

Senate Bill 273

By: Senators Parent of the 42nd, Millar of the 40th, Jones of the 10th, Butler of the 55th, Anderson of the 43rd and others

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 May 12, 2015 (Ga. L. 2015, p. 3811), so as to change the jurisdiction and manner
5 of appointment of the Board of Ethics of DeKalb County; to revise definitions; to revise
6 proscribed conduct; to revise conflict of interest provisions; to revise complaint procedures;
7 to increase sanctions for violations; to provide for a referendum; to provide for contingent
8 effective dates; to provide for related matters; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 An Act revising, superseding, and consolidating the laws relating to the governing authority
13 of DeKalb County and creating a chairman and board of commissioners of said county,
14 approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved
15 May 12, 2015 (Ga. L. 2015, p. 3811), is amended by revising Section 22A as follows:

16 "SECTION 22A.

17 Code of Ethics

18 (a) Purpose.

19 (1) It is essential to the proper administration and operation of the DeKalb County
20 government that its officials and employees be, and give the appearance of being,
21 independent and impartial, that public office not be used for private gain, and that there
22 be public confidence in the integrity of DeKalb County officials and employees. Because
23 the attainment of one or more of these ends is impaired whenever there exists in fact, or
24 appears to exist, a conflict between the private interests and public responsibilities of

25 officials and employees, the public interest requires that the General Assembly protect
26 against such conflicts of interest by establishing by law appropriate ethical standards with
27 respect to the conduct of the officials and employees of DeKalb County in situations
28 where a conflict may exist.

29 (2) The General Assembly recognizes that an appropriate and effective code of ethics for
30 appointed officials and employees of DeKalb County is also essential for the proper
31 administration and operation of the DeKalb County government.

32 (b) Definitions. As used in this section, the term:

33 (1) 'Agency' means any board, bureau, body, commission, committee, department, or
34 office of DeKalb County to which any official has appointment powers.

35 (2) 'Business' means any corporation, partnership, organization, sole proprietorship, and
36 any other entity operated for economic gain, whether professional, industrial, or
37 commercial, and entities which for purposes of federal income taxation are treated as
38 nonprofit organizations.

39 (3) 'Confidential information' means information which has been obtained in the course
40 of holding public office, employment, acting as an independent contractor, or otherwise
41 acting as an official or employee and which information is not available to members of
42 the public under state law or other law or regulation and which the official, independent
43 contractor, or employee is not authorized to disclose.

44 (4) 'Contract' means any lease, account, or agreement with any person, whether express
45 or implied, executed or executory, verbal or in writing.

46 (5) 'Emergency situation' means any circumstance or condition giving rise to an
47 immediate necessity for the execution of a contract by and between DeKalb County and
48 an official or employee or between DeKalb County and a business in which an official
49 or employee has an interest and where, upon review by the Chief Executive and upon
50 advice by the Board of Ethics, it is evident that such person or organization is the sole
51 source of the services to be provided.

52 (6) 'Gratuity' means anything of value given by or received from a prohibited source;
53 provided, however, that the term shall not include any of the following:

54 (A) Payment by the county of salaries, compensation, expenses, or employee benefits;
55 or payment by an employer or business other than the county of salaries, compensation,
56 expenses, or employee benefits or payments of fees for services rendered pursuant to
57 a contract, when the payment is unrelated to the official's or employee's status with the
58 county and is not made for the purpose of influencing, directly or indirectly, the vote,
59 official action, or decision of the official or employee;

60 (B) Campaign or political contributions made and reported in accordance with state
61 law;

- 62 (C) Reasonable means or refreshments or tokens of minimal value furnished in
 63 connection with an official's or employee's appearance in an official capacity at a
 64 public, civic, charitable, or nonprofit ceremony, event, convention, or conference,
 65 whether or not the sponsor of the event does business with the county;
- 66 (D) Hospitality or meals extended for a social, charitable, nonprofit, convention,
 67 conference, or business purpose unrelated to the official business of the county;
- 68 (E) Reimbursements from noncounty sources of reasonable hosting expenses,
 69 including travel, meals, and lodging, provided to an official or employee in connection
 70 with speaking engagements, participation on professional or civic panels, teaching, or
 71 attendance at conferences in an official capacity;
- 72 (F) An award, plaque, certificate, memento, novelty, or similar item given in
 73 recognition of the recipient's civic, charitable, political, professional, or public service;
- 74 (G) Nominal gifts or other tokens of recognition presented by representatives of
 75 governmental bodies or political subdivisions who are acting in their official capacities
 76 so long as the acceptance of such gifts complies with paragraph (2) of subsection (c)
 77 of this section;
- 78 (H) Anything of value when the thing of value is offered to the county, is accepted on
 79 behalf of the county, and is to remain the property of the county, provided that the
 80 recipient complies with the provisions governing solicitation found in paragraph (3) of
 81 subsection (c) of this section;
- 82 (I) Commercially reasonable loans made in the ordinary course of the lender's business
 83 in accordance with prevailing rates and terms and which do not discriminate against or
 84 in favor of an official or employee because of such individual's status;
- 85 (J) Anything of value received as a devise, bequest, or inheritance; and
- 86 (K) A gift received from the official's or employee's immediate family or from a source
 87 which is not prohibited and is based solely on a personal relationship and outside of
 88 county business.
- 89 (7) 'Immediate family' of an official or employee shall include a person who is a member
 90 of the official's or employee's household or who is within the third degree of
 91 consanguinity under the civil law computational method.
- 92 (8) 'Interest' means any direct or indirect pecuniary or material benefit held by or
 93 accruing to the official or employee as a result of a contract or transaction which is or
 94 may be the subject of an official act or action by or with DeKalb County. Unless
 95 otherwise provided in this section, the term 'interest' does not include any remote interest.
 96 An official or employee shall be deemed to have an interest in transactions involving:
- 97 (A) Any person in the official's or employee's immediate family;

98 (B) Any person, business, or entity that the official or employee knows or should know
 99 is seeking official action with DeKalb County, is seeking to do or does business with
 100 DeKalb County, has interests that may be substantially affected by performance or
 101 nonperformance of the official's or employee's official duties, or with whom a
 102 contractual relationship exists whereby the official or employee may receive any
 103 payment or other benefit;

104 (C) Any business in which the official or employee is a director, officer, employee,
 105 shareholder, or consultant; or

106 (D) Any person with whom the official or employee is a creditor or debtor, whether
 107 secured or unsecured.

108 (9) 'Official or employee' means any person elected or appointed to or employed or
 109 retained by DeKalb County or any agency, whether paid or unpaid and whether part time
 110 or full time. This definition includes retired and former county officials and employees.
 111 This definition does not include superior and state court judges and their immediate
 112 staffs, the district attorney, the solicitor of the state court, the clerks of the superior and
 113 state courts, magistrates, the judges of the recorders court, or the judges of the probate
 114 court and their immediate staffs.

115 (10) 'Official act or action' means any legislative, administrative, appointive, or
 116 discretionary act of an official or employee.

117 (11) 'Paid' means the receipt of, or right to receive, a salary, commission, percentage,
 118 brokerage, or contingent fee.

119 (12) 'Participate' means to personally take part in official acts, actions, or proceedings
 120 as an official or employee through approval, disapproval, decision, recommendation,
 121 investigation, the rendering of advice, or the failure to act or perform a duty.

122 (13) 'Person' means any individual, business, labor organization, representative,
 123 fiduciary, trust, or association, whether paid or unpaid, and includes any official or
 124 employee of DeKalb County.

125 (14) 'Prohibited source' means any person or entity that:

126 (A) Is seeking official action from the county;

127 (B) Does business or seeks to do business with the county or the official's or
 128 employee's department;

129 (C) Conducts activities regulated by the department of the official or employee;

130 (D) Has interests that may be substantially affected by performance or nonperformance
 131 of the official's or employee's official duties; or

132 (E) Is a registered lobbyist or should be a registered lobbyist in accordance with state
 133 law.

134 (15) 'Property' means any property, whether real or personal or tangible or intangible,
135 and includes currency and commercial paper.

136 (16) 'Remote interest' means the interest of:

137 (A) A nonsalaried director, officer, or employee of a nonprofit organization;

138 (B) A holder of less than 5 percent of the legal or beneficial ownership of the total
139 shares of a business;

140 (C) Any person in a representative capacity, such as a receiver, trustee, or
141 administrator; or

142 (D) Any person who, by determination of the Board of Ethics, is deemed to have such
143 an interest.

144 (17) 'Transaction' means the conduct of any activity that results in or may result in an
145 official act or action of an official or employee of DeKalb County.

146 (c) Proscribed Conduct. No official or employee of DeKalb County shall:

147 (1) By his or her conduct give reasonable basis for the impression that any person can
148 improperly influence him or her or unduly expect his or her favor or disfavor in the
149 performance of his or her official acts or actions or that he or she is affected unduly by
150 the rank or position of or kinship or association with any person;

151 (2) Accept any gratuity from a prohibited source. An official or employee may accept
152 unsolicited gifts from a person or entity, other than a prohibited source, having an
153 aggregate market value of \$40.00 or less per source and per occasion, provided that the
154 aggregate market value of individual gifts received from any one source shall not
155 exceed \$120.00 in a calendar year;

156 (3) Solicit or accept any gift which tends to influence a vote, decision, or the exercise of
157 official authority in any manner involving the county; provided, however, that nothing
158 in this section shall prohibit any official or employee from accepting a gift on behalf of
159 the county where the donor is not a prohibited source;

160 (4) Disclose or otherwise use confidential information acquired by virtue of his or her
161 position for his or her or another person's private gain;

162 (5) Appear on behalf of, represent, or advise private interests of, whether paid or unpaid,
163 any person before any court or before any legislative, administrative, or quasi-judicial
164 board, agency, commission, or committee of this state or of any county or municipality
165 concerning any contract or transaction which is or may be the subject of an official act
166 or action of DeKalb County or otherwise use or attempt to use his or her official position
167 to secure unwarranted privileges or exemptions for himself or herself or other persons.
168 An official or employee may, however, appear on his or her own behalf or in relation to
169 his or her own property interests, and county commissioners may appear on behalf of
170 constituents or in the performance of public or civic obligations before any agency, but

171 only without compensation or remuneration of any kind. In no instance shall a county
172 commissioner appear before the zoning review board on behalf of constituents or in the
173 performance of their public or civic obligations;

174 (6) Engage in, accept employment with, or render services for any agency, private
175 business, or professional activity when such employment or rendering of services is
176 adverse to or incompatible with the proper discharge of his or her official duties. For the
177 purposes of this paragraph, acceptance of employment by an official or employee outside
178 of DeKalb County is not incompatible per se if the employment is unrelated to any
179 contract or transaction by or with DeKalb County. Employees of DeKalb County shall
180 be required to report any outside positions to their immediate supervisor;

181 (7) Acquire an interest in any financial, business, commercial, or other private contract
182 or transaction at a time when he or she believes or has reason to believe that such an
183 interest will be affected directly or indirectly by his or her official acts or actions or by
184 the official acts or actions of other officials or employees of DeKalb County;

185 (8) Participate directly or indirectly in the preparation of any part of any specifications
186 or requests for proposal, influence the content of any specification or contract standard,
187 render advice, investigate, audit, or review any proceeding or application, request for
188 ruling, or other determination, claim, or other matter pertaining to any contract or
189 subcontract and any solicitation or proposal therefor or seek to influence the votes or
190 decisions of others with respect thereto when the official or employee knows or with
191 reasonable investigation should know that there is a financial or personal interest
192 possessed by:

193 (A) The official or employee;

194 (B) One or more members of the official's or employee's immediate family;

195 (C) A business other than a public agency in which the official or employee, or a
196 member of the official's or employee's immediate family, serves as an officer, director,
197 stockholder, creditor, trustee, partner, or employee; or

198 (D) Any other person or business with whom the official or employee, or a member of
199 the official's or employee's immediate family, is negotiating or seeking prospective
200 employment or other business or professional relationship;

201 (9) Request or permit the use of or use any county or government owned or supported
202 property, vehicle, equipment, material, labor, service, or funds for the private advantage
203 of such official or employee or any other person or private entity, including, but not
204 limited to, the use of such property, vehicle, equipment, material, labor, service, or funds
205 for the benefit of political campaigns. However, no official or employee shall be
206 prohibited from requesting or permitting the use of or using any county or government

207 owned or supported property, vehicle, equipment, material, labor, service, or funds which
 208 as a matter of county policy is made available to the public at large;

209 (10) Participate in any employment decision that may be viewed as a conflict of interest,
 210 such as one involving an immediate family member, a close friend, a business partner,
 211 or a professional, political, or commercial relationship that would lead to preferential
 212 treatment or compromise the appearance of fairness. Additionally, if any official or
 213 employee comes into a direct line of supervision over one of these persons, he or she
 214 shall have six months to come into compliance or to obtain a waiver from the Board of
 215 Ethics;

216 (11) Take or threaten to take, directly or indirectly, official or personal action, including,
 217 but not limited to, discharge, discipline, personal attack, harassment, intimidation, or
 218 change in job, salary, or responsibilities, against any official or employee because that
 219 person or a person acting on his or her behalf:

220 (A) Reports, verbally or in writing, or files a complaint with the Board of Ethics
 221 regarding an alleged violation of this section;

222 (B) Is requested by the Board of Ethics to participate in an investigation, hearing, or
 223 inquiry or is involved in a court action relating either to the alleged violation or to
 224 evidence presented or given as part of a Board of Ethics investigation or hearing; or

225 (C) Refuses to execute a directive which is a violation of county, state, or federal law
 226 after the official or employee has given notice to the supervisor of such violation.

227 The provisions of this paragraph are not applicable when the complainant, witness, or
 228 reporter of a violation makes accusations or other statements that are malicious or false;

229 (12) For a period of two years after separation from service or employment with the
 230 county, appear before any agency or receive compensation for any services rendered on
 231 behalf of any person, business, or association in relation to any case, proceeding, or
 232 application with respect to which such former official or employee was directly
 233 concerned or in which such official or employee personally participated during the period
 234 of such official's or employee's service or employment. Nothing in this paragraph shall
 235 be construed to preclude a former official or employee from being engaged directly by
 236 the county to provide services to or on behalf of the county during this two-year period;
 237 or

238 (13) Engage in any activity or transaction that is prohibited by law now existing or
 239 hereafter enacted which is applicable to him or her by virtue of his or her being an official
 240 or employee of DeKalb County.

241 (d) Disclosure of interests. An official or employee who has an interest that he or she has
 242 reason to believe may be affected by his or her official acts or actions or by the official acts
 243 or actions of another official or employee of DeKalb County shall disclose the precise

244 nature and value of such interest by sworn written statement to the Board of Ethics and ask
245 for the board's opinion as to whether the interest presents a conflict. Every official or
246 employee who knowingly has any interest, direct or indirect, in any contract to which
247 DeKalb County is or is about to become a party, or in any other business with DeKalb
248 County, shall make full disclosure of such interest to the Chief Executive, the Commission,
249 and the Board of Ethics. The information disclosed by such sworn statements, except for
250 the valuation attributed to the disclosed interest, shall be made a matter of public record by
251 the Board of Ethics.

252 (e) Participation in contracts. No official or employee shall cause DeKalb County to enter
253 into any contract involving services or property with an official or employee of the county
254 or with a business in which an official or employee of the county has an interest. This
255 subsection shall not apply in the case of:

- 256 (1) The designation of a bank or trust company as a depository for county funds;
- 257 (2) The borrowing of funds from any bank or lending institution which offers the lowest
258 available rate of interest for such loans;
- 259 (3) A business which employs an official or employee where the employment of such
260 official or employee is unrelated to any contract or transaction by or with DeKalb
261 County;
- 262 (4) Contracts for services entered into with a business which is the only available source
263 for such goods or services; or
- 264 (5) Contracts entered into under circumstances which constitute an emergency situation,
265 provided that a record explaining the emergency is prepared by the Chief Executive and
266 submitted to the Board of Ethics at its next regular meeting and thereafter kept on file.

267 (f) Reporting violations. Any person who witnesses or becomes aware of a violation of
268 this section may complain of the violation as follows:

269 (1) A complaint may be communicated anonymously to the ethics officer. Such
270 complaint shall be made in good faith and with veracity and sufficient specificity so as
271 to provide the ethics officer with salient and investigable facts. The ethics officer may
272 require the anonymous complaint to be made in a manner and form that is intended only
273 to obtain relevant facts related to the alleged violation of this section and that is not
274 designed to reveal the identity of the complainant.

275 (2) A sworn written complaint may be filed with the ethics officer of the Board of Ethics,
276 as described in this paragraph. All written complaints to be considered by the Board of
277 Ethics and the ethics officer shall contain the following, if applicable:

- 278 (A) The name and address of the person or persons filing the complaint;
- 279 (B) The sworn verification and signature of the complainant;

280 (C) The name and address of the party or parties against whom the complaint is filed
 281 and, if such party is a candidate, the office being sought;

282 (D) A statement of acts upon which the complaint is based along with a general
 283 reference to the allegedly violated provision or provisions of this section; and

284 (E) Any further information which might support the allegations in the complaint
 285 including, but not limited to, the following:

286 (i) The names and addresses of all other persons who have first-hand knowledge of
 287 the facts alleged in the complaint; and

288 (ii) Any documentary evidence that supports the facts alleged in the complaint.

289 (3) Upon receipt of a complaint, whether by the ethics officer or by the Board of Ethics,
 290 the ethics officer or the secretary of the Board of Ethics shall send a written notice to the
 291 subject of the complaint by the next business day. Both this notice and any subsequent
 292 documents shall be subject to Article 4 of Chapter 18 of Title 50 of the O.C.G.A.

293 (4) Upon receipt of a written, nonanonymous complaint which does not conform to the
 294 applicable requirements of paragraph (2) of this subsection, the ethics officer shall by
 295 letter acknowledge receipt of the complaint and advise the complainant of the defect in
 296 the complaint and that the complaint will not be considered by the Board of Ethics unless
 297 the defect is corrected.

298 (g) Enactment.

299 (1) This section shall be construed liberally to effectuate its purpose and policies and to
 300 supplement such existing laws as may relate to the conduct of officials or employees.

301 (2) The propriety of any official act or action taken by or transaction involving any
 302 officials or employees immediately prior to the time this section shall take effect shall not
 303 be affected by the enactment of this section.

304 (3) The provisions of this section are severable, and if any of its provisions shall be held
 305 unconstitutional or invalid by a court of competent jurisdiction, the decision of the court
 306 shall not affect or impair any of the remaining provisions.

307 (h) Board of Ethics.

308 (1)(A) There is created the Board of Ethics of DeKalb County to be composed of seven
 309 citizens of DeKalb County to be appointed as provided in paragraph (2) of this
 310 subsection.

311 (B) Each member of the Board of Ethics shall have been a resident of DeKalb County
 312 for at least one year immediately preceding the date of taking office and shall remain
 313 a resident of the county while serving as a member of the Board of Ethics.

314 (C) No person shall serve as a member of the Board of Ethics if the person has, or has
 315 had within the immediately preceding two-year period, any interest in any contract,
 316 transaction, or official act or action of DeKalb County.

317 (D) No member of the Board of Ethics shall be a member of an agency or an official
318 or employee of DeKalb County or shall have served in such a capacity in the two-year
319 period immediately preceding such person's appointment to the Board of Ethics.

320 (E) No person shall serve as a member of the Board of Ethics if the person has been
321 a candidate for, or was elected to, public office in the immediately preceding three-year
322 period. Filing for an elective office shall constitute a resignation from the Board of
323 Ethics on the date of filing.

324 (F) Appointees to the Board of Ethics shall have professional knowledge or expertise
325 in matters of ethics, finance, governance, or the law.

326 (G) All proposed appointments to the Board of Ethics shall be subject to an education
327 and employment background check as well as a criminal history check. Persons
328 proposed to be appointed to the Board of Ethics shall execute all releases necessary for
329 the appointing authority to accomplish such checks. If the nominee is determined to
330 have committed a felony, the nomination shall be withdrawn.

331 (2)(A) The members of the Board of Ethics in office on the effective date of this
332 section shall serve out the terms to which they were appointed.

333 (B) On and after January 1, 2018, the members of the Board of Ethics shall be selected
334 as follows:

335 (i) One member shall be appointed by majority vote of the DeKalb County legislative
336 delegation in the General Assembly chosen from the attorney members of the DeKalb
337 Bar Association. The DeKalb Bar Association may recommend individuals for such
338 appointment;

339 (ii) One member shall be appointed by majority vote of the DeKalb County
340 legislative delegation in the General Assembly from the DeKalb County Chamber of
341 Commerce, which member shall not be an attorney. The DeKalb County Chamber
342 of Commerce may recommend individuals for such appointment;

343 (iii) One member shall be appointed by majority vote of the DeKalb County
344 legislative delegation in the General Assembly;

345 (iv) One member shall be appointed by the judge of the Probate Court of DeKalb
346 County;

347 (v) One member shall be appointed by majority vote of the DeKalb County
348 legislative delegation in the General Assembly from individuals associated with
349 Leadership DeKalb. Leadership DeKalb may recommend individuals for such
350 appointment;

351 (vi) One member shall be appointed by majority vote of the DeKalb County
352 legislative delegation in the General Assembly from individuals associated with the
353 six major universities and colleges located within DeKalb County (Agnes Scott

354 College, Columbia Theological Seminary, Emory University, Georgia State
355 University, Mercer University, and Oglethorpe University), which member shall not
356 be an attorney. Such major universities and colleges may recommend individuals for
357 such appointment; and

358 (vii) One member shall be appointed by the chief judge of the Superior Court of
359 DeKalb County.

360 (C) The members shall each serve for terms of three years; provided, however, that the
361 initial terms of the first DeKalb County Chamber of Commerce appointee, the first
362 Leadership DeKalb appointee, and the first DeKalb County legislative delegation
363 appointee shall be two years; and provided, further, that the initial terms of the six
364 major institutes of higher learning within DeKalb County appointee and the judge of
365 the Probate Court appointee shall be one year.

366 (D) Successors to all members of the Board of Ethics and future successors shall be
367 appointed by the respective appointing authorities not less than 30 days prior to the
368 expiration of each such member's term of office, and such successors shall take office
369 on January 1 following such appointment and shall serve terms of three years and until
370 their respective successors are appointed and qualified.

371 (3) If a member of the Board of Ethics ceases to be a resident of DeKalb County, that
372 member's position on the Board of Ethics, by operation of law, shall become vacant upon
373 the establishment of the fact of such nonresidency, if contested, by a court of competent
374 jurisdiction. A vacancy in the Board of Ethics shall exist by reason of death, the
375 disability or incapacity of a member for more than 90 days, resignation, or loss of
376 residency as described in this paragraph. A member of the Board of Ethics may be
377 removed from office during a term if the member becomes ineligible to hold civil office
378 within the meaning of Code Section 45-2-1 of the O.C.G.A. and that ineligibility is
379 established by decision of a court of competent jurisdiction which declares the office
380 vacant because of such ineligibility or for good cause by a majority vote of the Board of
381 Ethics. The ethics officer shall notify the appointing authority of a vacancy upon its
382 occurrence, and such vacancy shall be filled for the unexpired term by the respective
383 appointing authority.

384 (4) The members of the Board of Ethics shall serve without compensation and shall elect
385 from their own membership a chairperson and otherwise provide for their own internal
386 organization. The Commission shall provide adequate office and meeting space and pay
387 all administrative costs, including those specifically stipulated in this section, pertaining
388 to the operation of the Board of Ethics. The Board of Ethics shall be authorized to
389 employ its own staff and clerical personnel and contract for the services of a competent
390 court reporter, an attorney, and a private investigator as it deems necessary. The

391 members of the Board of Ethics shall have the authority to propose the budget of the
392 board and shall recommend the budget to the Commission, who shall fund it as a priority.
393 In the event that the proposed budget is in excess of \$300,000.00, the Commission shall
394 have the authority to authorize the additional funds requested in accordance with standard
395 budgetary procedures and requirements. The Board of Ethics shall be completely
396 independent and shall not be subject to control or supervision by the Chief Executive, the
397 Commission, or any other official or employee or agency of the county government.

398 (5) The Board of Ethics shall have the following duties:

399 (A) To establish procedures, rules, and regulations governing its internal organization
400 and the conduct of its affairs;

401 (B) To render advisory opinions with respect to the interpretation and application of
402 this section to all officials or employees who seek advice as to whether a particular
403 course of conduct would constitute a violation of the standards imposed in this section
404 or other applicable ethical standards. Such opinions shall be binding on the Board of
405 Ethics in any subsequent complaint concerning the official or employee who sought the
406 opinion and acted in good faith, unless material facts were omitted or misstated in the
407 request for the advisory opinion;

408 (C) To prescribe forms for the disclosures required in this section and to make
409 available to the public the information disclosed as provided in this section;

410 (D) To receive and hear complaints of violations of the standards required by this
411 section over which it has personal and subject matter jurisdiction;

412 (E) To make such investigations as it deems necessary to determine whether any
413 official or employee has violated or is about to violate any provisions of this section;
414 and

415 (F) To hold such hearings and make such inquiries as it deems necessary for it to carry
416 out properly its functions and powers.

417 (i) Ethics officer.

418 (1) There is hereby created as a full-time salaried position an ethics officer for DeKalb
419 County. The ethics officer must be an active member of the Georgia Bar Association in
420 good standing with five years' experience in the practice of law. The ethics officer shall
421 be appointed by a majority of the members of the Board of Ethics, subject to confirmation
422 by a majority of the Commission and approval by the Chief Executive, for a period of six
423 years. Removal of the ethics officer before the expiration of the designated term shall be
424 for cause by a majority vote of the members of the Board of Ethics. The ethics officer
425 need not be a resident of the county at the time of his or her appointment, but he or she
426 shall reside in DeKalb County within six months of such appointment and continue to
427 reside therein throughout such appointment.

- 428 (2) The ethics officer shall not be involved in partisan or nonpartisan political activities
429 or the political affairs of DeKalb County.
- 430 (3) The duties of the ethics officer shall include, but not be limited to, the following:
- 431 (A) Educating and training all city officials and employees to have an awareness and
432 understanding of the mandate for and enforcement of ethical conduct and advising them
433 of the provisions of the code of ethics of DeKalb County;
- 434 (B) Maintaining the records of the Board of Ethics as required by Article 4 of
435 Chapter 18 of Title 50 of the O.C.G.A.;
- 436 (C) Meeting with the Board of Ethics;
- 437 (D) Advising officials and employees regarding disclosure statements and reviewing
438 the same to ensure full and complete financial reporting;
- 439 (E) Urging compliance with the code of ethics by calling to the attention of the Board
440 of Ethics any failure to comply or any issues, including the furnishing of false or
441 misleading information, that the ethics officer believes should be investigated by the
442 Board of Ethics so that the Board of Ethics may take such action as it deems
443 appropriate;
- 444 (F) Monitoring, evaluating, and acting upon information obtained from an 'ethics
445 hotline' which shall be for the receipt of information about ethical violations. Each
446 complaint, as of the time it is reported, shall be deemed to be a separate pending
447 investigation of a complaint against a public officer or employee as provided by
448 Article 4 of Chapter 18 of Title 50 of the O.C.G.A.;
- 449 (G) Notifying the subject of a report of any alleged violation of the ethics code,
450 whether the report is anonymous, is made by an identified individual, or is written.
451 Such notice shall be given in writing by first-class mail, return receipt requested, by
452 statutory overnight delivery, or by electronic mail if agreed to by the respondent. The
453 notice shall be given at the same time and in the same form that any disclosure of
454 information is required by Article 4 of Chapter 18 of Title 50 of the O.C.G.A.;
- 455 (H) Notifying the Board of Ethics of any report of an alleged violation of the ethics
456 code received by the ethics officer;
- 457 (I) Reporting, as appropriate, suspected ethical violations to the Board of Ethics;
- 458 (J) Reporting, as appropriate, suspected criminal violations to state or federal law
459 enforcement agencies; and
- 460 (K) Filing with the Board of Ethics, the Chief Executive, and the Commission on the
461 first Tuesday of each February a written report describing the activities of the ethics
462 officer in carrying out the goals of his or her office and the code of ethics and reporting
463 on the ethical health of DeKalb County.

464 (j) Investigations and hearings. The Board of Ethics shall conduct investigations into
465 alleged violations of the code of ethics, hold hearings, and issue decisions as prescribed in
466 this subsection:

467 (1) The proceedings and records of the Board of Ethics shall be open unless otherwise
468 permitted by state law.

469 (2) Upon request of the Board of Ethics, the Solicitor of DeKalb County or any attorney
470 representing the office of the Solicitor of DeKalb County, or any attorney who shall be
471 selected by a majority vote of the Board of Ethics, shall advise the Board of Ethics.

472 (3) A complaint may be filed by the ethics officer, any resident, or a group of residents
473 of DeKalb County by submitting to the office of the ethics officer a written, verified, and
474 sworn complaint under the penalty of perjury or false swearing. The complaint shall be
475 filed in accordance with subsection (f) of this section.

476 (4) Upon receipt of the complaint, the ethics officer shall conduct a preliminary
477 investigation to determine whether it meets the jurisdictional requirements as set forth in
478 this section. If in the opinion of the ethics officer the complaint fails to meet these
479 requirements, the ethics officer shall notify the person who filed the complaint and he or
480 she shall have ten days from the date of notice to correct and refile the complaint directly
481 with the ethics officer. A complaint which fails to satisfy the jurisdictional requirements
482 as established by this section and by the rules and procedures established by the Board
483 of Ethics shall be dismissed by the Board of Ethics no later than 30 days after the
484 complaint is filed with the office of the ethics officer, unless extended by a majority vote
485 of the Board of Ethics.

486 (5) The ethics officer will report his or her findings and recommendation to the Board
487 of Ethics and advise whether there is probable cause for belief that the code of ethics has
488 been violated, warranting a formal hearing. If the Board of Ethics determines, after the
489 preliminary investigation of a complaint by the ethics officer, that there does not exist
490 probable cause for belief that this section has been violated, the Board of Ethics shall so
491 notify the complainant and the subject of the investigation, and the complaint will be
492 dismissed. After a preliminary investigation of the complaint by the ethics officer, if the
493 ethics officer believes that there does exist probable cause for belief that this section has
494 been violated, the Board of Ethics shall give notice to the person involved to attend a
495 hearing to determine whether there has been a violation of this section.

496 (6) For use in proceedings under this section, the Board of Ethics shall have the power
497 to issue subpoenas to compel any person to appear, give sworn testimony, or produce
498 documentary or other evidence. Any person who fails to respond to such subpoenas may
499 be subjected to the penalties set forth in subsection (k) of this section.

500 (7) All hearings of the Board of Ethics pursuant to this section shall be as follows:

501 (A) All testimony shall be under oath, which shall be administered by a member of the
502 Board of Ethics. Any person who appears before the Board of Ethics shall have all of
503 the due process rights, privileges, and responsibilities of a witness appearing before the
504 courts of this state. Any person whose name is mentioned during a proceeding of the
505 Board of Ethics and who may be adversely affected thereby may appear personally
506 before the Board of Ethics on such person's own behalf or may file a written sworn
507 statement for incorporation into the record to be made part of all proceedings pursuant
508 to this subsection.

509 (B) The decision of the Board of Ethics shall be governed by a preponderance of the
510 evidence standard.

511 (C) At the conclusion of proceedings concerning an alleged violation, the Board of
512 Ethics shall immediately begin deliberations on the evidence and proceed to determine
513 by a majority vote of members present whether there has been a violation of this
514 section. The findings of the Board of Ethics concerning a violation and the record of
515 the proceedings shall be made public by the ethics officer as soon as practicable after
516 the determination has been made.

517 (k) Violations; appeals.

518 (1) Any intentional violation of this section, furnishing of false or misleading
519 information to the Board of Ethics or the ethics officer, failure to follow an opinion
520 rendered by the Board of Ethics, or failure to comply with a subpoena issued by the
521 Board of Ethics pursuant to this section shall subject the violator to any one or more of
522 the following:

523 (A) Administrative sanction of not more than \$1,000.00 per violation assessed by the
524 Board of Ethics;

525 (B) Public reprimand by the Board of Ethics; and

526 (C) Prosecution by the DeKalb County Solicitor in municipal court and, upon
527 conviction, a fine of up to \$1,000.00 per violation and up to six months' imprisonment,
528 whether the official or employee is elected or appointed, paid or unpaid. Nothing in
529 this section shall be interpreted to conflict with state law. An action for violation of this
530 section or the furnishing of false or misleading information or the failure to comply
531 with a subpoena issued by the Board of Ethics must be brought within two years after
532 the violation is discovered.

533 (2) With regard to violations by persons other than officials or employees, in addition to
534 the remedies in paragraph (1) of this subsection, the Board of Ethics may recommend to
535 the Chief Executive and the Commission any one or more of the following:

536 (A) Suspension of a contractor; and

537 (B) Disqualification or debarment from contracting or subcontracting with DeKalb
538 County.

539 (3) The decision of the Board of Ethics after a hearing shall be final; provided, however,
540 that such proceeding shall be subject to review by writ of certiorari to the DeKalb County
541 Superior Court. The designee of the Board of Ethics shall be authorized to acknowledge
542 service of any such writ and shall, within the time provided by law, certify and cause to
543 be filed with the clerk of the superior court a record of the proceedings before the Board
544 of Ethics, the decision of the Board of Ethics, and the notice of the final actions of the
545 Board of Ethics."

546 **SECTION 2.**

547 The election superintendent of DeKalb County shall call and conduct an election as provided
548 in this section for the purpose of submitting this Act to the electors of DeKalb County for
549 approval or rejection. The election superintendent shall conduct that election on the Tuesday
550 next following the first Monday in November, 2017, and shall issue the call and conduct that
551 election as provided by general law. The election superintendent shall cause the date and
552 purpose of the election to be published once a week for two weeks immediately preceding
553 the date thereof in the official organ of DeKalb County. The ballot shall have written or
554 printed thereon the words:

555 "() YES Shall the Act be approved which revises the Board of Ethics for DeKalb
556 () NO County?"

557 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
558 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
559 such question are for approval of the Act, Section 1 of this Act shall become of full force and
560 effect immediately. If the Act is not so approved or if the election is not conducted as
561 provided in this section, Section 1 of this Act shall not become effective, and this Act shall
562 be automatically repealed on the first day of January immediately following that election
563 date. The expense of such election shall be borne by DeKalb County. It shall be the election
564 superintendent's duty to certify the result thereof to the Secretary of State.

565 **SECTION 3.**

566 Except as otherwise provided in Section 2 of this Act, this Act shall become effective upon
567 its approval by the Governor or upon its becoming law without such approval.

568 **SECTION 4.**

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