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3 **ADVISORY OPINION**
4 **C.F.C 2011-05**

5
6 **QUESTION PRESENTED**

7
8 Whether county and city elected officials may use county or city equipment or personnel
9 for the limited purpose of filing required campaign contribution and personal financial
10 disclosure reports.

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12 **RESPONSE**

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14 The Association of County Commissioners of Georgia (“ACCG”) and the Georgia Municipal
15 Association (“GMA”) (collectively “Local Governments”) requested the above opinion from the
16 Georgia Government Transparency and Campaign Finance Commission (the “Commission”). The
17 Local Governments cite policy reasons why the question should be answered in the affirmative. The
18 Commission concludes that county and city elected officials may use county or city equipment or
19 services to comply with the elected officials’ obligations imposed by the Ethics in Government Act;
20 provided, however, campaigns of the same officials may not be authorized to use certain county or
21 municipal equipment or personnel to assist with campaigns’ reporting requirements.

22
23 As with any request for an advisory opinion, our inquiry must begin and end with the statutory
24 text: “we always must presume that the General Assembly means what it says and says what it means.”
25 *NE Atlanta Bonding Co. v. State*, 308 Ga. App. 573, 577 (2011). Our courts may consider legislative
26 intent: “In all interpretations of statutes, the *courts* shall look diligently for the intention of the General
27 Assembly.” O.C.G.A. § 1-3-1(a) (emphasis added). Legislative intent is best expressed by the face of
28 the statute itself. *Hollowell v. Jove*, 247 Ga. 678, 681 (1981).

29
30 The Commission’s review on requests for advisory opinions is narrower than the proper judicial
31 one. Unlike inquiries before the judiciary or before most other executive agencies that operate pursuant
32 to the Administrative Procedures Act (O.C.G.A. § 50-13-1 et. seq.), nothing in the Ethics in
33 Government Act (the “Act”) specifically authorizes the Commission to consider legislative intent or
34 adopt constructions of statutes that are reasonably related to the underlying act. Instead, the Act
35 expressly limits the Commission to do that which is “specifically authorized” by the Act itself.
36 O.C.G.A. § 21-5-6(a)(8).¹ And with advisory opinions, the Commission may only address the
37 “requirements” of the Act. O.C.G.A. § 21-5-6(b)(13). Consequently, when responding to requests for
38 advisory opinions, the Commission will interpret the law strictly as passed by the General Assembly.

39
40 Answering the Local Governments’ questions requires an examination of two requirements: (1)
41 campaign contribution disclosure forms, and (2) candidate and public officials’ financial disclosure
42 statements (collectively “Reports”). See O.C.G.A. §§ 21-5-34(a)(1)(A) (campaign contribution

¹ In addition, Commission advisory opinions cannot be reviewed by a court of competent jurisdiction or altered by the General Assembly except through statutory change. Rules promulgated by other agencies must go before the appropriate legislative committee of jurisdiction for review, and they can be challenged in the superior courts of this State. See O.C.G.A. §§ 50-13-4 and 50-13-10.

1 disclosure forms), and 21-5-50(a) (financial disclosure statement). Elected officials and candidates must
2 file financial disclosure statements, but campaigns are charged with completing the campaign
3 contribution disclosure form. *Id.*

4
5 Code Section 21-5-30.2 provides the answer to the Local Governments' questions. It prohibits
6 county and municipalities from making "contributions" to any campaign committee or candidate. Public
7 employees are prohibited from such contributions if they are acting "on behalf of" the public entity. *Id.*
8 A "'contribution' means a gift ... or anything of value conveyed or transferred by or on behalf of an
9 agency, without receipt of payment therefore, to any campaign committee ... or to any candidate for
10 campaign purposes."² O.C.G.A. § 21-5-30.2(a)(2). This prohibition expressly does not apply to the
11 "furnishing of office space, facilities, *equipment*, goods, or *services* to a public officer for use by the
12 public officer in such officer's fulfillment of such role." O.C.G.A. § 21-5-30.2(b) (emphasis added).

13
14 By its terms, the Ethics in Government Act (the "Act") would appear to authorize a locally
15 elected official to use local government equipment and services to comply with the legal requirements
16 imposed on him or her by the Act. Put differently: the law requires public officials to file financial
17 disclosure statements with the Commission, and the Act expressly does not prevent the use of county
18 services and equipment to comply with legal obligations imposed on public officials. *See* O.C.G.A. §
19 21-5-30.2(b). For this reason, when a public employee or public equipment is utilized to assist an
20 elected official comply with the filing of a financial disclosure statement, the use may not be for
21 "campaign purposes," O.C.G.A. § 21-5-30.2(a)(2) or for the purpose of influencing an election. *See*,
22 O.C.G.A. § 21-5-3(7) (defining contribution).

23
24 The obligation to file a campaign contribution disclosure form, however, is imposed on the
25 "candidate or the chairperson or treasurer of each campaign committee." O.C.G.A. § 21-5-34(a)(1)(A).
26 Consequently, the exception allowing the use of local governments' equipment and services does not
27 apply, as that provision is limited to public officers. *See*, O.C.G.A. § 21-5-30.2(b).³

28
29 The Commission expresses no opinion about whether local ordinances authorize or prohibit
30 conduct that the Act allows.⁴ Likewise, this Advisory Opinion makes no judgment about county or city
31 employees working on their own time and not "on behalf of" a county or municipal government. *See*,
32 O.C.G.A. § 21-5-30.2(b). That question is best left to the body of law addressing the First Amendment
33 to the Constitution of the United States and local policies and ordinances. Last, this Advisory Opinion
34 does not address the propriety of non-incumbent candidates' use of local governments' personnel or
35 equipment for the same limited purpose. The Commission does note, however, that its staff and
36 computers are available for use by candidates and elected officials alike.

37
38 Prepared by Josh Belinfante
39 July 29, 2011

² The same statute defines an agency as including counties and municipal corporations as well as State entities like the Commission. O.C.G.A. § 21-5-30.2(a)(1).

³ This Advisory Opinion should not be interpreted as prohibiting elected officials or the general public from using county or municipal equipment that is public in nature like computers at public libraries or other locations of general access. In such cases, the public purpose of the equipment prevents anything from being "conveyed" to a campaign within the meaning of Code Section 21-5-30.2.

⁴ The Act specifically does not alter county and municipal governments' abilities to regulate the political activity of their employees. O.C.G.A. § 21-5-30.2(d)(1).