



LEXSTAT O.C.G.A. § 45-10-4

OFFICIAL CODE OF GEORGIA ANNOTATED
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*** Current Through the 2009 Regular Session ***
*** Annotations Current Through January 29, 2010 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 1. CODES OF ETHICS

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O.C.G.A. § 45-10-4 (2010)

§ 45-10-4. Code of ethics for members of boards, commissions, and authorities -- Hearing on violation charge; notice of hearing; removal of member from office; filling vacancies; judicial review

Upon formal charges being filed with the Governor relative to a violation of *Code Section 45-10-3* on the part of a member of any such board, commission, or authority, the Governor or his designated agent shall conduct a hearing for the purpose of receiving evidence relative to the merits of such charges. The member so charged shall be given at least 30 days' notice prior to such hearing. If such charges are found to be true, the Governor shall forthwith remove such member from office and the vacancy shall be filled as provided by law. Such hearing shall be held in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and judicial review of any such decision shall be in accordance with such chapter.

HISTORY: Ga. L. 1976, p. 344, § 3.

NOTES: LAW REVIEWS. --For article, "Conflicts of Interests of Public Officers and Employees," see *13 Ga. St. B.J. 64 (1976)*.

OPINIONS OF THE ATTORNEY GENERAL

ACT CONTAINING ADVERSE MATTERS CONSTITUTIONALLY DEFECTIVE. --Ga. Const. 1976, Art. III, Sec. VII, Para. IV (see *Ga. Const. 1983, Art. III, Sec. V, Para. III*), was designed for the prevention of surreptitious legislation, and the prevention of "omnibus" bills containing many adverse matters; although it is not required that the title of an act contain an exact synopsis of the law itself, it is required that the matter following the enacting clause be definitely related to what is expressed in the title, and have a natural connection to the main object of the legislation; therefore, the courts could rule the Act comprised of *O.C.G.A. §§ 45-10-3* through *45-10-5*, which Act imposes a general code of ethics on members of the Board of Human Resources and purports to take away the rule making authority of all boards, commissions, and authorities of state government, constitutionally defective (but other interpretations may militate against such construction). 1976 Op. Att'y Gen. No. 76-43.1.

STATE TRANSPORTATION BOARD MEMBER. --No conflict of interest exists under current state law if the firm of a member of the State Transportation Board performs work for another governmental entity unless the work is directly or indirectly for the benefit of the Georgia Department of Transportation. 1991 Op. Att'y Gen. No. U91-13.

LOBBYING. --So long as a member of the State Ethics Commission who is an attorney refrains from lobbying, lawyers and others affiliated with the member's law firm may, depending upon the particular facts and circumstances of each case, engage in lobbying without affecting the member's service. 2002 Op. Att'y Gen. No. 2002-4.

There is no general prohibition against the practice of administrative law and the representation of clients before state agencies by an attorney member of the State Ethics Commission and other members of his or her law firm. 2002 Op. Att'y Gen. No. 2002-4.

REPRESENTATION OF LOCAL GOVERNMENTS BY MEMBERS OF COMMISSION. --An attorney member of the State Ethics Commission and other members of his or her law firm may generally represent local governments so long as the representation does not involve taking an action adverse to the commission itself. 2002 Op. Att'y Gen. No. 2002-4.

RESEARCH REFERENCES

ALR. --Power to remove public officer without notice and hearing, 99 ALR 336.

Pardon as preventing disbarment of attorney or removal of officer or as nullifying disbarment or removal, 143 ALR 172; 70 ALR2d 268.

Inefficiency or misconduct of deputy or subordinate as ground for removal of public officer, 143 ALR 517.

Removal of public officers for misconduct during previous term, 42 ALR3d 691.

Title Note

Chapter Note



LEXSTAT O.C.G.A. § 45-10-5

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O.C.G.A. § 45-10-5 (2010)

§ 45-10-5. Authority to enact rules and regulations

No member of any board, commission, or authority created by general statute shall enact any rules or regulations or publicize such as being general laws and such rules and regulations shall in no way have the effect of law.

HISTORY: Ga. L. 1976, p. 344, § 2.

NOTES: LAW REVIEWS. --For article, "Conflicts of Interests of Public Officers and Employees," see *13 Ga. St. B.J. 64 (1976)*.

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CONSTRUCTION OF STATUTE SUSCEPTIBLE OF MORE THAN ONE MEANING. --*O.C.G.A. § 45-10-5* may be viewed as merely stating that no single member of a board may attempt to usurp the power of the board as a whole to establish policy matters; this construction comports with the rule that where a statute is susceptible of more than one meaning, it should be interpreted consistently with the state Constitution. 1976 Op. Att'y Gen. No. 76-43.1.

***O.C.G.A. § 45-10-5* DOES NOT NEGATE THE RULE MAKING POWERS OF THE BOARD OF HUMAN RESOURCES.** 1976 Op. Att'y Gen. No. 76-43.1.

RESEARCH REFERENCES

O.C.G.A. § 45-10-5

AM. JUR. 2D. --63C *Am. Jur. 2d, Public Officers and Employees*, § 252 et seq.

C.J.S. --67 C.J.S., *Officers and Public Employees*, §§ 51, 89.

Title Note

Chapter Note