

Senate Bill 7

By: Senators Jones of the 10th, Butler of the 55th, Parent of the 42nd, Anderson of the 43rd, Davenport of the 44th and others

AS PASSED

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), an Act approved March 20, 1990
5 (Ga. L. 1990, p. 3900), an Act approved April 13, 1992 (Ga. L. 1992, p. 6137), and an Act
6 approved May 12, 2015 (Ga. L. 2015, p. 3811), so as to change a definition regarding the
7 Board of Ethics of DeKalb County to exclude certain employees and persons; to provide for
8 reporting of violations by county employees; to change the manner of appointment and terms
9 of office of the members of the board; to provide for filling of vacancies on the board; to
10 provide for an ethics administrator; to authorize employment of legal counsel; to provide for
11 recusal of members of the board; to provide for preliminary investigations by the board and
12 penalties for violations regarding board inquiries; to provide for related matters; to provide
13 for a referendum; to provide for contingent effective dates and automatic repeal; to repeal
14 conflicting laws; and for other purposes.

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

16 **SECTION 1.**

17 An Act revising, superseding, and consolidating the laws relating to the governing authority
18 of DeKalb County and creating a chairman and board of commissioners of said county,
19 approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved
20 April 9, 1981 (Ga. L. 1981, p. 4304), an Act approved March 20, 1990 (Ga. L. 1990,
21 p. 3900), an Act approved April 13, 1992 (Ga. L. 1992, p. 6137), and an Act approved
22 May 12, 2015 (Ga. L. 2015, p. 3811), is amended by revising paragraph (8) of subsection (b)
23 of Section 22A as follows:

24 "(8) 'Official or employee' means any person elected or appointed to or employed or
25 retained by DeKalb County or any agency, whether paid or unpaid and whether part time
26 or full time. This definition includes retired employees or former county employees

27 during the period of time in which they are later employed or retained by the county or
 28 any agency, but does not otherwise include retired employees or former county
 29 employees or persons elected or appointed to or retained by DeKalb County or any
 30 agency. This definition does not include superior and state court judges and their
 31 immediate staffs, the district attorney, the solicitor of the state court, the clerks of the
 32 superior and state courts, the magistrates, the sheriff, the judge of the juvenile court, the
 33 judge of the probate court, the tax commissioner, and their respective staffs."

34 **SECTION 2.**

35 Said Act is further amended by revising subsection (d) of Section 22A as follows:

36 "(d) Disclosure of interests. An official or employee who has an interest that he or she has
 37 reason to believe may be affected by his or her official acts or actions or by the official acts
 38 or actions of another official or employee of DeKalb County shall disclose the precise
 39 nature and value of such interest by sworn written statement to the Board of Ethics and ask
 40 for the board's opinion as to the property of such interest. Every official or employee who
 41 knowingly has any interest, direct or indirect, in any contract to which DeKalb County is
 42 or is about to become a party, or in any other business with DeKalb County, shall make full
 43 disclosure of such interest to the Chief Executive and the Commission and to the ethics
 44 administrator and the Board of Ethics. The information disclosed by such sworn
 45 statements, except for the valuation attributed to the disclosed interest, shall be made a
 46 matter of public record by the Board of Ethics."

47 **SECTION 3.**

48 Said Act is further amended by revising subsection (f) of Section 22A as follows:

49 "(f) Reporting violations.

50 (1) Except as otherwise provided in paragraph (2) of this subsection, any person who
 51 witnesses or becomes aware of a violation of this section may complain of the violation
 52 as follows:

53 (A) A complaint may be communicated anonymously to the ethics administrator. Such
 54 complaint shall be made in good faith and with veracity and sufficient specificity so as
 55 to provide the ethics administrator with salient and investigable facts. The ethics
 56 administrator may require the anonymous complaint to be made in a manner and form
 57 that is intended only to obtain relevant facts related to the alleged violation of this
 58 section and that is not designed to reveal the identity of the complainant;

59 (B) A sworn written complaint may be filed with the ethics administrator of the Board
 60 of Ethics, as described in this paragraph. All written complaints to be considered by

61 the Board of Ethics and the ethics administrator shall contain the following, if
62 applicable:

- 63 (i) The name and address of the person or persons filing the complaint;
- 64 (ii) The sworn verification and signature of the complainant;
- 65 (iii) The name and address of the party or parties against whom the complaint is filed
66 and, if such party is a candidate, the office being sought;
- 67 (iv) A clear and concise statement of acts upon which the complaint is based along
68 with an allegation that such facts constitute one or more violations of law under the
69 jurisdiction of the Board of Ethics;
- 70 (v) A general reference to the allegedly violated statutory provision(s) of the code of
71 ethics within the jurisdiction of the Board of Ethics; and
- 72 (vi) Any further information which might support the allegations in the complaint
73 including, but not limited to, the following:
- 74 (I) The names and addresses of all other persons who have first-hand knowledge
75 of the facts alleged in the complaint; and
- 76 (II) Any documentary evidence that supports the facts alleged in the complaint;
- 77 (C) Upon receipt of a complaint, whether by the ethics administrator or by the Board
78 of Ethics, the ethics administrator or the secretary of the Board of Ethics shall send a
79 written notice to the subject of the complaint by the next business day. Both this notice
80 and any subsequent documents shall be subject to Article 4 of Chapter 18 of Title 50
81 of the O.C.G.A; or
- 82 (D) Upon receipt of a written, nonanonymous complaint which does not conform to
83 the applicable requirements of subparagraph (B) of this subsection, the ethics
84 administrator shall by letter acknowledge receipt of the complaint and advise the
85 complainant of the defect in the complaint and that the complaint will not be considered
86 by the Board of Ethics unless the defect is corrected.
- 87 (2) A county employee, prior to communicating to the ethics administrator a complaint
88 regarding his or her immediate supervisor, shall exhaust all administrative remedies
89 available under the county's applicable human resources policies and procedures. It shall
90 be the duty of the ethics administrator to confirm with the county human resources and
91 merit system director all county employees' compliance with this paragraph."

92

SECTION 4.

93 Said Act is further amended in paragraphs (2) through (4) of subsection (h) of Section 22A
94 as follows:

95 "(2)(A) The members of the Board of Ethics in office on the effective date of this
96 section shall serve until December 31, 2019, and then their terms shall terminate. A

97 new board shall be appointed as provided in this paragraph to take office on
98 January 1, 2020, and to serve for the terms prescribed in this paragraph.

99 (B) Not later than December 31, 2019, the members of the new Board of Ethics shall
100 be selected as follows:

101 (i) Two members shall be appointed by majority vote of the DeKalb County
102 legislative delegation in the House of Representatives of the Georgia General
103 Assembly, which legislative delegation shall be composed of all Representatives in
104 the Georgia General Assembly whose districts are wholly or partially located in
105 DeKalb County;

106 (ii) Two members shall be appointed by majority vote of the DeKalb County
107 legislative delegation in the Senate of the Georgia General Assembly, which
108 legislative delegation shall be composed of all Senators in the Georgia General
109 Assembly whose districts are wholly or partially located in DeKalb County;

110 (iii) One member shall be appointed by nomination by the Chief Executive,
111 confirmed by a majority vote of the Commission;

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

114 (v) One member shall be appointed by the chief judge of the Superior Court of
115 DeKalb County;

116 (vi) Two alternate members shall be appointed by majority vote of the DeKalb
117 County legislative delegation in the House of Representatives; and

118 (vii) Two alternate members shall be appointed by majority vote of the DeKalb
119 County legislative delegation in the Senate.

120 (C) The members shall each serve for terms of two years; provided, however, that the
121 initial terms of the first appointees of the chief judge of the Superior Court of DeKalb
122 County and the judge of the Probate Court of DeKalb County shall each be one year.

123 (D) Successors to all members of the Board of Ethics and future successors shall be
124 appointed by the respective appointing authorities not less than 30 days prior to the
125 expiration of each such member's term of office, and such successors shall take office
126 on January 1 following such appointment and shall serve terms of two years and until
127 their respective successors are appointed and qualified. No individual may be
128 appointed to more than two consecutive terms.

129 (E) All appointments to the Board of Ethics shall be made by the respective appointing
130 entities no later than March 31 of each year. In the event that any appointment is not
131 made within 30 days, the chief judge of the Superior Court of DeKalb County shall be
132 authorized to fill any resulting vacant positions on the Board of Ethics.

133 (F) The board shall adopt policies and procedures subject to review by the Chief
134 Executive and confirmation by a majority vote of the Commission, which vote shall
135 occur within 30 days of submission of such policies and procedures to the Chief
136 Executive. Should said vote not occur within said time, such policies and procedures
137 shall be of full force and effect without confirmation by the Commission.

138 (3) If a member of the Board of Ethics ceases to be a resident of DeKalb County, that
139 member's position on the Board of Ethics, by operation of law, shall become vacant upon
140 the establishment of the fact of such nonresidency, if contested, by a court of competent
141 jurisdiction. A vacancy in the Board of Ethics shall exist by reason of death, the
142 disability or incapacity of a member for more than 90 days, resignation, or loss of
143 residency as described in this paragraph. A member of the Board of Ethics may be
144 removed from office during a term if the member becomes ineligible to hold civil office
145 within the meaning of Code Section 45-2-1 of the O.C.G.A. and that ineligibility is
146 established by decision of a court of competent jurisdiction which declares the office
147 vacant because of such ineligibility or for good cause by a majority vote of the Board of
148 Ethics. The ethics administrator shall notify the appointing authority of a vacancy upon
149 its occurrence, and such vacancy shall be filled for the unexpired term by the respective
150 appointing authority.

151 (4) The members of the Board of Ethics shall serve without compensation and shall elect
152 from their own membership a chairperson and otherwise provide for their own internal
153 organization. The Commission shall provide adequate office and meeting space and pay
154 all administrative costs, including those specifically stipulated in this section, pertaining
155 to the operation of the Board of Ethics. The Board of Ethics shall be authorized to
156 employ its own staff and clerical personnel and contract for the services of a competent
157 court reporter, an attorney, and a private investigator as it deems necessary. In the event
158 that the Board of Ethics determines that employment of full-time legal counsel would
159 best facilitate the accomplishment of its purposes under this section, the Board of Ethics
160 may employ an attorney for such purpose, and the Commission shall appropriate
161 reasonably sufficient funds for such position. The members of the Board of Ethics shall
162 have the authority to propose the budget of the board and shall recommend the budget to
163 the Commission, who shall fund it as a priority. In the event that the proposed budget is
164 in excess of \$300,000.00, the Commission shall have the authority to authorize the
165 additional funds requested in accordance with standard budgetary procedures and
166 requirements. The Board of Ethics shall be completely independent and shall not be
167 subject to control or supervision by the Chief Executive, the Commission, or any other
168 official or employee or agency of the county government."

SECTION 5.

169

170 Said Act is further amended by revising subsection (i) of Section 22A as follows:

171 "(i) Ethics administrator.

172 (1) There is hereby created as a full-time salaried position an ethics administrator for
173 DeKalb County. The ethics administrator must possess a bachelor's degree. The ethics
174 administrator shall be appointed by a majority of the members of the Board of Ethics for
175 a period not to exceed six years. Removal of the ethics administrator before the
176 expiration of the designated term shall be for cause by a majority vote of the members of
177 the Board of Ethics.

178 (2) The ethics administrator shall not be involved in partisan or nonpartisan political
179 activities and shall be available to give technical assistance as requested by the county
180 governing authority or any member of the General Assembly whose district is wholly or
181 partially located in DeKalb County.

182 (3) The duties of the ethics administrator shall include, but not be limited to, the
183 following:

184 (A) Educating and training all county officials and employees to have an awareness
185 and understanding of the mandate for and enforcement of ethical conduct and advising
186 them of the provisions of the code of ethics of DeKalb County;

187 (B) Maintaining the records of the Board of Ethics as required by Article 4 of Chapter
188 18 of Title 50 of the O.C.G.A. and providing an updated copy of such records to the
189 clerk of the governing authority;

190 (C) Meeting with the Board of Ethics;

191 (D) Advising officials and employees regarding disclosure statements and reviewing
192 the same to ensure full and complete financial reporting;

193 (E) Monitoring and evaluating information obtained from an 'ethics hotline' which shall
194 be a city telephone number for the receipt of information about ethical violations. Each
195 complaint, as of the time it is reported, whether by telephone or otherwise, shall be
196 deemed to be a separate pending investigation of a complaint against a public
197 administrator or employee as provided by Article 4 of Chapter 18 of Title 50 of the
198 O.C.G.A.;

199 (F) Notifying the subject of a report of any alleged violation of the ethics code, whether
200 the report is anonymous, made by an identified individual, or is written. Such notice
201 shall be given in writing, by facsimile, or hand delivered to the subject of the complaint
202 at the same time and in the same form that any disclosure of information is required as
203 provided by Article 4 of Chapter 18 of Title 50 of the O.C.G.A.;

204 (G) Notifying the Board of Ethics of any report of an alleged violation of the ethics
205 code; and

206 (H) Filing with the Board of Ethics, the Chief Executive, and the Commission on the
 207 first Tuesday of each February a written report describing the activities of the ethics
 208 administrator in carrying out the goals of his or her office and the code of ethics and
 209 reporting on the ethical health of DeKalb County."

210 **SECTION 6.**

211 Said Act is further amended by revising paragraphs (1) through (5) of subsection (j) of
 212 Section 22A and by adding a new paragraph to said section to read as follows:

213 "(j) Investigations and hearings. The Board of Ethics shall have the authority to conduct
 214 investigations into all alleged violations of the code of ethics, hold hearings, and issue
 215 decisions as prescribed in this subsection:

216 (1) The proceedings and records of the Board of Ethics shall be open unless otherwise
 217 permitted by state law;

218 (2) Upon request of the Board of Ethics, the Solicitor of DeKalb County or any attorney
 219 representing the office of the Solicitor of DeKalb County shall only advise the Board of
 220 Ethics;

221 (3) A complaint may be filed by any resident or group of residents of DeKalb County by
 222 submitting to the office of the ethics administrator a written, verified, and sworn
 223 complaint under the penalty of perjury or false swearing. The complaint shall specifically
 224 identify all provisions of the DeKalb County code of ethics which the subject of the
 225 complaint is alleged to have violated, set forth facts as would be admissible in evidence
 226 in a court proceeding, and show affirmatively that the complainant or affiant (if in
 227 addition to or different from the complainant) is competent to testify to the matter set
 228 forth therein. All documents referenced in the complaint as well as supporting affidavits
 229 shall be attached to the complaint;

230 (4) Upon receipt of the complaint, the ethics administrator shall provide the complaint
 231 to the Board of Ethics, which shall conduct a preliminary investigation to determine
 232 whether it meets the jurisdictional requirements as set forth in this section. The ethics
 233 administrator shall provide administrative and other support to the Board of Ethics
 234 regarding each such preliminary investigation. If in the opinion of the Board of Ethics
 235 the complaint fails to meet these requirements, the ethics administrator shall notify the
 236 person who filed the complaint, and he or she shall have ten days from the date of notice
 237 to correct and refile the complaint directly with the ethics administrator. A complaint
 238 which fails to satisfy the jurisdictional requirements as established by this section and by
 239 the rules and procedures established by the Board of Ethics shall be dismissed by the
 240 Board of Ethics no later than 30 days after the complaint is filed with the office of the
 241 ethics administrator, unless extended by a majority vote of the Board of Ethics; and

242 (5)(A) If the Board of Ethics determines no probable cause for belief that this section
 243 has been violated, the ethics administrator shall so notify the complainant and the
 244 subject of the investigation, and the complaint shall be dismissed. If the Board of
 245 Ethics determines that there is probable cause for belief that this section has been
 246 violated, the ethics administrator shall give notice to the person involved to attend a
 247 hearing to determine whether there has been a violation of this section.

248 (B) The provisions of Code Section 45-10-3 of the O.C.G.A. shall apply to members
 249 of the Board of Ethics, and a member shall recuse himself or herself from a hearing
 250 held pursuant to this subsection in the event that such member has a conflict of interest
 251 pursuant to such Code section."

252 "(8)(A) The Board of Ethics shall render no final decision regarding any matter
 253 involving any individual who has qualified to run for any DeKalb County elected office
 254 during the 45 days preceding the election for such office.

255 (B) The Board of Ethics shall file with the Chief Executive and the Commission on the
 256 first Tuesday of each February a written report describing the activities of the ethics
 257 administrator in carrying out the goals of his or her office and the code of ethics and
 258 reporting on the ethical health of DeKalb County."

259

SECTION 7.

260 Said Act is further amended by revising paragraph (1) of subsection (k) of Section 22A as
 261 follows:

262 "(1) Any intentional violation of this section, furnishing of false or misleading
 263 information to the Board of Ethics, failure to follow an opinion rendered by the Board of
 264 Ethics, or failure to comply with a subpoena issued by the Board of Ethics pursuant to
 265 this section shall subject the violator to any one or more of the following:

266 (A) Administrative sanction of not more than \$1,000.00 assessed by the Board of
 267 Ethics;

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

269 (C) Prosecution by the DeKalb County solicitor in magistrate court and, upon
 270 conviction, a fine of up to \$1,000.00 per violation and up to six months' imprisonment,
 271 whether the official or employee is elected or appointed, paid, or unpaid. Nothing in
 272 this section shall be interpreted to conflict with state law. An action for violation of this
 273 section or the furnishing of false or misleading information or the failure to comply
 274 with a subpoena issued by the Board of Ethics must be brought within two years after
 275 the violation is discovered."

276

SECTION 8.

277 The election superintendent of DeKalb County shall call and conduct an election as provided
278 in this section for the purpose of submitting this Act to the electors of DeKalb County for
279 approval or rejection. The election superintendent shall conduct that election on the Tuesday
280 next following the first Monday in November, 2019, and shall issue the call and conduct that
281 election as provided by general law. The election superintendent shall cause the date and
282 purpose of the election to be published once a week for two weeks immediately preceding
283 the date thereof in the official organ of DeKalb County. The ballot shall have written or
284 printed thereon the words:

285 "() YES Shall the Act be approved which revises the Board of Ethics for DeKalb

286 () NO County?"

287 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
288 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
289 such question are for approval of the Act, Sections 1 through 5 of this Act shall become of
290 full force and effect immediately. If the Act is not so approved or if the election is not
291 conducted as provided in this section, Sections 1 through 5 of this Act shall not become
292 effective, and this Act shall be automatically repealed on the first day of January immediately
293 following that election date. The expense of such election shall be borne by DeKalb County.
294 It shall be the election superintendent's duty to certify the result thereof to the Secretary of
295 State.

296

SECTION 9.

297 Except as otherwise provided in Section 8 of this Act, this Act shall become effective upon
298 its approval by the Governor or upon its becoming law without such approval.

299

SECTION 10.

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