

Senate Bill 121

By: Senators Parent of the 42nd, Henson of the 41st, Butler of the 55th, Davenport of the 44th and Jones of the 10th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act revising, superseding, and consolidating the laws relating to the governing
2 authority of DeKalb County and creating a chairman and board of commissioners of said
3 county, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act
4 approved April 9, 1981 (Ga. L. 1981, p. 4304), so as to provide for independent internal
5 audits for DeKalb County; to provide for procedures, policies, and limitations; to provide for
6 certain reports; to provide for funding; to provide for oversight; to provide for related
7 matters; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 An Act revising, superseding, and consolidating the laws relating to the governing authority
11 of DeKalb County and creating a chairman and board of commissioners of said county,
12 approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved
13 April 9, 1981 (Ga. L. 1981, p. 4304), is amended by repealing subsection (d) of Section 10
14 in its entirety.

15 **SECTION 2.**

16 Said Act is further amended by adding a new Section 10A to read as follows:

17 **"SECTION 10A.**

18 **Independent Internal Audit.**

19 (a)(1) It is essential to the proper administration and operation of the DeKalb County
20 government that public officials, government managers, and private citizens know not
21 only whether government funds are handled properly and in compliance with laws and
22 regulations but also whether public programs are achieving the purposes for which they
23 were authorized and funded, and whether they are doing so efficiently, effectively, and
24 equitably. An independent internal audit function can provide objective information on
25 the operations of government programs, assist managers in carrying out their

26 responsibilities, and help ensure full transparency and accountability to the public.
27 Internal auditing is defined as an independent, objective assurance and consulting activity
28 designed to add value and improve an organization's operations by bringing a systematic,
29 disciplined approach to evaluate and improve the effectiveness of risk management,
30 control, and governance processes.

31 (2) The public interest requires that the General Assembly provide for the proper
32 administration and operation of the DeKalb County government by establishing by law
33 an independent internal audit function to assist the governing authority to accomplish its
34 objectives by bringing a systematic, disciplined approach to evaluate and improve the
35 effectiveness of risk management, control, and governance processes.

36 (b) The Office of Internal Audit is hereby established which shall consist of the Chief
37 Audit Executive ('Auditor') and those assistants, employees, and personnel as deemed
38 necessary by such Auditor for the efficient and effective administration of the affairs of the
39 office, and over whom the Auditor shall have the sole authority to appoint, employ, and
40 remove.

41 (c) The Office of Internal Audit shall be completely independent and shall not be subject
42 to control or supervision by the Chief Executive, the Commission, or any other official,
43 employee, department, or agency of the county government.

44 (d) The Auditor shall be appointed by a majority vote of the DeKalb County Board of
45 Commissioners from a list of not fewer than two nor more than three candidates provided
46 to the board by the audit oversight committee. Such appointment shall be made within 30
47 days of receipt of the list of nominees by the board. In the event that the Commission fails
48 to appoint a nominee within 30 days, the Auditor shall be appointed by a majority vote of
49 the audit oversight committee.

50 (d) The term of office of the Auditor shall be five years and until his or her successor is
51 qualified and appointed. The Auditor shall be limited to a maximum of two terms in office.
52 A vacancy in the position of Auditor shall exist by reason of expiration of term,
53 resignation, death, removal from office by the vote of a supermajority of the members of
54 the Commission, or if the Auditor becomes ineligible to hold civil office within the
55 meaning of Code Section 45-2-1 of the O.C.G.A. and that ineligibility is established by
56 decision of a court of competent jurisdiction which declares the office vacant because of
57 such ineligibility. A vacancy shall be filled within 60 days by a majority vote of the audit
58 oversight committee for the remainder of the term of office.

59 (e) The Auditor must have adequate professional proficiency for the job and shall:

60 (1) Be a certified public accountant or a certified internal auditor;

61 (2) Have a bachelor's degree in public policy, accounting, business administration,
62 economics, or a related field; and

- 63 (3) Have at least five years of experience in government auditing, evaluation, or analysis.
- 64 (f) The position of the Auditor shall be nonpartisan. Qualifying for election to a public
65 office shall constitute a resignation from the position as of the date of qualifying.
- 66 (g) The Auditor shall have authority to conduct financial and performance audits of all
67 departments, offices, boards, activities, agencies, and programs of the county in order to
68 independently and objectively determine whether:
- 69 (1) Activities and programs being implemented have been authorized by this Act,
70 Georgia law, or applicable federal law or regulations and are being conducted and funds
71 expended in compliance with applicable laws;
- 72 (2) The department, office, board, or agency is acquiring, managing, protecting, and
73 using its resources, including public funds, personnel, property, equipment, and space,
74 economically, efficiently, effectively, and in a manner consistent with the objectives
75 intended by the authorizing entity or enabling legislation;
- 76 (3) The entity, programs, activities, functions, or policies are effective, including the
77 identification of any causes of inefficiencies or uneconomical practices;
- 78 (4) The desired results or benefits are being achieved;
- 79 (5) Financial and other reports are being provided that disclose fairly, accurately, and
80 fully all information required by law, to ascertain the nature and scope of programs and
81 activities, and to establish a proper basis for evaluating the programs and activities
82 including the collection of, accounting for, and depositing of, revenues and other
83 resources;
- 84 (6) Management has established adequate operating and administrative procedures and
85 practices, systems or accounting internal control systems, and internal management
86 controls; and
- 87 (7) Indications of fraud, abuse, or illegal acts are valid and need further investigation.
- 88 (h) All officers and employees of DeKalb County shall furnish to the Auditor unrestricted
89 access to employees, information, and records including electronic data within their
90 custody regarding powers, duties, activities, organization, property, financial transactions,
91 contracts, and methods of business required to conduct an audit or otherwise perform audit
92 duties. In addition, they shall provide access for the Auditor to inspect all property,
93 equipment, and facilities within their custody. If such officers or employees fail to provide
94 or produce such access and information, the Auditor may initiate a search to be made and
95 exhibits to be taken from any book, paper, or record of any such official or employee or
96 outside contractor or subcontractor, except as governed by statute. Further, all contracts
97 with outside contractors and subcontractors shall contain a 'right-to-audit' clause and
98 provide for Auditor access to the contractors' employees and to all financial and
99 performance related records, property, and equipment purchased in whole or in part with

100 governmental funds. For the purpose of this subsection, the Auditor shall have the
101 authority to issue subpoenas and may apply to the Superior Court of DeKalb County for
102 the enforcement of any subpoena issued by the Auditor.

103 (i) The Auditor may obtain the services of certified public accountants, qualified
104 management consultants, or other professional experts necessary to perform audit work.
105 An audit that is performed by contract must be conducted by persons who have no financial
106 interests in the affairs of the governmental entity or its officers. The Auditor shall
107 coordinate and monitor auditing performed by certified public accounting firms or other
108 organizations employed under contract by the governing authority to assist with audit
109 related activities. Contracting for the external audit will follow the normal contracting
110 processes of the governing authority of DeKalb County except for the participation and
111 oversight by the audit oversight committee and Auditor. The selection of a certified public
112 accounting firm for the annual financial audit must be approved by the Commission.

113 (j)(1) Audits shall be conducted in accordance with recognized government auditing
114 standards.

115 (2) At the beginning of each fiscal year, the Auditor shall submit a one-to-five-year audit
116 schedule to the audit oversight committee and the Commission for review and comment.
117 The schedule shall include the proposed plan, and the rationale for the selections, for
118 auditing departments, offices, boards, activities, programs, policies, contractors,
119 subcontractors, and agencies for the period. This schedule may be amended after review
120 with the audit oversight committee and the Commission, but the Auditor shall have final
121 authority to select the audits planned.

122 (3) In the selection of audit areas and audit objectives, the determination of audit scope
123 and the timing of audit work, the Auditor shall consult with federal and state auditors and
124 external auditors so that the desirable audit coverage is provided and audit efforts are
125 properly coordinated.

126 (4) A final draft of the audit report shall be forwarded to the audit oversight committee,
127 the Chief Executive, the Commission, and the audited agency for review and comment
128 regarding factual content prior to its release. The agency shall respond in writing,
129 specifying the agreement with audit findings and recommendations or reasons for
130 disagreement with findings and recommendations, plans for implementing solutions to
131 issues identified, and a timetable to complete such activities. The response shall be
132 forwarded to the Auditor within 60 days. The Auditor shall review and report on
133 information included in the agency's response. If no response is received, the Auditor
134 shall note that fact in the transmittal letter and shall release the audit report.

135 (5) Each audit shall result in a final report, in written or some other retrievable form.
136 The report shall contain relevant background information and findings and

137 recommendations and shall communicate results to the audit oversight committee, the
138 audited agency, and the governing authority.

139 (6) The Auditor shall submit an annual report to the audit oversight committee, Chief
140 Executive, and the Commission indicating audits completed, major findings, corrective
141 actions taken by administrative managers, and significant issues which have not been
142 fully addressed by management. The annual report, in written or some other retrievable
143 form, shall be made available to the public through the county website within ten days
144 of submission to the Commission.

145 (k) If, during an audit, the Auditor becomes aware of abuse or illegal acts or indications
146 of such acts that could affect the governmental entity, the Auditor shall report the
147 irregularities to the audit oversight committee, the Chief Executive, and the Commission.
148 If a member of the governing authority is believed to be a party to abuse or illegal acts, the
149 Auditor shall report the acts directly to the audit oversight committee, the Chief Executive,
150 and the Commission. If it appears that the irregularity is criminal in nature, the Auditor
151 shall notify the district attorney in addition to those officials previously identified in this
152 subsection.

153 (l) The Auditor shall follow up on audit recommendations to determine if corrective action
154 has been taken. The Auditor shall request periodic status reports from audited agencies
155 regarding actions taken to address reported deficiencies and audit recommendations.

156 (m)(1) The audit activities of the Office of Internal Audit shall be subject to a peer
157 review in accordance with applicable government auditing standards by a professional,
158 nonpartisan objective group utilizing guidelines endorsed by the Association of Local
159 Government Auditors (ALGA).

160 (2) The peer review shall use applicable government auditing standards to evaluate the
161 quality of audit effort and reporting. Specific quality review areas shall include staff
162 qualifications, adequacy of planning and supervision, sufficiency of work paper
163 preparation and evidence, and the adequacy of systems for reviewing internal controls,
164 fraud and abuse, program compliance, and automated systems. The peer review shall
165 also assess the content, presentation, form, timelines, and distribution of audit reports.
166 The Commission shall pay for the costs of the peer review.

167 (3) A copy of the written report of such independent review shall be furnished to each
168 member of the governing authority and to the audit oversight committee.

169 (n)(1) To ensure independence of the audit function, an audit oversight committee is
170 hereby established. The audit oversight committee shall consist of five voting members.

171 (2) All members of the audit oversight committee shall:

172 (A) Be residents of DeKalb County;

173 (B) Have expertise in performance auditing; and

174 (C) Have a minimum of five years' experience as a certified public accountant, a
175 certified internal auditor, a certified performance auditor, a certified management
176 accountant, or ten years of other relevant professional experience.

177 (3) Not later than October 31, 2015, the members of the audit oversight committee shall
178 be selected as follows:

179 (A) One member shall be appointed by the chairperson of the DeKalb County
180 delegation in the Georgia House of Representatives;

181 (B) One member shall be appointed by the chairperson of the DeKalb County
182 delegation in the Georgia Senate;

183 (C) One member shall be appointed by the Chief Executive of DeKalb County; and

184 (D) Two members shall be appointed by the Commission.

185 (4) The members shall serve for terms of five years; provided, however, that the initial
186 term of the first appointee of the Commission shall be one year and until his or her
187 respective successor is appointed and qualified; the initial term of the appointee of the
188 chairperson of the DeKalb County delegation in the Georgia House of Representatives
189 shall be two years and until his or her respective successor is appointed and qualified; the
190 initial term of the appointee of the Chief Executive shall be three years and until his or
191 her respective successor is appointed and qualified; the initial term of the second
192 appointee of the Commission shall be four years and until his or her respective successor
193 is appointed and qualified; and the initial term of the appointee of the chairperson of the
194 DeKalb County delegation in the Georgia Senate shall be five years and until his or her
195 respective successor is appointed and qualified.

196 (5) Successors to all members of the audit oversight committee and future successors
197 shall be appointed by the respective appointing authorities not less than 30 days prior to
198 the expiration of each such member's term of office, and such successors shall take office
199 on January 1 following such appointment and shall serve terms of five years and until
200 their respective successors are appointed and qualified.

201 (6) If a member of the audit oversight committee ceases to be a resident of DeKalb
202 County, that member's position on the board, by operation of law, shall become vacant
203 upon the establishment of the fact of such nonresidency, if contested, by a court of
204 competent jurisdiction. A vacancy on the audit oversight committee shall exist by reason
205 of death, resignation, incapacity to serve for 90 days or longer, or loss of residency as
206 described in this subsection. A member of the audit oversight committee may also be
207 removed from office during a term if the member becomes ineligible to hold civil office
208 within the meaning of Code Section 45-2-1 of the O.C.G.A. and that ineligibility is
209 established by decision of a court of competent jurisdiction which declares the office
210 vacant because of such ineligibility or by a vote of two-thirds of the members of the

211 legislative delegation. A vacancy shall be filled within 60 days by the legislative
212 delegation for the remainder of the unexpired term.

213 (7) The members of the audit oversight committee shall elect from their own
214 membership a chairperson and otherwise provide for their own internal organization.

215 (8) The audit oversight committee shall consult with the Auditor regarding technical
216 issues and work to assure maximum coordination between the work of the Auditor's
217 office and external audit efforts.

218 (9) The audit oversight committee shall meet as needed to perform its duties but shall not
219 meet less than once quarterly and shall be responsible for:

220 (A) Selecting not fewer than two nor more than three nominees for the position of
221 Auditor who meet the requirements outlined in subsection (e) of this section which shall
222 be submitted to the Commission for selection and appointment of one of the nominees
223 to the position of Auditor;

224 (B) Performing regular evaluations of the DeKalb County audit function;

225 (C) Providing suggestions and comments for the annual audit plan;

226 (D) Ensuring that audit reports are transmitted to the governing authority and to the
227 public;

228 (E) Monitoring follow-up on reported findings to assure corrective action is taken by
229 management;

230 (F) Reporting to the governing authority on problems or problem areas at such times
231 as deemed appropriate;

232 (G) Conducting or overseeing the requests for proposal and selection process for the
233 firm conducting the annual financial statement audits, and ranking and recommending
234 in order of preference no fewer than three firms deemed to be the most highly qualified
235 to perform the required services. If fewer than three firms respond to the request for
236 proposal, the audit oversight committee shall recommend such firms as it deems to be
237 the most highly qualified.

238 (H) Evaluating the firm providing annual financial statement auditing services and
239 providing oversight of that audit, including ensuring transmission of reports and
240 follow-up on corrective action by management;

241 (I) Evaluating the findings and recommendations of the peer review as required by
242 recognized government auditing standards;

243 (J) Consulting with the Auditor regarding technical issues with the external audit firm
244 and working to assure maximum coordination between the work of the Office of
245 Internal Audit and contracted audit efforts and other consulting engagements;

246 (K) Maintaining the confidentiality of personnel matters while taking responsibility for
247 appropriate disclosure to the governing authority, the legislature, or to the public; and

248 (L) Annually meeting with members of the Commission to discuss controls, systems
249 and risk, and performance of the audit firm, and to discuss other matters that the audit
250 firm, the Auditor, or staff desires or is required to bring to the Commission's attention
251 such as fraud, illegal acts, and financial and control weaknesses.

252 (10) The audit oversight committee shall have the authority to hire outside experts,
253 including legal counsel, when necessary.

254 (11) The audit oversight committee shall have the authority to propose the budget of the
255 Office of Internal Audit, including the Auditor's salary and staffing, and shall then
256 recommend the budget to the Commission for approval, who shall fund it as a priority.

257 (12) Sufficient resources as requested by the audit oversight committee shall be provided
258 by the Commission to enable the audit oversight committee to carry out its
259 responsibilities.

260 (o) The provisions of this section are severable, and if any of its provisions shall be held
261 unconstitutional or invalid by a court of competent jurisdiction, the decision of the court
262 shall not affect or impair any of the remaining provisions."

263 **SECTION 3.**

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