Georgia State University Law Review

Volume 30
Issue 1 *Fall 2013*

Article 8

1-17-2014

Ethics in Government HB 142-143

Georgia State University Law Review

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Recommended Citation
Georgia State University Law Review () "Ethics in Government HB 142-143," *Georgia State University Law Review*: Vol. 30: Iss. 1, Article 8.
Available at: http://scholarworks.gsu.edu/gsulr/vol30/iss1/8

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ELECTIONS

Ethics in Government: Amend Chapter 5 of Title 21 of the Official Code of Georgia Annotated, Relating to Ethics in Government, so as to Change Certain Provisions Relating to Powers and Duties of the Georgia Government Transparency and Campaign Finance Commission; Change Certain Provisions Relating to Definitions Relative to Public Officers' Conduct and Lobbyist Disclosure; Change Certain Provisions Relating to Campaign Disclosure Reports; Change Certain Provisions 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; Change Certain Provisions Relating to Lobbyist Registration Requirements, Application for Registration, Supplemental Registration, Expiration, Docket, Fees, Identification Cards, Public Rosters, and Exemptions; Regulate Certain Contact Between Lobbyists and Members of the General Assembly and the Making or Acceptance of Certain Expenditures; Change Certain Provisions Relating to Lobbyist Disclosure Reports; Amend Code Section 91 of Part 6 of Article 2 of Chapter 10 of Title 45 of the Official Code of Georgia Annotated, Relating to a Method for Addressing Improper Conduct by Members of the General Assembly, so as to Change Certain Provisions Relating to Filing of Complaints; Provide an Effective Date; Repeal Conflicting Laws; and for Other Purposes

CODE SECTIONS:	O.C.G.A. §§ 21-5-6, -34, -50, -70, -71 (amended), -72.1 (new), -73 (amended); 45-10-91 (amended)
BILL NUMBER:	HB 142
ACT NUMBER:	134
GEORGIA LAWS:	2013 Ga. Laws 540
SUMMARY:	The Act alters the way that lobbyists must register, disclose their expenditures, and interact with public officers. Beginning with an alteration

of definitions relating to public officers' conduct and lobbyist disclosure, the Act then changes the law for public officer filings and lobbyist registrations, including the addition of a section which prohibits registered lobbyists from making any expenditures or conducting certain meetings with lawmakers prior to official registration. This significantly limits the interaction between public officers and lobbyists and the ability of lobbyists to provide public officers with unreported gifts. Finally, the Act imposes disclosure report obligations, pursuant to certain conditions, on all registered lobbyists.

EFFECTIVE DATE: January 1, 2014

ELECTIONS

Ethics in Government: Amend Chapter 5 of Title 21 of the Official Code of Georgia Annotated, Relating to Ethics in Government, so as to Change Certain Provisions Relating to Powers and Duties of the Georgia Government Transparency and Campaign Finance Commission; Revise Definitions Relating to Ethics in Government; Change Certain Provisions Relating to Campaign Contribution Disclosure Reports; Change Certain Provisions Relating to Filing Campaign Contribution Disclosure Reports; Change Certain Provisions Relating to Acceptance of Contributions or Pledges During Legislative Sessions; Change Certain Provisions Relating to Financial Disclosure Statement Filings by Public Officers, Filings 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 Georgia Government Transparency and Campaign Finance Commission;

Provide an Effective Date; Repeal Conflicting Laws; and for Other Purposes

CODE SECTIONS:	O.C.G.A. §§ 21-5-3, -6, -34, -34.1, -35, -50 (amended)
BILL NUMBER:	HB 143
ACT NUMBER:	35
GEORGIA LAWS:	2013 Ga. Laws 173
SUMMARY:	The Act requires public officials to submit a campaign disclosure report to the Georgia Government Transparency and Campaign Finance Commission listing total expenditures and contributions totaling more than $100 as well as certain information about the contributor. Rules regarding the content of each report during an election cycle and how these rules differ for various types of elections and candidates are promulgated. Political campaign committees and independent committees must also file separate campaign contribution disclosure reports. Finally, the Act requires certain public officers and candidates for public office to file annual financial disclosure statements identifying specific information.
EFFECTIVE DATE:	January 1, 2014

History

Under the United States Constitution, every state is guaranteed the right to a representative form of government.[1] However, the U.S. Constitution goes no further in defining the rights to vote, thereby

1. U.S. Const. art. IV, § 4.

leaving states to enact state-specific voting regulations and procedures.[2] In the State of Georgia, the Georgia Constitution grants the right to register and to vote for elections to every United States citizen who is also a Georgia citizen and is at least eighteen years old.[3] Administering elections in Georgia is the responsibility of both state and local governments.[4] In Georgia, like in many other states, interest groups and lobbyists have a history of attempting to influence state and local elections and legislative policies.[5]

In the past, some believed that Georgia had "'some of the weakest ethics rules in the country.'"[6] These beliefs often arose because Georgia was relatively slow in adopting ethics reform laws.[7] Dating back to the Watergate era, Georgia governors and legislators were hesitant to address ethics concerns throughout the 20th century.[8] Only in 1986, did the Georgia General Assembly first pass the Ethics in Government Act.[9] Along with amendments that were made to the Act in 1992, the Ethics in Government Act represented "'the base for Georgia's existing Ethics in Government Law.'"[10] Then, in 2004, efforts to revamp the State's ethics rules finally got underway.[11]

That year, Governor Sonny Perdue proposed what "would have been truly the most significant ethics reform in state history."[12] This bill would have "[given] the Ethics Commission more influence, authority, and visibility" and would have "[closed] many of the loopholes in the state's ethics laws."[13] Though the bill passed through

2. *See id.*; Karen C. Handel & Wesley B. Tailor, Esq., Georgia Secretary of State, Election Law In Georgia: What City And County Attorneys Need To Know 3 (2008), *available at* http://www.sos.ga.gov/electionconnection/pdf/GA_election_law.pdf.

3. GA. Const. art. II, § 1, para. 2.

4. Handel & Tailor, *supra* note 2, at 3.

5. Jim Walls, *Georgia: The Story Behind the Score*, State Integrity Investigation, http://www.stateintegrity.org/georgia_story_subpage (last visited June 8, 2013).

6. Stephanie D. Campanella et al., *Election*, 21 Ga. St. U. L. Rev. 129, 131 (2004) [hereinafter Campanella et al.].

7. *See* Walls, *supra* note 5.

8. *Id.*

9. 1986 Ga. Laws 957 (codified at O.C.G.A. § 21-5-1 (2008)).

10. *See* Campanella et al., *supra* note 6, at 131 (citation omitted).

11. *See* Walls, *supra* note 5.

12. Bill Bozarth, *Georgia General Assembly: Ethical Responsibility Wanes Sadly, Legislators Focus on Power, Forget the People*, ATLANTA J.-CONST., Mar. 1, 2006, at A13, *available at* 2006 WLNR 3475810.

13. Press Release, Governor Perdue Introduces 2004 Honesty in Government Act, State of Georgia, Governor's Office of Communications (Feb. 12, 2004), *available at* http://sonnyperdue.georgia.gov/00/press/detail/0,2668,78006749_92321069_92337353,00.html.

the Republican Georgia Senate, it did not make it through the Democratic Georgia House of Representatives.[14] Despite the leadership of Representative Mary Margaret Oliver (D-82nd) and the bipartisan support of the bill in the House Judiciary Committee, Purdue's ethics reform bill could not survive the Democratic-controlled House Rules Committee.[15] At the time, Democrats were heavily criticized for killing the reform efforts.[16]

During the next year's legislative session, however, the blame shifted to Republicans for watering down House Bill (HB) 42, the 2005 ethics reform bill.[17] In that bill, much of the reform came on the supply side, limiting only the actions of donors and lobbyists.[18] The bill did very little to enforce more ethical behavior on the part of elected officials.[19] In fact, the legislature failed to accept a proposal to "ban gifts to state workers, define acceptable campaign spending and stiffen penalties for violators."[20] Despite having these limitations, the 2005 ethics reform bill was then considered to be "'the most sweeping ethics reform in the history of Georgia.'"[21] Many critics believed that this bill did not do enough to regulate campaign finance and believed that "lawmakers should raise their own ethical standards as well as those of the lobbyists who curry favor with them by passing a stricter code of conduct."[22]

Prior to this year, the last time the Georgia General Assembly passed major ethics reform legislation was in 2010.[23] The 2010 legislation arose in response to scandal that "had consumed the top tier of leadership in the Georgia House" and resulting rumors that "[consumed] the rest of the legislature, painting all with a broad brush of complicit guilt."[24] Though the legislation appeared to be

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14. *See* Bozarth, *supra* note 12.
15. *See id.*
16. *See id.*
17. *See id.*
18. *See id.*
19. *See* Bozarth, *supra* note 12.
20. Walls, *supra* note 5.
21. *See* Bozarth, *supra* note 12.
22. *Our Opinions: Walk the Ethics Walk Legislators Need to Get Serious About Reform, and Governor's Proposal Would be a Good Start*, ATLANTA J.-CONST., Feb. 16, 2005, at A14, *available at* 2005 WLNR 2914484.
23. Charlie Harper, *Ethics Reform On The Table; Must Be Watched*, PEACH PUNDIT, Jan. 29, 2013, http://www.peachpundit.com/2013/01/29/ethics-reform-on-the-table-must-be-watched/.
24. *Id.*

broad and impactful,[25] in reality, "it added bureaucracy to an already ineffective system, allowing it to collapse under its own weight via lack of funding, staffing, and authority to actually police much of what was broken."[26]

Thus, in 2013, the Georgia legislature's decision to re-examine its ethics laws came "without the political scandal that usually provokes reform."[27] Instead, reform efforts seemed to originate from a massive influx of media attention pushing for the reform of Georgia's current ethics laws.[28] Additionally, in the summer of 2012, "voters overwhelmingly signaled their desire for change . . . in questions on the primary ballots."[29] Specifically, many voters complained about the close relationship officials are perceived to have with lobbyists and pushed for reform of the current Georgia campaign finance and ethics rules.[30] In response to these concerns, House Speaker David Ralston (R-7th) introduced HB 142 during the 2013 legislative session in response to "an extended discussion in Georgia about the interaction between registered lobbyists and elected officials" and the result of "non-binding ballot questions in the July 2012 primary elections," which reflected strong voter support for limitations on lobbyist expenditures.[31] HB 143 was a "related effort to make information about pre-session campaign contributions more readily accessible and to relieve unduly burdensome requirements on candidates for local office to file campaign contribution reports."[32]

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25. Ethics in Government Summary Presentation by Speaker Ralston to Danielle Le Jeune, Author (Oct. 16, 2013) (on file with the Georgia State University Law Review). Some key components of SB 17 included definitions of "abuse of official power" and "conflict of interest" as well as a provision deeming both of these "improper conduct." *Id.* The bill also included provisions that would double fines and clarify reporting dates to increase transparency. *Id.* A process for investigating and enforcing punishment for any violations strengthened the ethical value of the bill. *Id.*

26. Harper, *supra* note 23.

27. Chris Joyner, *AJC at the Legislature Ethics Watch*, ATLANTA J.-CONST., Mar. 3, 2013, at A1, *available at* 2013 WLNR 5233069.

28. *See* Interview of Sen. Jeff Mullis (R-53rd). (July 2, 2013) [hereinafter Mullis Interview].

29. Aaron Gould Sheinin, Chris Joyner & Kristina Torres, *Drama Over Ethics Reform Builds Toward Session's Finale*, ATLANTA J.-CONST., Mar. 26, 2013, *available at* http://www.myajc.com/news/ news/state-regional-govt-politics/drama-over-ethics-reform-builds-toward-sessions-fi/nW46c/.

30. *See* Joyner, *supra* note 27.

31. Electronic Mail Interview with Rep. David Ralston (R-7th) (June 26, 2013) [hereinafter Ralston Interview].

32. *Id.*

Bill Tracking of HB 142

Consideration and Passage by the House

House Speaker David Ralston (R-7th), and Representatives Larry O'Neal (R-146th), Calvin Smyre (D-135th), Jan Jones (R-47th), Edward Lindsey (R-54th), and Richard Smith (R-134th) sponsored HB 142.[33] The House read the bill for the first time on January 30, 2013.[34] The House read the bill for the second time on January 31, 2013.[35]

House Rules Committee

Speaker of the House David Ralston (R-7th) assigned HB 142 to the House Rules Committee, which favorably reported a Committee substitute on February 21, 2013.[36] The House Rules Committee made four key changes to the bill when it was presented.[37] First, the Committee inserted language allowing a lobbyist who does not make "lobbyist expenditures" and is not compensated to sign an affidavit stating that he or she was not going to make any expenditures, thereby allowing the lobbyist to forgo filing spending reports.[38] Second, the Committee determined that "transportation" would remain an allowable expenditure, but it would not include "air transportation."[39] Third, the word "charitable" was added to the list of "civic, informational, [and] educational functions" as an additional lobbyist expenditure.[40] Fourth, "'subject matter expert' language" was included in the substitute, allowing a person acting in such a capacity to forgo lobbyist registration so long as the expert appeared with a registered lobbyist.[41] The House then read the Committee

33. *See* Georgia General Assembly, HB 142, Bill Tracking, http://www.legis.ga.gov/legislation/en-US/Display/20132014/HB/142.
34. State of Georgia Final Composite Status Sheet, HB 142, May 9, 2013.
35. *Id.*
36. *Id.*
37. Ralston Interview, *supra* note 31.
38. *Id.*
39. *Id.*
40. *Id.*
41. *Id.*

substitute as amended on February 25, 2013.[42] The House adopted the Committee substitute by a vote of 164 to 4.[43] In the words of Representative David Ralston (R-7th), "[t]he bill, as passed by the House, was the strongest ethics reform measure in Georgia's history."[44]

Consideration and Passage by the Senate

Senator Jeff Mullis (R-53rd) sponsored HB 142 in the Senate, and the bill was first read on February 26, 2013.[45] The bill was then assigned to the Senate Rules Committee.[46]

Senate Rules Committee

While in the Rules Committee, the bill underwent two fairly substantial changes.[47] First, the Committee added language limiting who qualifies as a lobbyist to those individuals who are compensated for attempting to influence legislation, thereby shielding most members of the general public from qualification.[48] Second, the Committee changed the cap on expenditures for elected officials from a zero dollar cap to a one hundred dollar cap in an attempt to reflect the Committee's concerns while also respecting the voters' responses to primary ballot questions concerning ethics reform.[49]

The Rules Committee favorably reported the Committee substitute on March 21, 2013.[50] On that same day, the bill was read a second time in the Senate, and a third time on March 22, 2013.[51] The bill ultimately passed the Senate by a vote of 52 to 0.[52] The Senate then

42. State of Georgia Final Composite Status Sheet, HB 142, May 9, 2013.
43. Georgia House of Representatives Voting Record, HB 142 (Feb. 25, 2013).
44. *See* Ralston Interview, *supra* note 31.
45. *See* Georgia General Assembly, HB 142, Bill Tracking, http://www.legis.ga.gov/legislation/en-US/Display/20132014/HB/142; State of Georgia Final Composite Status Sheet, HB 142, May 9, 2013.
46. *Id.*
47. Mullis Interview, *supra* note 28.
48. *See id.*
49. *See id.*
50. State of Georgia Final Composite Status Sheet, HB 142, May 9, 2013.
51. *Id.*
52. Georgia Senate Voting Record, HB 142 (Mar. 22, 2013).

transmitted the Committee substitute to the House on March 22, 2013.[53]

Conference Committee Report

On March 25, 2013, the House agreed with the Senate substitutions, but the Senate disagreed with the House substitutions.[54] The House insisted in response to the Senate's different version of the Act.[55] As a result, Representatives John Meadows (R-5th), Rich Golick (R-40th), and Larry O'Neal (R-146th) and Senators Ronnie Chance (R-16th), David Shafer (R-48th), and Jeff Mullis (R-53rd) were appointed to Conference Committee on that same day.[56] After spending three days in the Conference Committee, the Committee Report was adopted by the House on March 28, 2013 by a vote of 169 to 0, and by the Senate on March 28, 2013 by a vote of 56 to 0.[57] The bill was then sent to the Governor on April 4, 2013.[58] Governor Nathan Deal signed the bill on May 6, 2013.[59]

The Act

The Act amends Chapter 5 of Title 21 of the Official Code of Georgia Annotated with the purpose of altering the way lobbyists register, disclose expenditures, and interact with public officers.[60] Section 1 amends Code section 21-5-6(a) by revising paragraph 7 to give the Georgia Government Transparency and Campaign Finance Commission the power to enact "any rules and regulations necessary and appropriate for carrying out the purposes of this chapter."[61] However, this section restricts such power by prohibiting the

53. State of Georgia Final Composite Status Sheet, HB 142, May 9, 2013.
54. *Id.*
55. *Id.*
56. *Id*.
57. Georgia House of Representatives Voting Record, HB 142 (Mar. 28, 2013); Georgia Senate Voting Record, HB 142 (Mar. 28, 2013).
58. State of Georgia Final Composite Status Sheet, HB 142, May 9, 2013.
59. *Id.*
60. *See* O.C.G.A. §§ 21-5-6, -34, -50, -70, -71, -72.1, -73 (Supp. 2013).
61. O.C.G.A. § 21-5-6(a)(7) (Supp. 2013).

Commission from requiring the reporting or disclosure of more information than is expressly required.[62]

Section 2 amends Code section 21-5-70 by altering definitions relating to public officers and lobbyists, specifically the definitions of the terms "expenditure," "lobbying expenditure," and "lobbyist."[63] The definition of expenditure is expanded to account for any reimbursement or payment—business or recreational—exceeding $75.00.[64] Lobbying expenditures now include discounts, memberships, upgrades or other accommodations as well as salaries, benefits, and expenses associated with the recipient's nonpublic profession and reimbursement or payment for a public officer and his or her staff's attendance at meetings or conferences.[65] The definition of lobbyist now encompasses any person who "receives or anticipates receiving more than $250.00 per calendar year in compensation or reimbursement or payment of expenses" for promoting or opposing the passage of any legislation.[66]

Sections 3 and 4, respectively, remove language from Code sections 21-5-34 and 21-5-50 related to the filing of campaign disclosure reports and filing by public officers.[67]

Section 5 amends Code section 21-5-71 by expanding and altering the laws on who must register as a lobbyist, requirements for registration, the application process, when registrations expire or must be supplemented, fees associated with registration and requirements for dockets, identification cards, and public rosters.[68] For example, this section removes charges for annual lobbyist registration or renewal and provides a list of certain persons who are not required to comply with the registration provisions.[69]

Section 6 adds a new Code section—21-5-72.1—which prohibits those who are required to register as lobbyists from meeting with members of the General Assembly at state government facilities,

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62. *Id.*
63. O.C.G.A. § 21-5-70 (Supp. 2013).
64. O.C.G.A. § 21-5-70(1)(B.1) (Supp. 2013).
65. O.C.G.A. § 21-5-70(4.1) (Supp. 2013).
66. O.C.G.A. § 21-5-70(5)(A) (Supp. 2013).
67. *Compare* O.C.G.A. § 21-5-34 (2008), *with* O.C.G.A. § 21-5-34 (Supp. 2013); *compare* O.C.G.A. § 21-5-50 (2008), *with* O.C.G.A. § 21-5-50 (Supp. 2013).
68. O.C.G.A. § 21-5-71 (Supp. 2013).
69. O.C.G.A. § 21-5-71(i) (Supp. 2013).

including the State Capitol or Coverdell Legislative Office Building, to "discuss the promotion or opposition of the passage of any legislation by the General Assembly, or any committee of either chamber or a joint committee thereof, or the override of a veto."[70] The exceptions to this rule are if the person is a validly registered lobbyist wearing his or her badge or if the person is a resident of the district that the House or Senate member represents.[71] This new section also prohibits registered lobbyists from making any expenditures and prohibits public officers from knowingly accepting any expenditures from registered lobbyists.[72]

Section 7 amends Code section 21-5-73 by requiring lobbyists, or those required to register as lobbyists under this article, to file semimonthly disclosure reports including certain specific information, such as a certification that no lobbying expenditure exceeded $75.00.[73] Section 8 amends Code section 45-10-91 by requiring any person who files a complaint alleging misconduct by a member of the General Assembly to include a statement indicating whether the complainant is "acting as an agent, paid or otherwise, for any other person."[74]

Bill Tracking of HB 143

Consideration and Passage by the House

House Speaker David Ralston (R-7th), and Representatives Larry O'Neal (R-146th), Calvin Smyre (D-135th), Jan Jones (R-47th), Edward Lindsey (R-54th), and Richard Smith (R-134th) sponsored HB 143 in the House.[75] The House read the bill for the first time on January 30, 2013.[76] The House read the bill for the second time on January 31, 2013.[77] Speaker of the House David Ralston (R-7th)

70. O.C.G.A. § 21-5-71.2(a) (Supp. 2013).
71. *Id.*
72. O.C.G.A. § 21-5-71.2(b) (Supp. 2013).
73. O.C.G.A. § 21-5-73 (Supp. 2013).
74. O.C.G.A. § 45-10-91(a) (Supp. 2013).
75. *See* Georgia General Assembly, HB 143, Bill Tracking, http://www.legis.ga.gov/legislation/en-US/Display/20132014/HB/143.
76. State of Georgia Final Composite Status Sheet, HB 143, May 9, 2013.
77. *Id.*

assigned it to the House Rules Committee, which favorably reported a Committee substitute on February 21, 2013.[78] The House then read the Committee substitute as amended on February 25, 2013.[79] The House adopted the Committee substitute by a vote of 167 to 0.[80]

Consideration and Passage by the Senate

Senator Jeff Mullis (R-53rd) sponsored HB 143 in the Senate, and the bill was first read on February 26, 2013.[81] The bill was then assigned to the Senate Rules Committee.[82] Here, HB 143 underwent less substantive changes than did its counterpart, HB 142.[83] The Committee inserted language ensuring that the Ethics Commission could have some flexibility in determining when to impose fines for filing late disclosure statements.[84] The Rules Committee favorably reported the Committee substitute on March 25, 2013.[85] On that same day, the bill was read a second time in the Senate, and a third time on March 26, 2013.[86] The Senate passed the bill on March 26, 2013 by a vote of 45 to 2.[87] The Senate then transmitted the Committee substitute to the House.[88]

Conference Committee Report

On March 28, 2013, the House insisted to its version of HB 143 in response to the Senate's different version of the bill and the Senate insisted as well.[89] As a result, Representatives John Meadows (R-5th), Rich Golick (R-40th), and Larry O'Neal (R-146th) and Senators Ronnie Chance (R-16th), David Shafer (R-48th), and Jeff Mullis (R-53rd) were appointed to a Conference Committee on that

78. *Id.*
79. *Id.*
80. Georgia House of Representatives Voting Record, HB 143 (Feb. 25, 2013).
81. State of Georgia Final Composite Sheet, HB 143, May 9, 2013.
82. *Id.*
83. *See* Mullis Interview, *supra* note 28.
84. *Id.*
85. State of Georgia Final Composite Sheet, HB 143, May 9, 2013.
86. *Id.*
87. Georgia Senate Voting Record, HB 143 (Mar. 26, 2013).
88. State of Georgia Final Composite Sheet, HB 143, May 9, 2013.
89. *Id.*

same day.[90] Again on March 28, 2013, the House adopted the Conference Committee report by a vote of 169 to 1 and the Senate by a vote of 54 to 1.[91] The bill was then sent to the Governor on April 8, 2013.[92] Governor Nathan Deal (R) signed the bill on April 24, 2013.[93]

The Act

The Act amends Chapter 5 of Title 21 of the Official Code of Georgia Annotated, and its purpose is to expand the existing requirements regarding the submission of campaign contribution disclosure reports and financial disclosure statements for public officers and public office candidates.[94] Section 1 of the Act amends paragraph 19 of subsection (b) of Code section 21-5-6 by requiring the Georgia Government Transparency and Campaign Finance Commission to publish the names of those required to file certain reports with the Commission who failed to do so.[95] Section 2 amends Code section 21-5-3 by altering the definition of the term "ordinary and necessary expenses" to include qualifying fees and attorneys' fees related to a campaign.[96]

Section 3 amends Code section 21-5-34 by extending to local officials the requirement that candidates for public office or the chairperson or treasurer of the campaign committee for such individual complete signing and filing requirements.[97] Such persons must file the required disclosure reports with the election superintendent or municipal clerk—depending on whether they are a county or municipal candidate—and the election superintendent or municipal clerk must make these reports available for inspection and

90. *Id.*

91. Georgia House of Representatives Voting Record, HB 143 (Mar. 28, 2013); Georgia Senate Voting Record, HB 143 (Mar. 28, 2013). The Conference Committee meeting was not recorded. For substantive changes compare HB 143 (LC 25 6230S), 2013 Ga. Gen. Assem.; HB 143 (LC 25 6191S), 2013 Ga. Gen. Assem., with HB 143 (LC 28 6805S), 2013 Ga. Gen. Assem.

92. State of Georgia Final Composite Sheet, HB 143, May 9, 2013.

93. *See* Georgia General Assembly, HB 143, Bill Tracking, http://www.legis.ga.gov/legislation/en-US/Display/20132014/HB/143.

94. *See* O.C.G.A. §§ 21-5-3, -6, -34, -34.1, -35, -50 (Supp. 2013).

95. O.C.G.A. § 21-5-6(b)(19) (Supp. 2013).

96. O.C.G.A. § 21-5-3(18) (Supp. 2013).

97. O.C.G.A. § 21-5-34 (Supp. 2013).

provide the Commission with a copy.[98] These requirements only fully apply to candidates and campaign committees who either accept a combined total of contributions or make a combined total of expenditures exceeding $5,000 for their campaign in the qualifying year.[99] Candidates and campaign committees that provide written notice to the Commission that they do not intend to accept or expend more than $2,500 are exempted.[100] Those spending between $2,500 and $5,000 must only file the June 30 and October 25 reports.[101] This code section also changes the reporting dates for the campaign contribution disclosure report, in an election year, to January 31 and June 30.[102] During a non-election year, reporting dates are now January 31, June 30, September 30, October 25, and December 31.[103] Finally, this Code section also describes the manner in which late fees shall be imposed on the candidate or candidate committee that fails to meet reporting deadlines.[104] Section 4 amends Code section 21-5-34.1 by clarifying the methods that candidates, candidate committees, and public officers may use to file disclosure reports.[105]

Section 5 amends Code section 21-5-35 by exempting candidates for judicial office elected statewide and their campaign committees from the prohibition on seeking or accepting contributions or pledges during a legislative session.[106] Section 6 amends Code section 21-5-50 by requiring county and municipal public officers to file annual financial disclosure statements with the election superintendent, municipal clerk, or chief executive officer of the municipality.[107] The person receiving the statements must then send a copy to the Commission.[108] This section also makes clear that for all public officers required to file, the mailing of notarized financial disclosure statement by United States mail and with adequate postage

98. O.C.G.A. § 21-5-34(a) (Supp. 2013).
99. O.C.G.A. § 21-5-34(d.1)(3) (Supp. 2013).
100. O.C.G.A. § 21-5-34(d.1)(1) (Supp. 2013).
101. O.C.G.A. § 21-5-34(d.1)(2) (Supp. 2013).
102. O.C.G.A. § 21-5-34 (c)(1) (Supp. 2013).
103. O.C.G.A. § 21-5-34(c)(2)(A) (Supp. 2013).
104. O.C.G.A. § 21-5-34(k) (Supp. 2013).
105. O.C.G.A. § 21-5-34.1 (Supp. 2013).
106. O.C.G.A. § 21-5-35(b)(4) (Supp. 2013).
107. O.C.G.A. § 21-5-50(a)(3.1) (Supp. 2013).
108. *Id.*

serves as prima-facie evidence of filing.[109] Finally, this section details the manner in which late fees shall be imposed on the candidate or candidate committee that fails to appropriately file a financial disclosure report.[110]

Analysis

HB 142 and HB 143 impose on each elected official in Georgia "'the strictest ethical standards this state has ever had.'"[111] The primary policy objectives behind the Acts were placing limits on lobbyist expenditures, increasing transparency regarding pre-session campaign contributions, and providing clear, effective enforcement mechanisms for violations.[112] During the creation of these reforms, legislators put a concerted effort into ensuring the laws were clear—both in what they sought to prevent and whom they applied to.[113] Lawmakers wanted to ensure that lobbyists could not circumvent the legislation and develop a system of underground payments, which has been an issue in other states with similar legislation.[114] Additionally, legislators emphasized that the provisions regarding lobbyist registration will only apply to those who receive payment to influence legislation and those who lobby on behalf of an organization, whether or not they are paid.[115] Georgians who come to the Gold Dome "to express their own personal views"[116] and those who will not receive, or do not anticipate receiving, more than $250.00 a year in compensation or reimbursement for their advocacy do not need to register as lobbyists.[117] This protects citizens' ability to interact with their lawmakers and preserves certain annual events, such as Nurses Day, where nursing students advocate for an

109. O.C.G.A. § 21-5-50(d) (Supp. 2013).
110. O.C.G.A. § 21-5-50(f)(1) (Supp. 2013).
111. Kristina Torres, *Senate OKs Ethics Bill*, ATLANTA J.-CONST., Mar. 23, 2013, at B1, *available at* 2013 WLNR 7208442 (quoting Sen. Jeff Mullis (R-53rd)).
112. *See* Ralston Interview, *supra* note 31; *see also* Harper, *supra* note 23.
113. *See* Mullis Interview, *supra* note 28 (noting that lawmakers wanted to ensure the measures were "drafted properly, so that it's not 'gotcha' legislation").
114. *See* Joyner, *supra* note 27.
115. *See* Ralston Interview, *supra* note 31; Aaron Gould Sheinin, *Legislature 2013*, ATLANTA J.-CONST., Feb. 8, 2013, at B1, *available at* 2013 WLNR 3168501.
116. Ralston Interview, *supra* note 31.
117. *See* Ralston Interview, *supra* note 31; Sheinin, *supra* note 115.

important professional issue at the Capitol.[118] Overall, HB 142 and 143 seek to provide the people of Georgia with "'honest-to-goodness ethics reform.'"[119]

Though the Acts do represent a monumental step forward in Georgia ethics reform, some critics believe that the Acts leave many issues unresolved.[120] Both members of the public and legislators have suggested that the Acts do not do enough to rein in lobbyists' spending on members of the Georgia General Assembly.[121] Some of the largest objections to the reform efforts center on the many exemptions contained within HB 142's $75 limit on expenditures.[122] In the words of one critic, HB 142 contains "'loopholes large enough to walk through—which ever-resourceful lobbyists will no doubt do.'"[123] For example, though the $75 cap exists, the cap applies only to a single expenditure; thus a "lobbyist can give several, separate $75 meals to the same official on the same day[.]"[124] In addition, another "loophole" presumably allows lobbying firms "to divide up large gifts . . . into $75 increments between their individual lobbyists."[125] Furthermore, other critics have opined that the $75 cap is simply too high to begin with.[126] Fayette County Commission Chair Steve Brown stated his belief that the ethics rules in Fayette County are more stringent than the newly elected state laws, "'which is, you know, disappointing.'"[127]

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118. Sheinin, *supra* note 115.

119. Max Blau, *Gold Dome Ethics Reform Remains Unresolved With Days to Go in Legislative Session*, CREATIVE LOAFING, Mar. 25, 2013, *available at* http://clatl.com/freshloaf/archives/2013/03/25/georgias-ethics-reform-comes-down-the-wire (quoting Speaker of the Georgia House of Representatives David Ralston (R-7th)).

120. *See, e.g.*, Andre Jackson, *Progress, But Not Much, Toward Ethics Reform*, ATLANTA J.-CONST., Mar. 30, 2013, http://blogs.ajc.com/atlanta-forward/2013/03/30/progress-but-not-much-toward-ethics-reform/; Kyle Wingfield, *Ethics Bill Isn't Perfect, But It Is Progress*, ATLANTA J.-CONST., Mar. 28, 2013, http://blogs.ajc.com/kyle-wingfield/2013/03/28/ethics-bill-isnt-perfect-but-it-is-progress/.

121. *See* Jackson, *supra* note 120; *see also* Ralston Interview, *supra* note 31 (stating that HB 142 "falls short of the goals of the original bill").

122. Jackson, *supra* note 120; Wingfield, *supra* note 120.

123. Jackson, *supra* note 120.

124. Scott Henry, *Lobbyists Seek Journalists' Opinion on New Ethics Reform Bill*, ATLANTA MAGAZINE, Apr. 12, 2013, *available at* http://www.atlantamagazine.com/agenda/2013/04/12/lobbyists-seek-journalists-opinion-on-new-ethics-reform-bill.

125. *Id.*

126. Claire Simms, *Local Reviews Mixed on State Ethics Reform*, GA. PUB. BROAD., Apr. 8, 2013, *available at* http://www.gpb.org/news/2013/04/08/local-reviews-mixed-on-state-ethics-reform.

127. *Id.*

Despite these objections, most critics agree that HB 142 nonetheless represents a "truly historic step and strengthening of Georgia's ethics laws."[128] This is, after all, the first time in its history that Georgia has ever had a cap for lobbyist expenditures.[129] As Senator Jeff Mullis (R-53rd) explained, ethics reform needed to be addressed from a sensible and logical perspective.[130] Though the Senate has been faulted with inserting too many loopholes into HB 142, Senator Mullis explained that the Senate actually closed some of the bill's existing loopholes during its time in the Rules Committee.[131] In addition, Mullis also explained that the approach taken by the Rules Committee was to ensure that the ethics bill was effective, yet not overly broad.[132] One of Mullis's concerns with this type of legislation was that extreme prohibitions might prevent "honorable people [from] running [for office]" out of fear "that they'll be criminalized if they make an honest mistake somewhere along the way."[133] Thus, in Senator Mullis's view, moderation was key to ensuring that the ethics reform effort would be both realistic and effective.[134]

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128. Ralston Interview, *supra* note 31; Wingfield, *supra* note 120.
129. Mullis Interview, *supra* note 28.
130. *Id.*
131. *Id.*; Chris Joyner & Kristina Torres, *Lobbying Reform: What's Gone Down, What's Up Next*, ATLANTA J.-CONST., Mar. 23, 2013, *available at* http://www.ajc.com/news/news/lobbying-reform-whats-gone-down-whats-next/nW24S/.
132. Mullis Interview, *supra* note 28.
133. *Id.*
134. *Id.*