

The Senate Committee on Ethics offers the following substitute to HB 370:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 21 of the Official Code of Georgia Annotated, relating to elections, so as to  
2 provide definitions; to provide for waivers of certain civil penalties and fees incurred by  
3 candidates for local elected office; to provide for exceptions; to provide for refunds of certain  
4 civil penalties and fees; to provide for related matters; to provide an effective date; to repeal  
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

7 Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections, is  
8 amended in Code Section 21-5-3, relating to definitions, by revising paragraph (12) and  
9 adding new paragraphs (5.1), (10.1), and (12.1) to read as follows:  
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11 "(5.1) 'Communication' means:

12 (A) A paid advertisement broadcast over radio, television, cable, or satellite;

13 (B) A paid placement of content on the Internet or other electronic communication  
14 networks;

15 (C) A paid advertisement published in a periodical or on a billboard;

16 (D) Paid telephone communications that are directed to 100 or more households;

17 (E) Mailings that are sent or distributed to 100 or more households; or

18 (F) Printed materials that exceed 1,000 copies."

19 "(10.1) 'Election targeted issue advocacy' means any communication other than express  
20 election advocacy made within 180 days of an election that:

21 (A) Refers to one or more clearly identified candidates in such election;

22 (B) Depicts the name, image, likeness, or voice of one or more clearly identified  
23 candidates in such election;

24 (C) Refers to a political party or body having candidates on the ballot at such election;

25 or

26 (D) Refers to a constitutional amendment, referendum, or other question being  
 27 submitted to the voters in such election."

28 "(12) 'Expenditure' means a purchase, payment, distribution, loan, advance, deposit, or  
 29 any transfer of money or anything of value made for the purpose of influencing the  
 30 nomination for election or election of any person, bringing about the recall of a public  
 31 officer holding elective office or opposing the recall of a public officer holding elective  
 32 office, or the influencing of voter approval or rejection of a proposed constitutional  
 33 amendment, a state-wide referendum, or a proposed question which is to appear on the  
 34 ballot in this state or in a county or a municipal election in this state. The term  
 35 specifically shall not include the value of personal services performed by persons who  
 36 serve without compensation from any source and on a voluntary basis. The term  
 37 'expenditure' shall also include the payment of a qualifying fee for and on behalf of a  
 38 candidate. The term shall include the purchase of or payment for communications for  
 39 express election advocacy and election targeted issue advocacy.

40 (12.1) 'Express election advocacy' means any communication made at any time that:

41 (A) Contains express words, such as 'vote,' 'oppose,' 'support,' 'elect,' 'defeat,' or 'reject,'  
 42 which call for the nomination, election, or defeat of one or more clearly identified  
 43 candidates, the election or defeat of one or more political parties or bodies, or the  
 44 passage or defeat of one or more constitutional amendments, referenda, or other  
 45 questions submitted to the voters in any election; or

46 (B) Otherwise refers to or depicts one or more clearly identified candidates, political  
 47 parties or bodies, or constitutional amendments, referenda, or other questions submitted  
 48 to the voters in a manner that is susceptible to no reasonable interpretation other than  
 49 as a call for the nomination, election, or defeat of such candidates in an election, the  
 50 election or defeat of such political parties or bodies, or the passage or defeat of  
 51 constitutional amendments, referenda, or other questions submitted to the voters in any  
 52 election."

## 53 **SECTION 2.**

54 Said title is further amended by adding a new Code section to read as follows:

55 "21-5-7.2.

56 (a) Upon written request of a candidate or in a response by the candidate to any  
 57 notification from the commission alleging noncompliance with the provisions of this  
 58 chapter for filings required between January 1, 2010, and January 10, 2014, the  
 59 commission shall be authorized to waive late fees, fines, and civil penalties incurred by  
 60 candidates for public office for those offices defined in subparagraphs (F) and (G) of

61 paragraph (22) of Code Section 21-5-3 regarding the late, incomplete, or nonfiling of  
62 campaign disclosure reports and personal financial disclosure reports.

63 (b) For candidates who paid late fees, fines, or civil penalties between January 1, 2014,  
64 and the effective date of this Code section based upon alleged noncompliance with the  
65 provisions of this chapter for filings required between January 1, 2010, and  
66 January 10, 2014, such candidates may make a written request to the commission for a  
67 waiver under division (b)(14)(C)(i) of Code Section 21-5-6, and, if granted, the  
68 commission shall refund such late fees, fines, and civil penalties to the candidate subject  
69 to appropriations for such purpose.

70 (c) With regard to filings which were required under this chapter during the period  
71 between January 1, 2010, and January 10, 2014, there shall be a rebuttable presumption  
72 that all candidates for a public office for those offices defined in subparagraphs (F) and (G)  
73 of paragraph (22) of Code Section 21-5-3 timely filed or attempted to file the required  
74 reports but were unable to do so as a result of the problems with the commission's  
75 computer system during such time period. Such rebuttable presumption shall be overcome  
76 by proof by a preponderance of the evidence that such candidate failed to file the required  
77 report during such period.

78 (d) The commission shall approve or deny each request for waiver or commence further  
79 proceedings under Code Section 21-5-7 within 12 months after receipt of the request by the  
80 commission. If such request for a waiver is denied, the candidate may, within 30 days  
81 following the candidate's receipt of notice of the denial, demand a hearing on such request  
82 for a waiver before the commission as provided by division (b)(14)(C)(i) of Code  
83 Section 21-5-6.

84 (e) In the event that the commission grants a waiver under this Code section and within  
85 two years following the effective date of this Code section discovers evidence that the  
86 person to whom such waiver was granted was guilty of knowingly and willfully refusing  
87 to file the report or reports for which such waiver was granted, the commission may revoke  
88 such waiver, reimpose all such late fees, fines, and penalties, and take such further actions  
89 as the commission is authorized to do as if such waiver had never been granted.

90 (f) If the commission grants a waiver under this Code section and, at the end of the  
91 two-year period following the effective date of this Code section, the commission has taken  
92 no further action with regard to such waiver, then the commission shall expunge from the  
93 commission's records all of the alleged violations which were the basis for such late fees,  
94 fines, and penalties associated with such waiver for such person for whom such waiver was  
95 granted.

96 (g) This Code section shall be repealed by operation of law on January 31, 2019."

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**SECTION 3.**

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This Act shall become effective upon its approval by the Governor or upon its becoming law

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without such approval.

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**SECTION 4.**

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