

# ETHICS REFORM IN GEORGIA

*Comparisons and Recommendations for Strengthening the  
Georgia Government Transparency and Campaign Finance Commission*

*Georgia*  
**COMMON CAUSE**  
*Holding Power Accountable*

## OVERVIEW

In the wake of the Watergate scandal, Georgia was among a group of states that passed ethics laws and created ethics law enforcement infrastructures. The Georgia Government Transparency and Campaign Finance Commission, formerly known as the Georgia Ethics Commission, was formed in 1974 by an act of the Georgia General Assembly and signed into law by Governor Jimmy Carter.

Because ethics laws generally are useless without proper enforcement, state ethics commissions help ensure that the country's democracy is functioning as it should. The commissions typically have the power to oversee ethical compliance by state employees and public officials, regulate the registration of lobbyists, deal with any conflicts of interest, and ensure proper financial disclosure.

Eight states – Arizona, Idaho, New Hampshire, New Mexico, North Dakota, South Dakota, Vermont and Wyoming – do not have ethics commissions that are established in statute or in the state constitution. In these states, ethics oversight is handled by other state agencies, such as the office of the attorney general or the office of the secretary of state. The remaining 42 states each have at least one state entity that is responsible for enforcing all or part of their ethics laws. California and Hawaii were the first states to establish ethics commissions<sup>1</sup>, while the bulk of the states followed suit through the 1970's and early 1980's. In 2015, Virginia became the most recent state to establish an ethics commission; the Virginia Conflict of Interest and Ethics Advisory Council was created in the wake of a high-profile corruption scandal involving former Virginia Governor Bob McDonnell.

In this report, Common Cause Georgia examines how ethics commissions in other states are appointed, funded, and statutorily empowered and compares those commissions with the Georgia Government Transparency and Campaign Finance Commission in these critical areas. Common Cause Georgia then makes recommendations for reform based upon best practices and innovations related to ethics commissions in other states.

This report does not address any lingering operational issues at the Georgia Government Transparency and Campaign Finance Commission, as identified in the 2014 audit conducted by the Georgia Department of Audits and Accounts; instead, it is intended to address the overarching structural and procedural practices and requirements of the Commission and serve as a vehicle for suggested reforms.

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<sup>1</sup> Kayla Crider & Jeffrey Milyo, Do State Ethics Commissions Reduce Political Corruption? 3 U.C. Irvine L. Rev. 101 (2013), available at: [http://web.missouri.edu/~milyoj/files/State\\_Ethics\\_Commissions\\_and\\_Political\\_Corruption.pdf](http://web.missouri.edu/~milyoj/files/State_Ethics_Commissions_and_Political_Corruption.pdf).

# GEORGIA'S ETHICS COMMISSION:

## A Brief History and Background

By law, the Georgia Government Transparency and Campaign Finance Commission is the sole state entity assigned to administer and enforce the Georgia Government Transparency and Campaign Finance Act. Its original description in the state budget states that the Commission was created to “protect the integrity of the democratic process.”

Initially, Georgia's ethics commission was tasked with enforcing the state's first campaign finance laws, which were established in the early 1970's. The commission's purview was expanded gradually to include oversight of lobbyists. Throughout the 1970's, 1980's and 1990's, the Commission was a lean operation, with an average of two to three employees and a modest budget. With the passage of the 1992 Ethics in Government Act, the commission received a modest increase in resources, along with increased responsibility for lobbyist oversight and monitoring new campaign contribution limits in local races.

By 2008, Georgia's commission had a \$1.6 million budget and 19 staffers, which included a number of investigators, a dedicated fraud examiner, and the third largest budget for ethics agencies in the Southern states, trailing only Florida and Texas.<sup>2</sup> That year, Georgia's commission closed 116 ethics cases and collected \$195,000 in civil penalties<sup>3</sup>.

But between 2008 and 2013, the General Assembly cut the Commission's budget by more than 40 percent, a figure that far outpaced budget cuts to most, if not all, state agencies. In addition, the Commission was forced to reduce the number of staffers by nearly 70 percent.

During this period of budget cuts and personnel reductions, the Commission's ability to function properly came to a near standstill thanks to a series of controversies, including whistleblower lawsuits and personnel issues related to an investigation of Governor Nathan Deal's 2010 campaign. From 2013 to 2015, staff turnover at the agency was 46 percent<sup>4</sup>. Conditions at the Commission were so unfavorable that in 2012, the Center for Public Integrity declared that “perhaps no state illustrates the political perils of ethics enforcement better than Georgia, where the ethics commission has been the nexus of more infighting, vitriol and litigation than a Univision novella.”

In the midst of these challenges, a 2014 audit by the Georgia Department of Audits and Accounts called the Commission dysfunctional, ineffective, inefficient, and inequitable in its handling of violations of Georgia's ethics laws. The report stated that “the Commission has not developed a system of management controls necessary to ensure that it is efficiently and effectively fulfilling its duties and responsibilities outlined in the Ethics in Government Act.”<sup>5</sup>

Now, under the leadership of Executive Secretary Stefan Ritter, many of the operational issues that were brought to light in a 2014 audit of the Commission's activities are being addressed. However, more work remains.

No state illustrates the political perils of ethics enforcement better than Georgia.

CENTER FOR PUBLIC INTERGITY, 2012

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<sup>2</sup> Question of the Month for January 2008, Southern Legislative Conference, [http://www.slcatlanta.org/QoM/qom.php?post\\_id=42](http://www.slcatlanta.org/QoM/qom.php?post_id=42) (last visited June 7, 2016).

<sup>3</sup> Chris Joyner, Ethics Commission: State has Defanged its Watchdog, AJC.com (Sep. 16, 2012, 7:11 AM), <http://www.ajc.com/news/news/ethics-commission-state-has-defanged-its-watchdog/nSCXt/>.

<sup>4</sup> Walter C. Jones, Audit Shows Ga. Ethics Commission Lapses Persist, Savannah Morning News (Dec. 15, 2015 06:53 AM), <http://savannahnow.com/news/2014-11-06/audit-shows-ga-ethics-commission-lapses-persist>.

<sup>5</sup> Georgia Dep't of Audits & Accounts Performance Audit Div., Gov't Transparency & Campaign Finance Comm'n Audit Report, [http://www.gmanet.com/GMASite/media/PDF/ethics\\_commissioner\\_audit\\_2014.pdf](http://www.gmanet.com/GMASite/media/PDF/ethics_commissioner_audit_2014.pdf) (2014).

# STATE-BY-STATE COMPARISONS

Using public information and direct contacts with ethics commissions in other states, Common Cause Georgia compared the Georgia ethics commission with its peers in four critical areas:

APPOINTMENTS  
PARTISAN BALANCE  
JURISDICTION  
FUNDING

Common Cause Georgia found 52 ethics commissions in 42 states, and no two commissions are an exact match in terms of structure, jurisdiction and funding mechanism. A comparative view of the commissions in these 42 states is as follows.

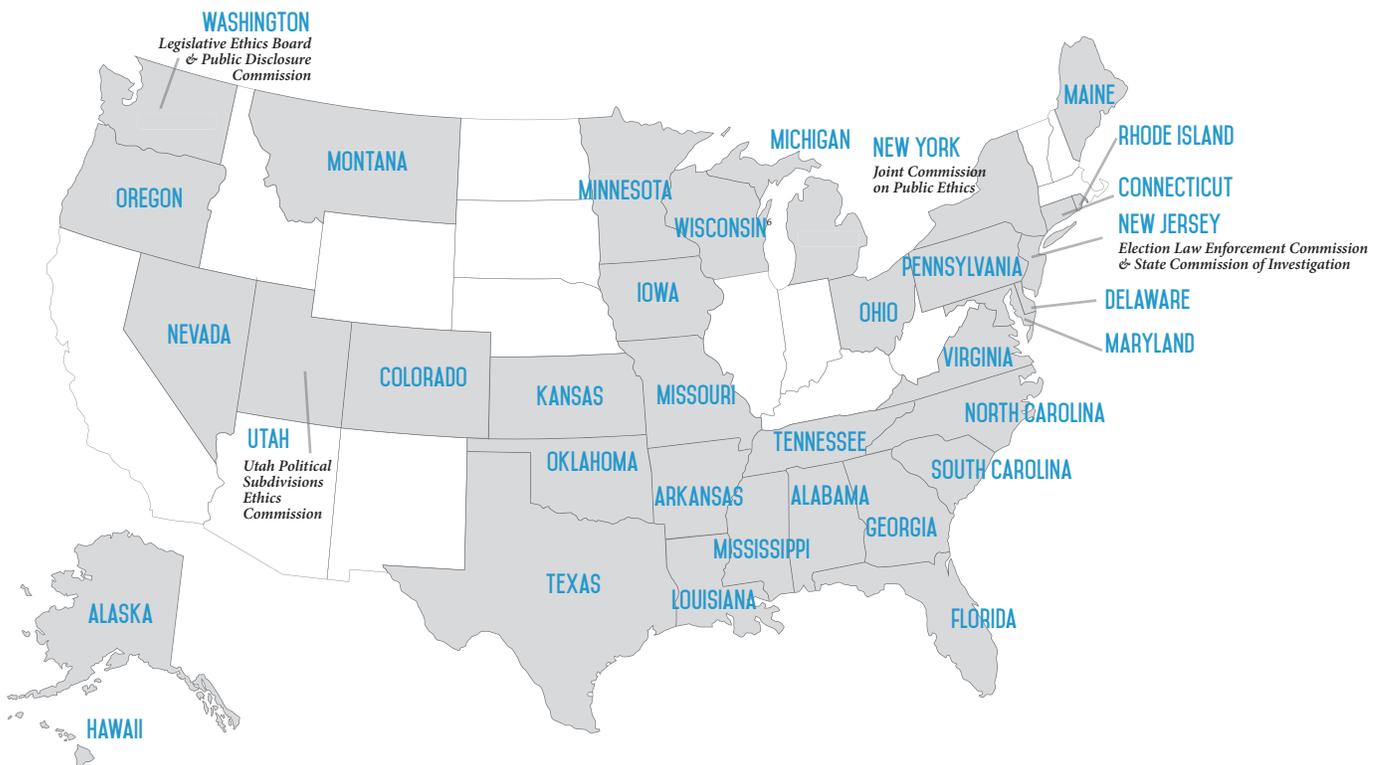
# APPOINTMENTS

All states assign the appointment of commissioners to at least one of the three branches of government. The majority of states have a mix of executive and legislative appointments, with the governor typically having several appointments and each of the two chambers of the state legislature making one appointment each.

## Mixed

Thirty-eight commissions in 36 states, including Georgia, divide their appointment processes between branches of government. The most common system involves a list of commission nominees selected by the governor or executive branch officials and submitted to the legislature for approval. In some states, including Texas, a list generated in the legislature is submitted to the governor, who selects preferred members before sending the list back for legislative approval. In other states, like New York and Nevada, the governor and legislature are each responsible for appointing equal numbers of commissioners.

The states below rely on a combination of governmental branches for appointment of commissioners to state ethics commissions:



Of these, only Hawaii and Wisconsin rely on both the executive branch and the judiciary to make ethics commission appointments. Hawaii's commission has five members, all nominated by the state's judicial council and then approved and appointed by the Governor; legislative confirmation of commission appointees is not required. Nominees for the Wisconsin commission are submitted to the Governor by a nominating committee that includes one court of appeals judge from each court of appeals district; the Chief Justice of the Supreme Court appoints the court of appeals judges who serve on the committee.

<sup>6</sup> On December 16, 2015, Wisconsin Governor Scott Walker signed Wisconsin Act 118, which eliminates the Government Accountability Board as of June 30, 2016 and replaces it with two separate commissions to oversee the administration of elections and ethics. As of the writing of this report, the Wisconsin Government Accountability Board is the ethics commission of record for the state of Wisconsin.

Four states – Colorado, Kansas, Mississippi and Oklahoma – involve all three branches of state government in the process:

**COLORADO** – The Governor, President of the Senate, Speaker of the House, and Chief Justice of the Supreme Court each appoint one commissioner. The final member is selected by the other four appointees.

**KANSAS** – The commission consists of nine members, two appointed by the Governor, one each by the President of the Senate, the Speaker of the House, the House Minority Leader, the Senate Minority Leader, the Chief Justice of the Supreme Court, the Attorney General and the Secretary of State.

**MISSISSIPPI** – The Governor, Lt. Governor, Speaker of the House and Chief Justice of the Supreme Court; each get two appointments to fill the eight-member commission.

**OKLAHOMA** – The Governor, President Pro Tempore of the Senate, Speaker of the House, Chief Justice of the Supreme Court, and Attorney General all have one appointment.

## Executive

In nine states – California, Illinois, Indiana, Kentucky, Massachusetts, Nebraska, New Jersey, Utah and Washington – the executive branch has the sole authority to appoint commissioners. In all of these states, commission appointments are not subject to legislative approval.

**CALIFORNIA** – Five commissioners, with one appointment each by the Governor, Commission chair, Secretary of State, Attorney General, and State Controller; one member must be a registered voter of the minority party.

**ILLINOIS** (Executive Ethics Commission) – Nine commissioners; five members are appointed by the Governor, and the remaining four members are appointed one each by the Attorney General, Secretary of State, Treasurer, and Comptroller.

**INDIANA** (State Ethics Commission) – All five commissioners are appointed by the Governor.

**KENTUCKY** (Executive Ethics Commission) – All five commissioners are appointed by the Governor.

**MASSACHUSETTS** – Five commissioners; three are appointed by the Governor, and one each by the Secretary of State and Attorney General.

**NEBRASKA** – Nine commissioners; including the Secretary of State; four members are appointed by the Governor and four are appointed by the Secretary of State. While no legislative officials have appointment power, the Governor is required to appoint one member from each of two nominee lists submitted by the legislature.

**NEW JERSEY** (State Ethics Commission) – All seven commissioners are appointed by the Governor; three of the appointees must be executive branch employees.

**UTAH** (Independent Executive Branch Ethics Commission) – All five members are appointed by the Governor; two must be former elected officials or managers in the executive branch who have not served in the past four years, one must be a former judge and a current attorney, and two must be citizens at large. Four of the members are selected from eight suggestions made two each by the Lieutenant Governor, Attorney General, State Auditor and State Treasurer.

**WASHINGTON** (Executive Ethics Board) – All five commissioners are appointed by the Governor. One member must be a member of the classified service; one is a state officer or state employee in an exempt position; one member is a citizen at large; one member is a citizen selected from a list provided by the State Auditor; and, one member is a citizen selected from a list provided by the Attorney General.

## Legislative

Five commissions in five states – Illinois, Indiana, Kentucky, New York, and Utah – have commissions appointed solely by the legislature.

**ILLINOIS** (Legislative Ethics Commission) – Eight commissioners, two each appointed by the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives.

**INDIANA** (Lobby Registration Commission) – Four commissioners, one each appointed by the President Pro Tempore, Minority Floor Leader of the Senate, Speaker of the House, and Minority Floor Leader of the House.

**KENTUCKY** (Legislative Ethics Commission) – Nine commissioners; four chosen by the President of the Senate and four by the Speaker of the House. The remaining member is appointed by the Legislative Research Commission.

**NEW YORK** (State Legislative Ethics Commission) – Nine commissioners; the President of the Senate, Speaker of the Assembly, Senate Minority Leader, and Assembly Minority Leader each appoint two commissioners, one of whom must be a current legislator and the other who must never have served as a legislator. The ninth commissioner is appointed jointly by the Speaker of the Assembly and the Senate Majority Leader.

**UTAH** (Independent Legislative Ethics Commission) – Five commissioners, all nominated and appointed by mutual consent of the majority and minority party leaders in the House and Senate.

## PARTISAN BALANCE

Thirty-one commissions in 29 states are statutorily required to maintain some level of partisan balance in commission appointees. The majority of these states – including Georgia – have measures in place ensuring that one party cannot control all seats on the commission; other states prohibit members of one party from holding a majority of the seats on the commission. A small number of states require that the commission be bipartisan, with an even number of commissioners evenly split between parties. Wisconsin is the only state which prohibits members of its commission from possessing partisan affiliation. Montana has a single commissioner, so partisan balance is not possible.

The table below details each state's requirements.

COMMISSION	PARTISAN BALANCE REQUIRED	SPECIFIC REQUIREMENT
Alabama State Ethics Commission	No	
Alaska Public Offices Commission	Yes	Five commissioners; of these, the governor must appoint two members from each of the two political parties whose candidate for governor received the most votes in the most recent gubernatorial election; these shall be chosen from a list of four names submitted by the central committee of each party.
Arkansas Ethics Commission	No	
California Fair Political Practices Commission	Yes	No more than three of the five commissioners may be from the same political party.
Colorado Independent Ethics Commission	Yes	No more than two of the five commissioners may be from the same political party.
Connecticut Office of State Ethics	Yes	No more than five of the nine commissioners may be from the same political party.
Delaware State Public Integrity Commission	No	
Florida Commission on Ethics	Yes	Nine commissioners; of these, no more than three of the governor's five appointees may be of the same political party; the remaining four legislative appointees are split evenly between parties.
Maryland State Ethics Commission	Yes	Five commissioners; of these, at least one of the governor's three appointees must be a member of a different political party than the governor.
Georgia Government Transparency and Campaign Finance Commission	Yes	Five commissioners; of these, no more than two of the governor's three appointees may be of the same political party.
Hawaii State Ethics Commission	No	

COMMISSION	PARTISAN BALANCE REQUIRED	SPECIFIC REQUIREMENT
Illinois Executive Ethics Commission	Yes	No more than five of the nine commissioners may be from the same political party.
Illinois Legislative Ethics Commission	No	
Indiana Lobby Registration Commission	Yes	No more than two of the four members may be from the same political party.
Indiana State Ethics Commission	Yes	No more than three of the five commissioners may be from the same political party.
Iowa Ethics and Campaign Disclosure Board	Yes	No more than three of the six commissioners can be of the same political party.
Kansas Governmental Ethics Commission	Yes	Nine commissioners; of these, no more than five commissioners shall be members of the same political party, and the two commissioners appointed by the governor shall not be members of the same political party.
Kentucky Executive Branch Ethics Commission	No	
Kentucky Legislative Ethics Commission	Yes	No less than three of the nine commissioners may be members of the largest minority party in the state.
Louisiana Ethics Administration Program	No	
Maine Commission on Governmental Ethics and Election Practices	Yes	No more than two of the five commissioners may be from the same political party.
Maryland State Ethics Commission	Yes	Five commissioners; of these, at least one of the governor's three appointees must be a member of a different political party than the governor.
Massachusetts State Ethics Commission	Yes	No more than three of the five commissioners may be from the same political party.
Michigan State Board of Ethics	Yes	No more than four of the seven commissions may be from the same political party.
Minnesota Campaign Finance and Public Disclosure Board	Yes	No more than three of the six commissioners may be from the same political party.
Mississippi Ethics Commission	No	

COMMISSION	PARTISAN BALANCE REQUIRED	SPECIFIC REQUIREMENT
Missouri Ethics Commission	Yes	No more than three of the six commissioners can be of the same political party.
Montana Commissioner on Political Practices	N/A	Single commissioner.
Nebraska Accountability and Disclosure Commission	Yes	No more than four of the nine commissioners may be from the same political party; one of the nine commissioners must be registered as an independent.
Nevada Commission on Ethics	Yes	No more than four of the eight commissioners may be from the same political party.
New Jersey Commission of Investigation	Yes	No more than two of the four members may be from the same political party.
New Jersey State Ethics Commission	Yes	Seven commissioners; of these, no more than two of the four public members may be from the same political party.
New Jersey Election Law Enforcement Commission	Yes	No more than two of the four members may be from the same political party.
New York State Joint Commission on Public Ethics	Yes	14 commissioners; of these, three of the governor's six appointees must be members of a different political party than the governor.
New York State Legislative Ethics Commission	No	
North Carolina Ethics Commission	Yes	Eight commissioners; of these, no more than two of the governor's four appointees may be of the same political party; the remaining four legislative appointees are split evenly between parties.
Ohio Ethics Commission	Yes	No more than three of the six commissioners may be from the same political party.
Oklahoma Ethics Commission	Yes	No more than three of the five commissioners may be from the same political party.
Oregon Government Ethics Commission	Yes	Seven commissioners; of these, no more than two of the governor's three appointees may be of the same political party.
Pennsylvania State Ethics Commission	Yes	Seven commissioners, of these, no more than two of the governor's three appointees may be from the same political party.
Rhode Island Ethics Commission	No	

COMMISSION	PARTISAN BALANCE REQUIRED	SPECIFIC REQUIREMENT
South Carolina Ethics Commission	No	
Tennessee Bureau of Ethics and Campaign Finance	Yes	No more than three of the six commissioners may be from the same political party.
Texas Ethics Commission	Yes	No more than four of the eight commissioners may be from the same political party.
Utah Independent Executive Ethics Commission	No	
Utah Independent Legislative Ethics Commission	No	
Utah Political Subdivisions Ethics Commission	No	
Virginia Conflict of Interest and Ethics Advisory Council	Yes	Four of the nine commissioners must be current members of the legislature; no more than two of these four may be from the same political party.
Washington Public Disclosure Commission	No	
Washington State Executive Ethics Board	No	
Washington State Legislative Ethics Board	Yes	No more than three of the nine commissioners may be from the same political party.
West Virginia Ethics Commission	No	
Wisconsin Government Accountability Board	N/A	Commissioners are prohibited from holding any party affiliation.

## JURISDICTION

In seven states – Illinois, Indiana, Kentucky, New Jersey, New York, Utah and Washington State – multiple entities are charged with enforcing ethics laws across different branches of government. In 34 states, there is a single ethics enforcement entity but each of these has different jurisdiction over the legislative branch, the executive branch, candidates for elected office, local officials and lobbyists.

The majority of states have a separate entity responsible for ethics enforcement within the judicial branch; hence, jurisdiction over judicial ethics is not included as a comparative measure in this report.

The Center for State Ethics at the National Conference of State Legislatures recently compiled comprehensive data<sup>7</sup> on the jurisdictions of ethics commissions in 42 states. The vast majority of these – 44 commissions in 41 states – have full or partial jurisdiction over the executive branch; a slightly smaller number – 38 commissions in 36 states – have full or partial jurisdiction over the legislative branch. Thirty-four commissions in 33 states have jurisdiction over lobbyists, while 29 commissions in 28 states have jurisdiction over candidates for office. In general, local officials are the least regulated – only 25 commissions in 25 states have jurisdiction over municipal and county elected officials.

The Center’s findings are summarized below.

COMMISSION	LEGISLATIVE BRANCH	EXECUTIVE BRANCH	CANDIDATES	LOCAL OFFICIALS	LOBBYISTS
Alabama State Ethics Commission	x	x	x	x	x
Alaska Public Offices Commission	x	x	x	x	x
Arkansas Ethics Commission	x	x	x	x	x
California Fair Political Practices Commission	x	x	x	x	x
Colorado Independent Ethics Commission	x	x		x	x
Connecticut Office of State Ethics	x	x			x
Delaware State Public Integrity Commission	x	x	x	x	x
Florida Commission on Ethics	x	x	x	x	x
Georgia Government Transparency and Campaign Finance Commission	x	x	x	x	x
Hawaii State Ethics Commission	x	x	x		x
Illinois Executive Ethics Commission		x			
Illinois Legislative Ethics Commission	x				
Indiana State Ethics Commission		x			
Indiana Lobby Registration Commission	x		x		x
Iowa Ethics and Campaign Disclosure Board	x	x	x		x
Kansas Governmental Ethics Commission	x	x	x		x
Kentucky Executive Branch Ethics Commission		x	x		x
Kentucky Legislative Ethics Commission	x		x		x
Louisiana Board of Ethics	x	x	x	x	x

<sup>7</sup> State Ethics Commissions: Jurisdiction, Nat'l Conference of State Legislatures (Nov. 10, 2015), <http://www.ncsl.org/research/ethics/50-state-chart-state-ethics-commissions-jurisdiction.aspx>.

COMMISSION	LEGISLATIVE BRANCH	EXECUTIVE BRANCH	CANDIDATES	LOCAL OFFICIALS	LOBBYISTS
Maine Commission on Governmental Ethics and Election Practices	X		X		X
Maryland State Ethics Commission	X	X			X
Massachusetts State Ethics Commission	X	X		X	X
Michigan State Board of Ethics		X			
Minnesota Campaign Finance and Public Disclosure Board	X	X	X		X
Mississippi Ethics Commission	X	X		X	
Missouri Ethics Commission	X	X	X	X	X
Montana Commissioner of Political Practices	X	X	X	X	X
Nebraska Accountability and Disclosure Commission	X	X	X	X	X
Nevada Commission on Ethics		X		X	
New Jersey Commission of Investigation	X	X			
New Jersey State Ethics Commissions		X			
New Jersey Election Law Enforcement Commission	X	X	X	X	X
New York State Joint Commission on Public Ethics		X			X
New York State Legislative Ethics Commission	X				
North Carolina Ethics Commission		X			
Ohio Ethics Commission		X		X	
Oklahoma Ethics Commission	X	X	X		
Oregon Government Ethics Commission	X	X	X	X	X
Pennsylvania State Ethics Commission	X	X	X	X	X
Rhode Island Ethics Commission		X	X	X	
South Carolina Ethics Commission		X	X		X
Tennessee Bureau of Ethics and Campaign Finance	X	X	X		X
Texas Ethics Commission	X	X	X	X	X
Utah Independent Executive Ethics Commission		X			
Utah Independent Legislative Ethics Commission	X				
Utah Political Subdivisions Ethics Commission				X	
Virginia Conflict of Interest and Ethics Advisory Council	X	X		X	X

COMMISSION	LEGISLATIVE BRANCH	EXECUTIVE BRANCH	CANDIDATES	LOCAL OFFICIALS	LOBBYISTS
Washington State Executive Ethics Board		X			
Washington State Legislative Ethics Board	X				
Washington Public Disclosure Commission	X	X	X	X	X
West Virginia Ethics Commission	X	X		X	X
Wisconsin Government Accountability Board	X	X	X		X

Sixteen ethics commissions in 16 states, including Georgia, also serve as the campaign finance reporting agency for the state.<sup>8</sup> In most other states, campaign finance reporting and election administration are assigned to the Secretary of State or a Board of Elections. In Hawaii, Kentucky and Massachusetts, there are standalone agencies with exclusive jurisdiction over campaign finance – the Campaign Spending Commission, the Registry of Election Finance, and the Office of Campaign Finance, respectively.

The table below details whether a state’s ethics commission also serves as the state’s campaign finance reporting agency.

COMMISSION	CAMPAIGN FINANCE STATE REPORTING AGENCY?
Alabama State Ethics Commission	No
Alaska Public Offices Committee	Yes
Arkansas Ethics Commission	No
California Fair Political Practices Commission	No
Colorado Independent Ethics Commission	No
Connecticut Office of State Ethics	No
Delaware State Public Integrity Commission	No
Florida Commission on Ethics	No
Georgia Government Transparency and Campaign Finance Commission	Yes
Hawaii State Ethics Commission	No
Illinois Executive Ethics Commission	No
Illinois Legislative Ethics Commission	No
Indiana Lobby Registration Commission	No
Indiana State Ethics Commission	No

<sup>8</sup>State Links, Campaign Finance Institute, <http://www.cfinst.org/law/stateLinks.aspx> (last visited June 7, 2016).

COMMISSION	CAMPAIGN FINANCE STATE REPORTING AGENCY?
Iowa Ethics and Campaign Disclosure Board	Yes
Kansas Governmental Ethics Commission	No
Kentucky Executive Branch Ethics Commission	No
Kentucky Legislative Ethics Commission	No
Louisiana Ethics Administration Program	Yes
Maine Commission on Governmental Ethics and Election Practices	Yes
Maryland State Ethics Commission	No
Massachusetts State Ethics Commission	No
Michigan State Ethics Board	No
Minnesota Campaign Finance and Public Disclosure Board	Yes
Mississippi Ethics Commission	No
Missouri Ethics Commission	Yes
Montana Commissioner on Political Practices	Yes
Nebraska Accountability and Disclosure Commission	Yes
Nevada Commission on Ethics	No
New Jersey Commission of Investigation	No
New Jersey State Ethics Commissions	No
New Jersey Election Law Enforcement	Yes
New York State Joint Commission on Public Ethics	No
New York State Legislative Ethics Commission	No
North Carolina Ethics Commission	No
Ohio Ethics Commission	No
Oklahoma Ethics Commission	Yes
Oregon Government Ethics Commission	No
Pennsylvania State Ethics Commission	No
Rhode Island Ethics Commission	No
South Carolina Ethics Commission	Yes
Tennessee Bureau of Ethics and Campaign Finance	Yes
Texas Ethics Commission	Yes
Utah Independent Executive Ethics Commission	No
Utah Independent Legislative Ethics Commission	No
Utah Political Subdivisions Ethics Commission	No
Virginia Conflict of Interest and Ethics Advisory Council	No
Washington Public Disclosure Commission	Yes
Washington State Executive Ethics Board	No
Washington State Legislative Ethics Board	No
West Virginia Ethics Commission	No
Wisconsin Government Accountability Board	Yes

In the 16 states where ethics commissions serve as the official campaign finance reporting agency, jurisdiction over local filers differs greatly. In 10 states, local filers – defined broadly as county or municipal-level officials such as local mayors or county commissioners – are required to disclose campaign finance activity to the state’s commission. In the remaining six states, local filers are required to disclose campaign finance activity to their local election authorities – often a local election superintendent or a city clerk.

The table below details whether a state’s ethics commission serves as the campaign finance reporting agency for local candidates and elected officials.

COMMISSION	JURISDICTION OVER LOCAL FILERS?
Alaska Public Offices Committee	Yes
Georgia Government Transparency and Campaign Finance Commission	No
Iowa Ethics and Campaign Disclosure Board	Yes
Louisiana Ethics Administration Program	Yes
Maine Commission on Governmental Ethics and Election Practices	Yes <sup>9</sup>
Minnesota Campaign Finance and Public Disclosure Board	No
Missouri Ethics Commission	Yes <sup>10</sup>
Montana Commissioner on Political Practices	Yes
Nebraska Accountability and Disclosure Commission	Yes
New Jersey Election Law Enforcement	Yes
Oklahoma Ethics Commission	No
South Carolina Ethics Commission	Yes
Tennessee Bureau of Ethics and Campaign Finance	No
Texas Ethics Commission	No
Washington Public Disclosure Commission	Yes <sup>11</sup>
Wisconsin Government Accountability Board	No

## FUNDING

The vast majority of states fund their ethics commissions in the annual state budget<sup>12</sup> – which often means that politics figures in the agency’s budgetary allocation. A recent study from the Center for Public Integrity concluded that ethics commissions in more than half the states with such entities are woefully underfunded and that the inadequate resources leave commissions without the tools needed for even the most basic functions.<sup>13</sup>

Of the 42 states with ethics commissions, only 11 have commissions fully or partially funded by a dedicated source and not subject to annual state budget negotiations; of these, the majority – Georgia, Louisiana, Maine, Maryland, Michigan, South Carolina, Tennessee and Wisconsin – are funded by sources that are only moderately independent. Most states with a somewhat independently allocated budget use a small percentage of fees and/or fines collected by the ethics agency to defray operational costs, but also receive agency funding via a yearly appropriation.

<sup>9</sup> Maine’s commission has jurisdiction over county filers, but not municipal filers.

<sup>10</sup> Missouri’s commission has jurisdiction over candidates or officials in counties or cities with a population of more than 100,000; these filers must dual file with the local election authority.

<sup>11</sup> Washington’s commission has jurisdiction over local candidates so long as the candidate raises more than \$5000 or the district has more than 5000 voters.

<sup>12</sup> Erik Lincoln, Yue Qiu, Chris Zubak-Skeese, How Does Your State Rank for Integrity? Center for Public Integrity, (2015, November 9), <https://www.publicintegrity.org/accountability/state-integrity-investigation/state-integrity-2015>

<sup>13</sup> Nicholas Kusnetz, Only Three States Score Higher Than D+ In State Integrity Investigation; 11 Flunk, Center for Public Integrity (2015, November 23), <https://www.publicintegrity.org/2015/11/09/18693/only-three-states-score-higher-d-state-integrity-investigation-11-flunk>

Funding formulas for ethics commissions in Alabama, California and Oregon, which have independently allocated budgets, vary widely. Oregon has perhaps the most novel resource allocation model for its ethics commission: the Oregon Government Ethics Commission forecasts its expenses for a biennium, and collects an allocation from all political jurisdictions governed by ethics rules; however, the legislature sets the overall size of the Commission's budget. The only general fund dollars the commission receives are linked to a state government assessment that is based on the number of state employees and public officials.

COMMISSION	INDEPENDENTLY ALLOCATED BUDGET?	NOTES
Alabama State Ethics Commission	Yes	The Ethics Commission is funded by the legislature through the General Fund, but is guaranteed a budget of at least one-tenth of one percent of the General Fund appropriations. To give the Commission less requires a two-thirds vote of the House and Senate.
Alaska Public Offices Committee	No	
Arkansas Ethics Commission	No	
California Fair Political Practices Commission	Yes	State law grants the Fair Political Practices Commission its basic budget, increased annually to adjust for cost-of-living. Above this amount, the Commission must seek approval from the governor and legislature, like any other state agency.
Colorado Independent Ethics Commission	No	
Connecticut Office of State Ethics	No	
Delaware State Public Integrity Commission	No	
Florida Commission on Ethics	No	
Georgia Government Transparency and Campaign Finance Commission	Somewhat independent	The bulk of the Commission's funding is appropriated on an annual basis from the state's general fund; however, the Commission can collect and retain a portion of certain fees.
Hawaii State Ethics Commission	No	
Illinois Executive Ethics Commission	No	
Illinois Legislative Ethics Commission	No	
Indiana Lobby Registration Committee	No	
Indiana State Ethics Commission	No	
Iowa Ethics and Campaign Disclosure Board	No	

COMMISSION	INDEPENDENTLY ALLOCATED BUDGET?	NOTES
Kansas Governmental Ethics Commission	No	
Kentucky Executive Branch Ethics Commission	No	
Kentucky Legislative Ethics Commission	No	
Louisiana Ethics Administration Program	Somewhat independent	A small portion of the Program's budget is non-discretionary and prescribed by law; in 2015, \$233,404 of the commission's budget allocation was non-discretionary, \$4,180,365 of budget allocation was discretionary and funded by the legislature.
Maine Commission on Governmental Ethics and Election Practices	Somewhat independent	Maine law dedicates two sources of revenue – the Maine Clean Election Fund and half of all lobbyist registration and disclosure fees – to the Commission; the rest is subject to negotiation.
Maryland State Ethics Commission	Somewhat independent	The Commission collects some fees from lobbyist registration, which are independent of its annual legislative appropriation.
Massachusetts State Ethics Commission	No	
Michigan State Ethics Board	Somewhat independent	The Ethics Act of 1973 mandated an allocation of \$10,000 annually for the Michigan State Ethics Board; however, the remainder of the funds are subject to budget allocation.
Minnesota Campaign Finance and Public Disclosure Board	No	
Mississippi Ethics Commission	No	
Missouri Ethics Commission	No	
Montana Commissioner on Political Practices	No	
Nebraska Accountability and Disclosure Commission	No	
Nevada Commission on Ethics	No	
New Jersey Commission of Investigations	No	
New Jersey State Ethics Commissions	No	
New Jersey Election Law Enforcement	No	
New York State Joint Commission on Public Ethics	No	
New York State Legislative Ethics Commission	No	

COMMISSION	INDEPENDENTLY ALLOCATED BUDGET?	NOTES
North Carolina Ethics Commission	No	
Ohio Ethics Commission	No	
Oklahoma Ethics Commission	No	
Oregon Government Ethics Commission	Yes	The Commission estimates its own budget and collects an allocation from all political jurisdictions governed by ethics rules; however, the Legislature sets the overall size of the Commission's budget. The only general fund dollars are those linked to the state government assessment based on the number of state employees and public officials.
Pennsylvania State Ethics Commission	No	
Rhode Island Ethics Commission	No	
South Carolina Ethics Commission	Somewhat independent	The Commission is permitted to retain all lobbyist fees and the first \$100 of all fines levied; the bulk of the Commission's budget is annually funded through the appropriations bill of the House Ways and Means Commission.
Tennessee Bureau of Ethics and Campaign Finance	Somewhat independent	All fees imposed by both the Bureau and the Registry of Election Finance are used exclusively for the Bureau for expenses; beyond that, there is no law that independently allocates the budget for the Bureau.
Texas Ethics Commission	No	
Utah Independent Executive Ethics Commission	No	
Utah Independent Legislative Ethics Commission	No	
Utah Political Subdivisions Ethics Commission	No	
Virginia Conflict of Interest and Ethics Advisory Council	No	
Washington Public Disclosure Commission	No	
Washington State Executive Ethics Board	No	
Washington State Legislative Ethics Board	No	
West Virginia Ethics Commission	No	
Wisconsin Government Accountability Board	Somewhat independent	The Board is funded by law for a certain portion of its activities - not being subject to the budget negotiations; however, the other part of its budget is subject to negotiations.

# RECOMMENDATIONS FOR REFORM

## APPOINTMENTS AND PARTISAN BALANCE

Georgia's commission is governed by five members who are appointed as follows:

- three members, not more than two of whom are from the same political party, are appointed by the Governor,
- one member appointed by the Senate Committee on Assignments; and
- one member appointed by the Speaker of the House of Representatives.

While the vast majority of states with ethics commissions rely upon an appointment process that resembles Georgia's, most of those states also have strict statutory partisan balance requirements to provide minority representation on the commission. Of those states requiring some partisan balance, Georgia is among the least stringent, requiring that only one appointee be a member of the minority party.

**PROPOSED SOLUTION:** Create a more independent commission by spreading the appointment process across all branches of state government, while also passing stricter statutory requirements for the commission's partisan balance. Common Cause Georgia recommends a 12-member ethics commission, with members selected by the Governor, the Chief Justice of the Supreme Court of Georgia, the President Pro Tempore of the Senate, the Senate Minority Leader, the Speaker of the House, and the House Minority Leader. The Governor would receive four appointments, with no more than two from the same political party. The Chief Justice would receive four appointments, with no more than two from the same political party. Each of the remaining selectors would receive one appointment. The commissions would choose a chair from amongst themselves.

This proposal would give each branch of state government four appointees while ensuring an even split between the two major political parties and mitigating any appearance of partisan partiality among commission members.

### MODEL STATES:

Of the four states that use all three branches of state government to make ethics commission appointments, none guarantee an equitable split of appointees among the branches; the judicial branch holds the least amount of appointment authority in all cases.

The closest models for the proposed solution are in **OKLAHOMA AND KANSAS**. The Sooner State empowers the Governor, President Pro Tempore of the Senate, Speaker of the House, Chief Justice, and Attorney General to each make one appointment to the commission; thus, the executive and legislative branches each control two appointees, while the judicial branch controls one appointee. Kansas empowers the governor to make two appointments and leaves one appointment each to the President Pro Tempore of the Senate, the Senate Minority Leader, the Speaker of the House, the House Minority Leader, Chief Justice, the Attorney General and the Secretary of State for a total of nine commissioners – thus, the executive and legislative branches each control four appointees, while the judicial branch controls one.

Regarding partisan balance, **INDIANA, IOWA, MINNESOTA, MISSOURI, NEVADA, NEW JERSEY, NORTH CAROLINA, OHIO, OREGON, TENNESSEE AND TEXAS** have statutes that promote an equitable party split amongst commission members.

## JURISDICTION

Georgia's ethics commission is among those with relatively broad jurisdiction – it is one of only 11 commissions with oversight authority in all five measures of jurisdictional power cited in this report. While Georgia's commission has comprehensive jurisdiction over officials in the legislative and executive branches, as well as lobbyists and candidates for elected office, the agency lacks jurisdiction in one key area: campaign finance oversight for local candidates and public officials.

In 2013, HB 143 mandated that the Georgia Government Transparency & Campaign Finance Commission relinquish responsibility of serving as the filing office for disclosure reports for all candidates and public officials at a local level. As of January 1, 2014, local election superintendents and city clerks were empowered with relevant authority in relation to campaign finance for local filers. So, while the Commission may investigate complaints regarding local elected officials or candidates running for municipal or county offices, it is the local election authorities who are now responsible for monitoring all campaign finance activities at the local level.

HB 143 was a well-intended effort to alleviate the difficulties local candidates were facing when trying to file campaign finance reports electronically at the Commission. In practice however, HB 143 has damaged government efficiency and transparency. A 2015 report by Common Cause Georgia examined campaign finance disclosure reports from 60 municipalities and found widespread evidence that local filers were not submitting reports on time – or at all – under the authority of their city or county election administrators.

HB 143 also has bred serious inefficiencies in campaign finance filing requirements; instead of uniform filing requirements for candidates and public officials at every level of government, local filers are permitted to file disclosure reports – on paper – to local election superintendents who then must submit those reports – via fax – to the Commission. Data from the reports is then hand-entered into the ethics commission's computer system. Not surprisingly, inaccuracies abound.

**PROPOSED SOLUTION:** [Common Cause Georgia recommends that all campaign finance disclosure reports from county or municipal candidates and elected officials be filed directly with the Georgia Government Transparency & Campaign Finance Commission.](#) In addition, all state and local candidates and elected officials should be required to file campaign finance reports electronically, and in a uniform manner.

### MODEL STATE:

**NEW JERSEY.** A new law, effective January 1, 2015, allows local candidates to cease filing duplicate copies of any campaign report with the local clerk; previously, local candidates were required to file duplicate with the county clerk. In addition, to ensure that the public has access to all campaign reports, the law requires each county to provide on its website a link to the Election Law Enforcement Commission's.

## FUNDING

For many years, Georgia's commission has suffered mightily from state budget cuts, leaving it without the finances necessary to perform its most essential functions – namely, investigatory functions – and operate efficiently. In FY16, the General Assembly increased the agency's budget allocation to \$2.6 million to accommodate the addition of key staff members; however, the commission has been unable to hire additional staff due to the constraints of its office space, and funding for office expansion projects is not available. In addition, the Commission lacks the resources necessary to complete an essential, comprehensive overhaul of the agency's computer program; the program currently lacks the ability to generate automatic audits or flag questionable filings.

There is a history of retaliatory behavior when it comes to the funding of Georgia's ethics commission. In 2009, after the Commission adopted new rules regarding politicians' use of private aircraft, the House attempted to cut the agency's budget by two-thirds. At the time, Jack Hill, the longtime Chairman of the Senate Appropriations Committee, said "unfortunately, it happens a lot. They're called grudge cuts." The end result was a commission budget reduction of 30 percent, which forced layoffs, a 60 percent cut in office space and an end to subscriptions, maintenance agreements and new office supplies.

Without fundamental, statutory changes regarding the way the Commission is funded, there is no guarantee that the General Assembly will continue to support the agency at appropriate levels, nor will commission members and staff be insulated from political retaliation by legislators who feel slighted by the Commission's decisions or rulings.

**PROPOSED SOLUTION:** Constitutionally guarantee that a fixed percentage of the state's general fund budget be appropriated to the Commission each year. Common Cause Georgia recommends that .02 percent of the state budget be dedicated to fund the Georgia Government Transparency and Campaign Finance Commission, which would be equal to roughly \$4.3 million based on the \$21.8 billion FY16 state budget.

In any state, the ethics commission's integrity depends on its independence from the political process; here in Georgia, recent events involving the commission indicate that separation from political entities is especially essential. A few states have dedicated sources of funding for their ethics commissions, which helps prevent commission budgets from political retaliation while providing them with needed resources. With a funding formula that does not require annual legislative approval, Georgia's commission will be empowered to act without fear of retribution, securing its independence from the public officials it is tasked with overseeing. An annual constitutional guarantee of funding also ensures that the commission can carry out its essential functions and duties, unencumbered by yearly budget maneuvers.

Previous legislative efforts to amend the way Georgia's ethics commission receives its funding have been unsuccessful. Senate Resolution 7, introduced by Senator Josh McKoon (R-Columbus) in 2014, proposed a constitutional amendment that would guarantee a set amount of funding for the commission in the annual state budget; however, the measure stalled during the legislative session and was not passed.

**PROPOSED SOLUTION:** All fees imposed by the Commission should be dedicated to the agency's budget and used exclusively to defray operational expenses. In addition to its annual state appropriation, Georgia's commission is empowered to retain a small portion of the fees it collects to defray operating costs. The total comes to less than 10 percent of the agency's total operating budget. Increasing the percentage of fees that the Commission is allowed to retain will create larger budgetary offsets for the agency and provide the Commission with a greater measure of political independence.

In addition, Common Cause Georgia recommends that the totality of the fees paid by local candidates and elected officials be returned to the agency's budget and used as an additional source of funding to offset the commission's operational costs. Currently, the revenue from fees paid by local candidates and elected officials is being diverted to the local jurisdiction rather than to the Commission. The Georgia Government Transparency and Campaign Finance Commission has requested an advisory opinion from the Attorney General's office to clarify the statutory authority behind the current practice; as such, Common Cause Georgia urges the Attorney General's office to issue that opinion promptly.

## MODEL STATES:

**ALABAMA.** A 2011 law guarantees the Alabama State Ethics Commission funding 0.1 percent of Alabama's general fund budget – an average of \$1.8 million per year. The commission's funding can be reduced below the mandated level only with a two-thirds vote of the Alabama House and Senate.<sup>14</sup>

**TENNESSEE.** All fees imposed by both the Tennessee Bureau of Ethics and Campaign Finance and the Tennessee Registry of Election Finance are dedicated to defraying the Bureau's operating expenses. Unexpended and unobligated fees remaining at the end of any fiscal year do not revert to the general fund and remain available for use by the Bureau.<sup>15</sup>

## CONCLUSION

The lessons learned from a comparative study of the 42 states with established ethics commissions are particularly relevant in Georgia. While it is clear that the 52 commissions examined in this report differ greatly in structure, jurisdiction, and funding mechanisms, all play a crucial role in representing the public interest in state and local government.

Common Cause Georgia believes that a strong ethics commission must possess:

- broad jurisdiction over key political players and institutions;
- a reasonable degree of autonomy from the elected officials and activities it regulates;
- a funding formula that ensures the agency's independence; and
- the resources necessary for its functions and tasks.

On these key measures of structural strength, Georgia's ethics commission is lagging. While the Georgia Government Transparency & Campaign Finance Commission has a relatively robust mandate to oversee and regulate the legislative branch, the executive branch, candidates for elected office, local officials, and lobbyists, the agency must also have "the authority, funding, and capacity to accomplish those mandates; and be able to do so without *ex ante* or *ex post* pressure from elected officials."<sup>16</sup>

Ethical conflicts are inevitable in a representative democracy, but with proper oversight, transparency and enforcement, officials can be held to the highest ethical standards and public confidence in the democratic process can be restored and maintained. It is clear that structural alterations to the Georgia Government Transparency & Campaign Finance Commission's composition, powers and funding mechanisms are necessary to fully empower the agency and to improve the real and perceived independence of this critically important state entity.

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<sup>14</sup>Public Officers and Employees, Alabama Title 36, Chapter 25, Section 29, 2011. <http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/coatoc.htm>, accessed April 13, 2015.

<sup>15</sup>Tenn. Code Ann. § 4-55-104

<sup>16</sup>W.J. Rauh, (2014). The Effects of Political Control and Institutional Structure on State Ethics Commissions. (Doctoral dissertation). <http://scholarcommons.sc.edu/etd/3177>

