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ELECTIONS Ethics in Government: Provide for the Applicability of Disclosure Provisions to Activities Relating to the Influencing of Certain Local Public Officers and Employees

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ELECTIONS

*Ethics in Government: Provide for the Applicability of
Disclosure Provisions to Activities Relating to the Influencing
of Certain Local Public Officers and Employees*

CODE SECTION: O.C.G.A. § 21-5-70 (amended)
BILL NUMBER: HB 1298
ACT NUMBER: 773
SUMMARY: The Act requires lobbyists to disclose expenditures made to any public officer intended to influence the passage of any ordinance or resolution. The Act subjects city and county officials to the same ethics requirements as state legislators.
EFFECTIVE DATE: July 1, 1994

History

In 1992, Georgia became one of the last states to require lobbyists to disclose the amount spent to influence legislation.¹ Prior to the passage of the 1992 Act, the only regulation concerning lobbyists dealt with their methods of compensation and their presence on the legislative floors.² The 1992 Act effectively set disclosure requirements for minimal expenditures in trying to influence the outcome of legislation.³ This Act, however, only applied to state legislators.⁴

HB1298

The Act expands the definition of both “lobbyist” and “public officer” and thus extends lobbyists’ disclosure requirements to include attempts to influence city and county officials.⁵

The previous definition of a lobbyist included “[a]ny natural person who, for compensation . . . undertakes to promote or oppose the passage of any legislation by the General Assembly [or] makes a total

1. See *Legislative Review*, 9 GA. ST. U. L. REV. 247 (1992); see also 1992 Ga. Laws 1075.

2. *Legislative Review*, supra note 1, at 248.

3. O.C.G.A. § 21-5-73 (1993), amended by *id.* § 21-5-73 (Supp. 1994).

4. *Id.* Because “lobbyist” included only those influencing members of the Georgia General Assembly, O.C.G.A. § 21-5-73 did not reach other “public officers.” See *id.* § 21-5-70(6) (1993) (defining “lobbyist”); *id.* § 21-5-73 (1993) (outlining disclosure requirements for “lobbyists”).

5. *Id.* § 21-5-70 (Supp. 1994); see *id.* § 21-5-73 (Supp. 1994) (disclosure requirements); *id.* § 21-5-3 (1993) (“public officer” defined).

expenditure of more than \$250.00 in a calendar year . . . to promote or oppose the passage of any legislation by the General Assembly.”⁶ The Act extends the definition to include any individual who “undertakes to promote or oppose the passage of any ordinance or resolution by a public officer [or] makes a total expenditure of more than \$250.00 in a calendar year . . . to promote or oppose the passage of any ordinance or resolution by a public officer.”⁷

The Act also expands the definition of “public officer.”⁸ Prior to amendment, Code section 21-5-70(7) expressly adopted the definition of “public officer” contained in subparagraphs (A) through (E) of paragraph (15) of Code Section 21-5-3.⁹ HB 1298 amends Code section 21-5-70 to include subparagraphs (F) and (G) of Code section 21-5-3.¹⁰ Therefore, in addition to those persons previously covered, the Act now covers every elected county official, every elected member of a local board of education, and every elected municipal official.¹¹

The Act passed both houses of the General Assembly in its original form.¹² HB 1298 extends ethics laws to approximately 700 city and county jurisdictions.¹³ One reason for mandating disclosure from those lobbying city and county officials was concern about lobbyists

6. *Id.* § 21-5-70(6) (1993), amended by *id.* § 21-5-70(6) (Supp. 1994).

7. *Id.* § 21-5-70(6)(D)-(E) (Supp. 1994).

8. *Id.* § 21-5-70(7) (Supp. 1994).

9. *Id.* § 21-5-70(7) (1993).

10. *Id.* § 21-5-70(7) (Supp. 1994). O.C.G.A. § 21-5-3(F), effective January 1, 1997, defines “public officer” as “[e]very elected county official and every elected member of a local board of education. . . .” *Id.* § 21-5-3 (1993). O.C.G.A. § 21-5-3(G) defines “public officer” as “[e]very elected municipal official.” *Id.*

11. *Id.* § 21-5-70 (Supp. 1994); *id.* § 21-5-3 (1993). Every elected county or area school superintendent is subject to the Act until December 31, 1996. *See id.* § 21-5-70 (Supp. 1994); *id.* § 21-5-3 (1993) (effective until January 1, 1997). However, there appears to be an ambiguity concerning the application of this Act to school superintendents after December 31, 1996. Beginning in 1997, the definition of “public officer” will no longer include superintendents. *Compare id.* § 21-5-3(f) (effective until January 1, 1997) with *id.* § 21-5-3 (effective January 1, 1997). Therefore, it is uncertain whether the school superintendents will continue to be subject to reporting requirements after December 31, 1996. The General Assembly did not intentionally exclude those who lobby school superintendents from the Act. Telephone Interview with Rep. Thomas Bryant Buck, III, House District No. 163 (Sept. 6, 1994). Rep. Buck sponsored HB 1298. *Id.*

12. The bill was introduced into the House engrossed, therefore, no changes could be accepted. Telephone Interview with Rep. Thomas Bryant Buck, III, House District No. 163 (Apr. 7, 1994) [hereinafter Buck Interview]. Ordinarily an “engrossed bill” is one which has incorporated all amendments and is in final form. However, a bill may also be “engrossed” when introduced upon motion. In this situation, the motion needs a two-thirds approval of those present in the House. Once engrossed, no further amendments are permitted to that bill in the House. EDWIN L. JACKSON & MARY E. STAKES, HANDBOOK FOR GEORGIA LEGISLATORS 144-46 (10th ed. 1988).

13. Kathey Alexander & Mary Louise Kelly, *Stricter Ethics Law No Big Deal to Officials*, ATLANTA CONST., Feb, 24, 1994, at A8.

influencing awards of public contracts to private enterprises.¹⁴ Georgia's lobbyist disclosure law is perhaps the farthest reaching lobbyist law in the United States.¹⁵

The Act, however, has met with some public opposition.¹⁶ According to public interest group, Common Cause of Georgia,¹⁷ this Act is detrimental to the state ethics laws because it will overwhelm the reporting system.¹⁸ Others have stated the legislation will have very little effect because many counties already require disclosures, and some monitor public officials through internal audits.¹⁹ For example, many metro Atlanta counties require disclosure of gifts and contributions from property owners to public officials involved in zoning disputes.²⁰ Further, DeKalb County requires disclosure of any contributions made to its officials in excess of \$250.²¹

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14. Buck Interview, *supra* note 12.

15. See Alexander & Kelly, *supra* note 13. "As far as we know, there's not another state in the U.S. that has such a wide ranging lobbyist law." *Id.* (quoting Ted Lee, Executive Secretary of the State Ethics Commission).

16. *Id.*

17. Common Cause is a public interest group dedicated to strengthening the ethical standards for elected officials. *Id.*

18. *Id.* In response to this claim, Rep. Buck claims that additional funds have been approved in the 1995 Budget to increase the number of staff members in the office. Further, as a member of the Appropriations Committee, Rep. Buck, vowed to push for another increase in funding if the current funds are inadequate. Buck Interview, *supra* note 12.

19. Alexander & Kelly, *supra* note 13.

20. *Id.*

21. *Id.*