute exists on March 1, 1986, and which additionally shall
 188 include educational, eleemosynary, and nonprofit organizations subject to the
 189 prohibitions contained in paragraph (2) of this subsection;

190 (B) Except as otherwise provided in subparagraph (D) of this paragraph, for transferral
191 without limitation to any national, state, or local committee of any political party or to
192 any candidate;

193 (C) For transferral without limitation to persons making such contributions, not to
194 exceed the total amount cumulatively contributed by each such transferee;

195 (D) For use in future campaigns for only that elective office for which those
196 contributions were received. With respect to contributions held on January 1, 1992, or
197 received thereafter, in the event the candidate, campaign committee, or public officer
198 holding elective office has not designated, prior to receiving contributions to which this
199 Code section is applicable, the office for which campaign contributions are received
200 thereby, those contributions shall be deemed to have been received for the elective
201 office which the candidate held at the time the contributions were received or, if the
202 candidate did not then hold elective office, those contributions shall be deemed to have
203 been received for that elective office for which that person was a candidate most
204 recently following the receipt of such contributions; ~~or~~

205 (E) For repayment of any prior campaign obligations incurred as a candidate; or

206 (F) For transfer without limitation to one or more political action committees.

207 (2) Nothing in this Code section shall permit or authorize a candidate to utilize campaign
208 funds for the purpose of making gifts, loans, or investments directly to:

209 (A) The candidate;

210 (B) A member of the candidate's family;

211 (C) Any business in which the candidate or a member of the candidate's family has an
212 ownership interest;

213 (D) The candidate's trust or a trust of a member of the candidate's family; or

214 (E) Any nonprofit organization of which the candidate or a member of the candidate's
215 family is on the payroll or has a controlling interest.

216 (3) Any candidate or public officer holding elective office may provide in the will of
217 such candidate or such public officer that the contributions shall be spent in any of the
218 authorized manners upon the death of such candidate or such public officer; and, in the
219 absence of any such direction in the probated will of such candidate or such public
220 officer, the contributions shall be paid to the treasury of the state party with which such
221 candidate or such public officer was affiliated in such candidate's or such public officer's
222 last election or elective office after the payment of any expenses pursuant to
223 subsection (a) of this Code section. Notwithstanding any other provisions of this
224 paragraph, the personal representative or executor of the estate shall be allowed to use or
225 pay out funds in the campaign account in any manner authorized in subparagraphs (A)
226 through (E) of paragraph (1) of this subsection."

227

SECTION 10.

228 Said chapter is further amended by revising subsection (k) of Code Section 21-5-41, relating
229 to maximum allowable contributions, as follows:

230 "(k) At the end of ~~the~~ each gubernatorial election cycle ~~applicable to each public office as~~
231 ~~to which campaign contributions are limited by this Code section and every four years for~~
232 ~~all other elections to which this Code section is applicable~~, the contribution limitations in
233 this Code section shall be raised or lowered in increments of \$100.00 by regulation order
234 of the commission pursuant to a ~~determination~~ consideration by the commission of
235 inflation or deflation during such cycle or four-year period, as determined by the Consumer
236 Price Index published by the Bureau of Labor Statistics of the United States Department
237 of Labor, and such limitations shall apply until next revised by the commission. The
238 commission shall adopt rules and regulations for the implementation of this subsection."

239

SECTION 11.

240 Said chapter is further amended by revising subsections (c) and (d) of Code Section 21-5-43,
241 relating to accounting for and expenditure of campaign contributions, and by adding a new
242 subsection to read as follows:

243 "(c) Contributions remaining unexpended after the date of ~~the~~ an election in which the
244 candidate does appear on the ballot may be expended for any future election in the same
245 election cycle without regard to the limitations of Code Section 21-5-41. If there are no
246 further elections in the election cycle or if the candidate or the candidate of the campaign
247 committee is not on the ballot of a further election in the election cycle, ~~such~~ any remaining
248 contributions may be used only as provided in Code Section 21-5-33.

249 (d) Contributions accepted and separately accounted for in an election in which the
250 candidate does not occur or for which the candidate does not qualify appear on the ballot,
251 if unexpended, shall be returned to the contributors thereof pro rata without interest. Any
252 portion thereof which cannot be returned to the original contributor thereof shall be
253 expended only as provided in Code Section 21-5-33.

254 (e) For purposes of separate accounting, a candidate shall be deemed to have advanced to
255 the next election in the election cycle upon the official certification of the election result
256 by the Secretary of State, or upon the concession of the candidate's election opponents, or
257 upon receiving a preliminary consolidated election return of 50 percent plus one for
258 advancement to a general election, or upon receiving a preliminary consolidated election
259 return of 50 percent or less for a runoff election and placing in one of the two spots that
260 will advance to the runoff election, whichever event shall first occur. In the event that the
261 official certification of the election result by the Secretary of State differs from or is in
262 conflict with a preliminary consolidated election return for advancement to a general or
263 runoff election, the official certification of the election result by the Secretary of State shall
264 control for purposes of this Code section.

265 (f) The commission shall adopt such rules and regulations as are necessary to carry out the
266 purposes of this Code section in accordance with Chapter 13 of Title 50, the 'Georgia
267 Administrative Procedure Act.'"

268

SECTION 12.

269 Said chapter is further amended by revising subsection (a) and paragraph (3) of subsection
270 (c), adding a new paragraph to subsection (c), and revising subsection (g) of Code Section
271 21-5-50, relating to filing by public officers, filing by candidates for public office, filing by
272 elected officials and members of the General Assembly, electronic filing, and transfer of
273 filings from the Secretary of State to the commission, as follows:

274 "(a)(1) Except as modified in subsection (c) of this Code section with respect to
275 candidates for state-wide elected public office, each public officer, as defined in
276 subparagraphs (A) through (D) of paragraph (22) of Code Section 21-5-3, shall file with
277 the commission not before the first day of January nor later than July 1 of each year in
278 which such public officer holds office other than an election year a financial disclosure
279 statement for the preceding calendar year; and each person who qualifies as a candidate
280 for election as a public officer, as defined in subparagraphs (A) through (D) of
281 paragraph (22) of Code Section 21-5-3, shall file with the commission, no later than the
282 fifteenth day following the date of qualifying as a candidate, a financial disclosure
283 statement for the preceding calendar year.

284 (2) Except as set forth in paragraph (3) of this subsection, a public officer, as defined in
285 subparagraph (E) of paragraph (22) of Code Section 21-5-3, shall not be required to file
286 a financial disclosure statement pursuant to this Code section. Each such public officer
287 shall, however, be deemed to be a public official for purposes of Code Section 45-10-26
288 and shall be subject to the disclosure requirements set forth in Code Section 45-10-26.
289 In addition, each such public officer shall file with the commission, prior to January 31
290 each year, an affidavit confirming that such public officer took no official action in the

291 previous calendar year that had a material effect on such public officer's private financial
292 or business interests; provided, however, that if a public officer as defined in
293 subparagraph (E) of paragraph (22) of Code Section 21-5-3 has previously filed a
294 financial disclosure statement with the commission pursuant to paragraph (2) of
295 subsection (a) of Code Section 21-5-50, and said financial disclosure statement covers
296 the same calendar year as would be covered by the affidavit required by this Code
297 section, the public officer shall be exempted from filing an affidavit.

298 (3) A public officer, as defined in subparagraph (E) of paragraph (22) of Code
299 Section 21-5-3, who serves as a member of the commission shall be subject to the
300 requirements for filing financial disclosure statements set forth in paragraph (1) of this
301 subsection. In addition, each such public officer shall file with the commission, together
302 with the financial disclosure statement, an affidavit confirming that such public officer
303 took no official action in the previous calendar year that had a material effect on such
304 public officer's private financial or business interests.

305 (3.1) A public officer and candidates for election as a public officer, as defined in
306 subparagraphs (F) and (G) of paragraph (22) of Code Section 21-5-3, shall make filings
307 of the same kind and in the same manner as provided in paragraph (1) of this subsection
308 for other public officers and candidates for election as a public officer except that filings
309 under this paragraph shall be made with the election superintendent of the county in the
310 case of public officers and candidates for election as a public officer as defined in said
311 subparagraph (F) and shall be made with the municipal clerk in the municipality of
312 election or, if there is no clerk, with the chief executive officer of the municipality in the
313 case of public officers as defined in said subparagraph (G). The election superintendent,
314 municipal clerk, or chief executive officer, as applicable, shall transmit, electronically by
315 eFiling or eFax, a copy of each such report to the commission not later than 30 days after
316 the close of the reporting period. No fine, fee, or sanction, including but not limited to
317 identifying a public officer or candidate for election as a public officer as having filed late

318 or failed to file, shall be imposed by the commission on the public officer or candidate
319 for election as a public officer for the failure of the election superintendent, municipal
320 clerk, or chief executive officer to timely transmit a copy of such report.

321 (4) Each member of the State Transportation Board shall file a financial disclosure
322 statement for the preceding calendar year no later than the sixtieth day following such
323 member's election to the State Transportation Board. Thereafter, each board member
324 shall file by January 31 of each year a financial disclosure statement for the preceding
325 year. In addition, each board member shall file with the commission, prior to January 31
326 of each year, an affidavit confirming that such board member took no official action in
327 the previous calendar year that had a material effect on such board member's private
328 financial or business interests.

329 (5) The commission or the applicable official under paragraph (3.1) of this subsection
330 shall review each financial disclosure statement to determine that such statement is in
331 compliance with the requirements of this chapter.

332 (6) A public officer shall not, however, be required to file such a financial disclosure
333 statement for the preceding calendar year in an election year if such public officer does
334 not qualify for nomination for election to succeed himself or herself or for election to any
335 other public office subject to this chapter. For purposes of this paragraph, a public officer
336 shall not be deemed to hold office in a year in which the public officer holds office for
337 fewer than 15 days."

338 "(3) The financial disclosure statement required by paragraph (1) of this subsection shall
339 be accompanied by a financial statement of the candidate's financial affairs for the five
340 calendar year years prior to the year in which the election is held and the first quarter of
341 the calendar year in which the election is held.

342 (3.1) The financial disclosure statement required by paragraph (1) of this subsection shall
343 include the source or sources of the candidate's income for the five calendar years prior

344 to the year in which the election is held and the first quarter of the calendar year in which
345 the election is held."

346 "(g) Notwithstanding any other provision of this chapter to the contrary, soil and water
347 conservation district supervisors elected pursuant to Article 2 of Chapter 6 of Title 2 shall
348 not be required to file personal financial disclosure statements under this Code section.
349 Reserved."

350 **SECTION 13.**

351 Said chapter is further amended by revising subsection (c) of Code Section 21-5-71, relating
352 to registration required, application for registration, supplemental registration, expiration,
353 docket, fees, identification cards, public rosters, and exemptions, as follows:

354 "(c) The lobbyist shall, prior to any substantial or material change or addition in their
355 registration, file a supplemental registration indicating such substantial or material change
356 or addition to the registration prior to its expiration. Previously filed information may be
357 incorporated by reference. Substantial or material changes or additions shall include, but
358 are not limited to, the pertinent information concerning changes or additions to client and
359 employment information required by paragraphs (2), (3), (4), (6), and (7) and conviction
360 status required by paragraph (8) of subsection (b) of this Code section."

361 **SECTION 14.**

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

364 **SECTION 15.**

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