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ELECTIONS

Ethics in Government: Regulate Lobbyist Gifts and Contributions to Public Officers and Limit Campaign Contributions

CODE SECTIONS: O.C.G.A. §§ 16-10-2, 21-5-3 (amended), 21-5-11 (new), 21-5-30 (amended), 21-5-30.1 (new), 21-5-33, -34, -40, -41, (amended), 21-5-42, -43, -43.1, -44, -45 (new), 21-5-50 (amended), 21-5-70, -71, -72, -73, 28-7-1, -2 (new), 28-7-3, -4, -5 (amended)

BILL NUMBER: HB 1125

ACT NUMBER: 830

SUMMARY: The Act regulates the activities of lobbyists and provides maximum campaign contributions which may be received by public officers and public employees. It provides a system for the registration of lobbyists, and it requires lobbyists to prepare and submit expenditure reports to the State Ethics Commission. The Act also limits campaign contributions which candidates for public office may accept to an aggregate amount of \$1000 or \$2500, depending upon the type of public office the candidate is seeking. A contribution to the campaign committee of a candidate for public office is considered a contribution to the candidate. The Act provides that, for any election other than a general primary, candidates for public office who will not be on the ballot at an election may not receive any contributions whatsoever. The Act also provides examples of "things of value" which public officials may receive without violating the provisions against bribery.

EFFECTIVE DATES: April 6, 1992, except O.C.G.A. §§ 21-5-70, 21-5-71, 21-5-72 and 21-5-73, which became effective July 1, 1992

History

Georgia was one of only two states which did not require lobbyists to disclose what they had spent to influence decisions on legislation.¹

1. Charles Walston, *Lawmakers Favor Lobbying Curbs*, ATLANTA J. & CONST.,

Georgia Code sections 28-7-2 through 28-7-5 were the only Code sections specifically addressing lobbyists, and these sections limited both the methods of compensation for lobbyists and the lobbyists' presence on the floor of either house of the General Assembly when it was in session.² According to a survey of Georgia's legislators which was conducted in November of 1991, a majority of the members of the General Assembly were in favor of requiring lobbyists to disclose expenditures made to influence the outcome of legislation.³

The limit on the dollar amount for campaign contributions for candidates for "state-wide elected office or the General Assembly" had initially been set at \$3500 in Code section 21-5-41, which became effective April 4, 1990.⁴ However, a report which was prepared by a panel headed by Secretary of State Max Cleland in 1991 recommended that the cap on individual campaign contributions be lowered from \$3500 to \$1000.⁵

HB 1125

The Act addresses the issues of lobbyist disclosure and campaign contribution limits for individuals, corporations, and political parties. The Act is comprised of legislation which can be considered in two parts: the first part addresses lobbyist disclosure requirements and provides new definitions for a number of terms associated with "legislative perks," and the second part relates to campaign contribution

Jan. 12, 1992, at A1, A7.

2. O.C.G.A. § 28-7-3 provides that:

No person, firm, corporation or association shall retain or employ an attorney at law or an agent to aid or oppose legislation for compensation contingent, in whole or in part, upon the passage or defeat of any legislative measure. No attorney at law or agent shall be employed to aid or oppose any legislation for compensation contingent, in whole or in part, upon the passage or defeat of any legislation.

O.C.G.A. § 28-7-3 (1986). O.C.G.A. § 28-7-4 provides that:

It shall be unlawful for any person registered pursuant to the requirements of Code Section 28-7-2 or for any other person, except as authorized by the rules of the House or Senate, to be on the floor of either house of the General Assembly while the same is in session to discuss privately measures then pending in the General Assembly.

O.C.G.A. § 28-7-4 (1986).

3. Charles Walston, *Lawmakers Favor Lobbying Curbs*, ATLANTA J. & CONST., Jan. 12, 1992, at A7. This survey was conducted by the Atlanta Journal-Constitution and WSB-TV. According to the survey, 77.9 percent of the legislators supported the proposed requirements, 9.2 percent were opposed, and 12.9 percent did not respond or responded that they did not know. *Id.*

4. 1990 Ga. Laws 922 (formerly found at O.C.G.A. § 21-5-41 (Supp. 1991)).

5. Rhonda Cook, *State Ethics: A Forgotten Matter*, ATLANTA J. & CONST., Feb. 15, 1992, at A16.

limits for candidates for public office. This review of the Act will be divided into two sections: the first discusses the parts of the Act which relate to lobbyist disclosure and the second discusses the parts of the Act which relate to campaign contributions. The review of the legislative history which relates to both parts of the bill is discussed in the first section.

Lobbyist Disclosure Provisions

The original draft of the lobbyist disclosure provisions was prepared by a 61 member commission which was organized by Secretary of State Max Cleland.⁶ In response to concerns which were expressed informally by some other members of the House of Representatives, the sponsor of HB 1125 introduced his own substitute to HB 1125 before the bill was ever discussed by the House Judiciary Committee.⁷

After HB 1125 was introduced by Representative Poston on the first day of the legislative session, the proposed legislation appeared to stall in the House Judiciary Committee.⁸ By the middle of February 1992, no action had been taken on the bill by the Committee.⁹ The Speaker of the House highlighted one of the issues on which the opinions of the legislators differed—the issue of whether lobbyist disclosure legislation was even needed.¹⁰ The Speaker stated that “[f]olks out there know whether I’m honest,” and that, “if a person is a crook, making him report [the contributions] is [not] going to make him be less of a crook.”¹¹ The Speaker also stated in an interview that “we learned during the Prohibition era that we can’t legislate morals.”¹²

Despite the opposition to HB 1125, it continued through the legislative process. Once the House Judiciary Committee heard the bill, it was assigned to a subcommittee for further revisions.¹³ The bill’s sponsor informally polled the members of the Judiciary Committee approximately halfway through the 1992 session of the General Assembly to determine which components of the ethics legislation were

6. Interview with Rep. McCracken Poston, House District No. 2, in Atlanta, Ga. (Apr. 2, 1992) [hereinafter Poston Interview]. Rep. Poston was a member of the House Judiciary Committee and was the sponsor of HB 1125.

7. *Id.*

8. *Id.*

9. Mark Sherman, *House OKs Bill for In-Session Contributions*, ATLANTA J. & CONST., Feb. 13, 1992, at G1.

10. *Ethics Bills Not Needed, Murphy Says*, ATLANTA J. & CONST., Feb. 15, 1992, at A16.

11. *Id.*

12. *Id.*

13. Steve Harvey, *Ethics Bill Not Taken Lightly by House Panel*, ATLANTA J. & CONST., Feb. 20, 1992, at E1.

most important to each of them.¹⁴ He found that his fellow Committee members were almost unanimous in responding that they were most concerned with the issue of lobbyist disclosure.¹⁵ In response to their concerns, the bill's sponsor offered three substitutes to the Committee at one time.¹⁶

Meanwhile, the Senate passed SB 704, its own lobbyist disclosure bill, on February 27, 1992.¹⁷ The senate bill's sponsor stated that the "purpose of this legislation is to restore public confidence."¹⁸ SB 704 dealt with the definition of a lobbyist, the registration requirements, the number of lobbyists which state agencies may have, and the form of lobbyists' disclosure reports.¹⁹ There was no reference to campaign contributions or to any requirements for members of the General Assembly to report what they receive from lobbyists.²⁰ A violation of this version of the lobbyist disclosure legislation would be punishable as a misdemeanor.²¹

Another senator also contributed to the effort to pass the proposed ethics legislation. While HB 1125 was still in the House, an identical bill was introduced in the Senate.²²

The House Judiciary Committee suggested a number of changes to the House version of HB 1125.²³ When HB 1125 left the Committee and went to the floor of the House, a number of floor amendments were added to the bill.²⁴ The bill was eventually passed by the House, with some changes.²⁵

14. Poston Interview, *supra* note 6.

15. *Id.*

16. *Id.* One was a substitute for the full bill, while the other two proposed substitutes dealt only with the issue of lobbyist disclosure. *Id.*

17. *Senate OKs Ethics Bill on Lobbyist Disclosures*, ATLANTA J. & CONST., Feb. 28, 1992, at G3; see SB 704 (SCS), 1992 Ga. Gen. Assem.

18. *Senate OKs Ethics Bill on Lobbyist Disclosure*, *supra* note 17.

19. SB 704 (SCS), 1992 Ga. Gen. Assem.

20. *Id.* This version of the lobbyist disclosure legislation also differed from the version eventually passed in that it provided in proposed O.C.G.A. § 21-5-74(d) that lobbyist expenditure reports "shall only be admissible in evidence in courts of this state for prosecution of violations of this article and shall not be admissible in evidence for any other purpose." *Id.* at § 2. This limitation would have precluded the lobbyists' reports from being used as evidence against a public official in a bribery trial.

21. SB 704 (SCS), 1992 Ga. Gen. Assem.

22. Poston Interview, *supra* note 6. Sen. Mike Egan's proposed legislation was SB 597. See SB 597, as introduced, 1992 Ga. Gen. Assem.

23. Charles Walston, *Howard Promises Fight to Revive State Ethics Bill*, ATLANTA J. & CONST., Mar. 11, 1992, at A1.

24. Poston Interview, *supra* note 6; see HB 1125 (HCSFA), 1992 Ga. Gen. Assem.

25. See HB 1125 (HCSFA), 1992 Ga. Gen. Assem.

The House version of the bill contained an amendment to Code section 16-10-2, relating to the offense of bribery.²⁶ It proposed to add a section to the bribery statute, requiring that the

offense of bribery . . . shall not occur unless it is shown that a specific agreement or undertaking existed and that the giving, offering, accepting, or agreeing to accept the benefit, reward, consideration, or thing of value was in return for an explicit promise or understanding by the official to perform or not perform an official act.²⁷

This proposed revision to the bribery statute was considered by many legislators to weaken the anti-bribery law, since it required a showing of a "specific agreement or undertaking," with an "explicit promise or understanding" by the public official that the payment was a bribe in order for a public official to be found guilty of accepting a bribe.²⁸ The Attorney General of Georgia was quoted as saying that this version of the bill "would make bribery legal."²⁹ Although some members of the House Judiciary Committee believed that this proposed revision would not render prosecutors unable to prove bribery,³⁰ the final version of the Act amended Code section 16-10-2, but did not impose these additional requirements.³¹

26. *Id.* According to Rep. Tommy Chambliss, one of the Senate conferees who finalized this legislation, it was clear to the conferees that there had to be a clarification of the bribery statute in any version of HB 1125 which was adopted. Telephone Interview with Rep. Tommy Chambliss in Albany, Georgia (Apr. 21, 1992) [hereinafter Chambliss Interview].

27. HB 1125 (HCSFA) § 9, 1992 Ga. Gen. Assem. The bribery legislation which this proposed legislation sought to amend had just been amended; the revisions to the legislation took effect July 1, 1991. O.C.G.A. § 16-10-2(a)(2) (1992). The 1991 revisions broadened the scope of the law, changing the requirement that the public official or state, county, or municipal employee "solicits or receives any such benefit, reward or consideration," to the requirement that the official "directly or indirectly solicits, receives, accepts, or agrees to receive a thing of value by inducing the reasonable belief that the giving of the thing will influence his or her performance or failure to perform any official action." *Id.*

28. Mark Sherman, *Committee Appears Set to OK Bill After Two Months of Struggle*, ATLANTA J. & CONST., Mar. 10, 1992, at A13. Lt. Gov. Pierre Howard opposed this proposed revision and vowed that the bill would not pass the Senate with this provision intact because he felt that "[w]e'd be better off with no bill than one that destroys those provisions of law we have now." Charles Walston, *Ethics Bill at Center Stage Today*, ATLANTA CONST., Mar. 10, 1992, at A1.

29. Charles Walston, *Howard Promises Fight to Revive State Ethics Bill*, ATLANTA CONST., Mar. 11, 1992, at A13. Michael J. Bowers is the Attorney General for the State of Georgia.

30. *Id.*

31. O.C.G.A. § 16-10-2 (1992).

The Act provides a list of examples of what is not included in the definition of a "thing of value."³² A number of legislators expressed concern when the Attorney General issued an informal ruling which described what kinds of activities might constitute accepting a bribe.³³ It was felt that a clarification of the meaning of "thing of value" was needed.³⁴ A thing of value is specifically defined not to include "[f]ood or beverage consumed at a single meal or event, [l]egitimate salary . . . associated with a recipient's nonpublic business . . . , [a]n award, plaque" or other similar memento, gifts from a public officer's immediate family members, commercially reasonable loans, or "actual and reasonable expenses" provided "to permit participation or speaking at [a] meeting."³⁵ The Act further provides that "receiving, accepting, or agreeing to receive anything not enumerated in [the list of items specifically excluded from the definition of a thing of value] shall not create the presumption that the offense of bribery has been committed."³⁶

The House version of the bill also defined the term "expenditure," relating to lobbyists' provision of things of value in order to influence legislation, to specifically exclude the following: "[t]he value of personal services performed by persons who serve voluntarily without compensation from any source;"³⁷ "[a] gift received from a member of the candidate's or public officer's immediate family;"³⁸ "[l]egal compensation or expense reimbursement provided public employees and public officers in the performance of their duties;"³⁹ "[i]tems of tangible personal property valued at \$50.00 or less given to one public officer or members of his immediate family which do not aggregate a value of \$100.00 or more in a calendar year;"⁴⁰ and "[e]xpenses afforded public

32. *Id.*

33. Interview with Rep. McCracken Poston, House District No. 2, in Ringgold, Georgia (Apr. 21, 1992) [hereinafter Second Poston Interview]. See generally 1989 Op. Att'y Gen. 47. It was the attempt to define "thing of value" which "bootstrapped" the bribery statute into this ethics legislation. Second Poston Interview, *supra*. Some of the legislators were afraid to go to lunch with someone for fear that it might be seen as accepting a bribe. *Id.*

34. Second Poston Interview, *supra* note 33. Because the Attorney General had issued an informal ruling in April of 1991 on what could constitute accepting a bribe, he was asked to participate in the redrafting of this legislation. Chambless Interview, *supra* note 26. The Attorney General had attended a meeting of the Senate Ethics Committee to discuss this matter, and was later called to a late night meeting of the conferees. *Id.* He provided input on the proposed statutory language to both the House and the Senate conferees. *Id.*

35. O.C.G.A. § 16-10-2(a)(2) (1992).

36. *Id.*

37. HB 1125 (HCSFA) § 8, 1992 Ga. Gen. Assem.

38. *Id.*

39. *Id.*

40. *Id.*

officers or members of their immediate families that are associated with normal and customary business or social functions or activities valued at \$50.00 or less per participant and which expenses do not aggregate a value of \$100.00 or more per participant in a calendar year."⁴¹ Although the language differed slightly between the House version of HB 1125, the Senate version, and the Act as passed, each of the versions contained a provision including a requirement that honoraria exceeding \$101.00 must be reported on the financial disclosure statements.⁴²

The final version of the ethics legislation was completely different from the House and the Senate's proposed legislation. Neither the House version nor the Senate version of the ethics legislation contained an amendment prohibiting honoraria in excess of \$101.00, although it had been proposed by the sponsor of SB 480.⁴³ The Act provides that "[n]o public officer elected state wide shall accept any monetary fee or honorarium for a speaking engagement, participation in a seminar, discussion panel, or other such activity."⁴⁴ Public officers other than those elected statewide are not permitted to accept "a monetary fee or honorarium in excess of \$101.00" for speaking engagements, participation in seminars, and the like which "directly relate[] to the official duties of that public officer or the office of that public officer."⁴⁵ There is no distinction made regarding types of speeches given or the purpose of the public officer's participation in a seminar if he is a public officer who was elected statewide.⁴⁶

The Act adds a definition of "public employee" and revises the definition of "public officer" to include the executive director of each

41. *Id.*

42. Compare HB 1125 (HCSFA) § 7, 1992 Ga. Gen. Assem. and HB 1125 (SCS) § 11, 1992 Ga. Gen. Assem. with O.C.G.A. § 21-5-50(b)(1) (Supp. 1992).

43. Compare HB 1125 (HCSFA) § 7, 1992 Ga. Gen. Assem., and HB 1125 (SCS) § 11, 1992 Ga. Gen. Assem., with O.C.G.A. § 21-5-50(b)(1) (Supp. 1992). Sen. Sallie Newbill's original version of SB 480 was similar to the provisions of the current O.C.G.A. § 21-5-11. See SB 480, as introduced, 1992 Ga. Gen. Assem. SB 480 was not enacted by the 1992 Georgia General Assembly. See Final Composite Status Sheet, Mar. 31, 1992.

44. O.C.G.A. § 21-5-11 (Supp. 1992).

45. *Id.* O.C.G.A. § 21-5-11(c) specifically excludes "actual and reasonable expenses for food, beverages, travel, lodging, and registration for a meeting which are provided to permit participation in a panel or speaking engagement at the meeting" from consideration as honoraria or monetary fees. *Id.* § 21-5-11(c) (Supp. 1992).

46. *Id.* § 21-5-11 (Supp. 1992). The conferees specifically included all state-wide constitutional officers in the ban on honoraria because they felt that full-time constitutional officers are paid on a full-time basis. Chambless Interview, *supra* note 26. The conferees felt that honoraria were inappropriate under the circumstances. *Id.*

state board⁴⁷ and the members of the boards and authorities.⁴⁸ It also adds elected county school superintendents and elected members of county or area boards of education to the list of those individuals included under the definition of "public officer."⁴⁹

The Act also revises the definition of "lobbyist."⁵⁰ A lobbyist is defined as "[a]ny natural person who, for compensation . . . undertakes to promote or oppose the passage of any legislation by the General Assembly."⁵¹ A person who is "an employee of the executive branch or judicial branch of state government [who] engages in any activity covered [under this Code section]" is also considered a lobbyist.⁵² The definition of lobbyist also includes any person who "makes a total expenditure of more than \$250.00 in a calendar year, not including the person's own travel, food, lodging expenses, or informational material to promote or oppose passage of any legislation by the General Assembly, or any committee thereof, or the approval or veto of the Governor."⁵³

The Act defines "expenditure" to include the "conveyance of money or anything of value made for the purpose of influencing the actions of any public officer or public employee."⁵⁴ "Expenditure" is specifically defined to exclude such things as the "value of personal services performed by persons who serve voluntarily without compensation from any source,"⁵⁵ gifts given to the public officer by his immediate family,⁵⁶ or awards given in recognition of the public officer's "civic, charitable, political, professional, or public service."⁵⁷ These definitions mirror those provided in Georgia's bribery law.⁵⁸

The Act also provides for the registration of lobbyists, application requirements, registration fees, the requirement that lobbyists display

47. 1990 Ga. Laws 922 (formerly found at O.C.G.A. § 21-5-3 (14.1) (Supp. 1991)). This had previously been limited to the executive directors of the state authorities.

48. O.C.G.A. § 21-5-3(14.1), (15) (Supp. 1992).

49. *Id.* § 21-5-3(15) (Supp. 1992).

50. *Id.* § 21-5-70 (Supp. 1992).

51. *Id.* This definition is much more specific than the previous definition provided in O.C.G.A. § 28-7-2(a). There, lobbying was defined to include "[e]very person representing, with or without compensation, any person, firm, corporation, association, or organization or who is designated to represent any department, board, agency, commission, or authority of state government for the purpose of aiding or opposing, directly or indirectly, the enactment of a bill or bills or a resolution or resolutions by either house of the General Assembly." 1991 Ga. Laws 1687 (formerly found at O.C.G.A. § 28-7-2(a) (Supp. 1991)).

52. O.C.G.A. § 21-5-70 (Supp. 1992).

53. *Id.* § 21-5-70(6)(B) (Supp. 1992).

54. *Id.* § 21-5-70(1)(A) (Supp. 1992).

55. *Id.* § 21-5-70(1)(E) (Supp. 1992).

56. *Id.* "Immediate family" is defined as "a spouse or a child." O.C.G.A. § 21-5-30(4) (Supp. 1992).

57. *Id.* § 21-5-70(E) (Supp. 1992).

58. *See id.* § 16-10-2 (1992).

identification cards with the word "lobbyist" printed thereon, and the publication of public rosters listing the names of lobbyists.⁵⁹ The previous requirement for lobbyist registration was a much more general requirement, requiring only that lobbyists file a "writing . . . stating the name of the person, firm, corporation, association, or organization of the state department, board, agency, commission, or authority that he represents."⁶⁰ Under prior law, the Secretary of State was designated as the office which would maintain "a suitable docket" for the registration of lobbyists.⁶¹ There was no requirement of lobbyist disclosure of gifts or contributions to public officials.⁶²

The General Assembly provides a method for lobbyists to report their gifts or contributions to public officials.⁶³ It requires that lobbyists must file disclosure reports on a monthly basis which must include detailed information about any expenditure incurred "on behalf of or for the benefit of a public officer."⁶⁴ Two prior Code sections which dealt with lobbyists were deleted by the Act and were marked as reserved.⁶⁵ The remaining Code sections dealing with lobbyists had only minor revisions under the Act, changing only the references to other Code sections.⁶⁶

Campaign Contribution Provisions

The sections of the Act which address campaign contributions cover a wide spectrum of activities. The revisions to the Georgia Code include: (1) an amended definition of public employee and a broadening of the definition of public officer; (2) punishment for a person who contributes to a political campaign on the behalf of a public utility company which is regulated by the Public Service Commission; (3) an addition to article 2A of title 21 which defines "political party" and "public office" for the legislation dealing with contributions to candidates for public office; (4) a reduction in the campaign contributions limits which reduced the maximum allowable contributions from \$3500 to \$2500 or \$1000 per election; (5) a limitation on the amount of campaign contributions which a candidate for public office may receive from a political party; and (6) a prohibition against executive officers of state agencies accepting contributions from the people or companies they regulate.⁶⁷

59. *Id.* §§ 21-5-70 to -72 (Supp. 1992).

60. 1991 Ga. Laws 1687 (formerly found at O.C.G.A. § 28-7-2(a) (Supp. 1991)).

61. *Id.*

62. *Id.*

63. O.C.G.A. § 21-5-73 (Supp. 1992).

64. *Id.*

65. O.C.G.A. §§ 28-7-1 and 28-7-2 were deleted and are presently listed as "reserved." *Id.* §§ 28-7-1, -2 (Supp. 1992).

66. *Id.* §§ 28-7-3 to -5 (Supp. 1992).

67. *Id.* §§ 21-5-30(f), -31.1, -33, -34, -40, and -43.1 (Supp. 1992). The legislation

Definitions of the phrases "political party" and "public office" were added. A political party is defined to include "any political party as that term is defined in paragraph (21) of Code section 21-2-3, as amended; provided, however, that for the purposes of this article, local, state, and national committees shall be separate political parties."⁶⁸ Public office is defined as "the office of each elected public officer as specified in paragraph (15) of Code section 21-5-3."⁶⁹

The Act adds a punishment clause in which the punishment varies depending upon to whom the contribution is made.⁷⁰ The Act bans campaign contributions to candidates for the Public Service Commission from corporations regulated by the Public Service Commission.⁷¹ In fact, a violation of this provision with respect to a "member of the Public Service Commission, a candidate for the Public Service Commission, or the campaign committee of a candidate for the Public Service Commission," is considered a felony offense punishable by imprisonment from one to five years, a fine not to exceed \$5000, or both.⁷² A knowing violation of this Code section with respect to a public officer who is not a member of or candidate for the Public Service Commission is a misdemeanor.⁷³

Code section 21-5-30.1, which previously prohibited the Commissioner of Insurance from accepting contributions from anyone he regulates, was amended to change references to the Commissioner of Insurance to "an elected executive officer," thereby broadening the extent of its coverage.⁷⁴ The term "elected executive officer" is defined to mean the "Secretary of State, Attorney General, State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, and Commissioner of Labor."⁷⁵ Other sections of the ethics legislation package merely serve to limit contributions from the general public as well as from companies and political parties.⁷⁶

relating to executive officers of state agencies originally related only to the Secretary of Agriculture. Chambless Interview, *supra* note 26. The legislators decided that the campaign contribution legislation should be passed in a much broader form so that other officials in positions similar to that of the Secretary of Agriculture would also be covered by the campaign contribution legislation. *Id.* The intent of the legislators was to prohibit public officials in positions similar to that of the Secretary of Agriculture from accepting campaign contributions from people they regulate. *Id.*

68. O.C.G.A. § 21-5-40 (Supp. 1992).

69. *Id.* § 21-5-40(6.2) (Supp. 1992).

70. *Id.* § 21-5-30(f) (Supp. 1992).

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.* § 21-5-30.1 (Supp. 1992).

75. *Id.*

76. *Id.* §§ 21-5-41 to -43 (Supp. 1992).

The version of HB 1125 proposed by the House limited the amounts which individuals or groups could contribute to a candidate, and proposed to lower the cap on contributions from \$3500 to \$2500.⁷⁷ In its final version, the cap is reduced to \$1000 rather than \$2500 for contributions to candidates for the General Assembly, but contributions of up to \$2500 are permissible to candidates for "state-wide elected office."⁷⁸ Additionally, the Act forbids a political party from contributing more than \$2500 or \$1000 to a candidate's campaign for public office, with the limit depending upon the office for which the candidate is running.⁷⁹

The Act requires that records of campaign contributions be maintained and reported, listing the "business, occupation, or place of employment of the person making the contribution or such person's spouse and the cumulative total of such contributions."⁸⁰ This revision also requires that the contributions falling into this category be "reported according to occupational categories."⁸¹ This addition to the reporting requirements also contains a definition of the reporting cycle and requirements for the preparation of subsequent reports.⁸²

The House version of HB 1125 also proposed to limit the use to which public officials could put their campaign contributions.⁸³ It proposed to amend Code section 21-5-33 by providing that the contributions received by a candidate or his campaign committee could only be used to defray expenses pursuant to subsection (a) of that section.⁸⁴ It proposed that any excess campaign funds which the

77. HB 1125 (HCSFA), 1992 Ga. Gen. Assem. Sen. Mike Egan, a proponent of the legislation, was quoted in the *Atlanta Journal-Constitution* as stating that the \$1000 limit had "met the test of reason" in congressional elections, which often are more costly than state legislative races." Charles Walston and Rhonda Cook, *Senate Rejects Bill to Cap Spending on Campaigns*, ATLANTA J. & CONST., Mar. 5, 1992, at D3.

78. Code sections 21-5-41 through -43 were amended to reduce the aggregate contributions candidates for state-wide elected office and the General Assembly may receive from persons, partnerships, corporations, and political committees. O.C.G.A. §§ 21-5-41 to -43 (Supp. 1992).

79. *Id.* § 21-5-43.1 (Supp. 1992). O.C.G.A. § 21-5-43.1 was added to limit the contributions a "political party" may make to candidates for state-wide elected office and to candidates for the General Assembly. This section specifically provides that "[t]he limitations provided for in this Code section shall not include contributions or expenditures made by a political party in support of a party ticket or a group of named candidates." *Id.* O.C.G.A. § 21-5-44 was also revised to reference a campaign committee of a "candidate for any public office," rather than just a "candidate's campaign committee." *Id.* § 21-5-44 (Supp. 1992).

80. *Id.* § 21-5-34 (Supp. 1992).

81. *Id.*

82. *Id.*

83. HB 1125 (HCSFA), 1992 Ga. Gen. Assem.

84. HB 1125 (HCSFA) § 2, 1992 Ga. Gen. Assem. A number of other legislators sponsored bills dealing with the topic of excess campaign contributions. The Senate

candidate wanted to use in future campaigns for public office could only be used for "that elective office for which those contributions were received."⁸⁵ The Senate version of HB 1125 did not contain this provision, however.⁸⁶ The bill as passed did redefine the purposes for

proposed legislation dealing with the use of campaign contributions in other campaigns. SB 483, sponsored by Senators Newbill of the 56th District, Collins of the 17th District, and Clay of the 37th District, proposed to amend O.C.G.A. § 21-5-33(b)(1) to disallow transferral to political parties or candidates or use of the campaign money in future campaigns for elective office. SB 483, as introduced, 1992 Ga. Gen. Assem. It also proposed to require that "[o]n and after July 1, 1992, all contributions in excess of \$5,000.00 held or received by a public officer . . . which contributions are not used for purposes specifically authorized under this subsection shall be paid to the general fund of the state treasury not later than 90 days following the election of such public officer." *Id.* SB 781, sponsored by Senators Deal of the 49th District, Johnson of the 47th District, and Garner of the 30th District, proposed to amend O.C.G.A. § 21-5-33(b)(1)(D) to provide that "[i]n the event a candidate seeks election to any other elective office, not more than \$10,000.00 of contributions in excess of those necessary to defray expenses pursuant to subsection (a) of this Code section may be used for such campaign for such other elective office." SB 781, as introduced, 1992 Ga. Gen. Assem. Representatives McKinney of the 35th District, Fennel of the 155th District, Coleman of the 118th District, Aiken of the 21st District, and Hamilton of the 124th District proposed legislation in the House dealing with revisions to the law regarding uses for excess campaign contributions. HB 1153 proposed that O.C.G.A. § 21-5-33(b)(1) be revised to allow the use of campaign funds in future campaigns only for the elective office for which they were received. HB 1153, as introduced, 1992 Ga. Gen. Assem. HB 1923, introduced by Representative Orr of the 9th District, proposed to amend O.C.G.A. § 21-5-33 to have the campaign contributions which the candidate receives which are in excess of the amount necessary to defray the candidate's campaign expenses transferred to "the director of the Fiscal Division of the Department of Administrative Services for deposit in the state treasury." HB 1923, as introduced, 1992 Ga. Gen. Assem. Representative Orr proposed that, alternatively, the excess contributions could be used "[f]or repayment of any prior campaign obligations incurred as a candidate." *Id.*

85. HB 1125 (HCSFA), 1992 Ga. Gen. Assem. Representative McKinney had also proposed legislation addressing the issue of the use of campaign contributions in future campaigns. In HB 1153, he proposed that campaign contributions could be used for future campaigns for "only that elective office for which those contributions were received." HB 1153, as introduced, 1992 Ga. Gen. Assem. If the candidate had not designated for which campaign he was accepting the contributions, they would be deemed to have been received for the elective office which the candidate held at the time the contributions were received or, if the candidate did not then hold elective office, those contributions [would] be deemed to have been received for that elective office for which that person was a candidate most recently following the receipt of such contributions.

Id.

86. HB 1125 (SCS), 1992 Ga. Gen. Assem. There was also a small change in the language of another section of the Code dealing with campaign contributions. O.C.G.A. § 21-5-45 was revised to narrow the definition of "candidate" to "candidate for public office." O.C.G.A. § 21-5-45 (Supp. 1992). O.C.G.A. § 21-5-50 also underwent minor revisions. The language of subparagraph (c)(1)(B) of this Code section was amended to refer to a "lobbyist" rather than an "agent," and to reference registering with the

which campaign contributions may be used, allowing that they be used only for the elective office for which they were received.⁸⁷ The language of this section was changed to allow elected officials to use their campaign contributions "held on January 1, 1992, or received thereafter" only for

the elective office which the candidate held at the time the contributions were received or, if the candidate did not then hold elective office, those contributions shall be deemed to have been received for that elective office for which that person was a candidate most recently following the receipt of such contributions.⁸⁸

Mary Jo Schrade

"commission" rather than the "Secretary of State," pursuant to "Article 4 of this chapter." O.C.G.A. § 21-5-50(c)(1)(B) (Supp. 1992). Subsection (b)(1) also was changed. In that subsection, receipt of an honorarium was added, with the provision that monetary fees or honoraria be accepted rather than received. O.C.G.A. § 21-5-50(b)(1) (Supp. 1992).

87. *Id.* § 21-5-33 (Supp. 1992).

88. *Id.*