

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, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended,
3 particularly by an Act establishing the form of government of DeKalb County and fixing the
4 powers and duties of the officers constituting the governing authority of DeKalb County,
5 approved April 9, 1981 (Ga. L. 1981, p. 4304), as amended, so as to revise the qualifications
6 for the chief executive officer and members of the county commission; to revise the powers
7 and duties of the county commission and chief executive officer; to provide that contracts
8 with outside auditors shall be signed by the auditor and the presiding officer of the county
9 commission; to authorize the chief executive officer and county commission to refer certain
10 acts for prosecution; to revise provisions concerning the qualifications of the executive
11 assistant; to provide for related matters; to provide for submission for preclearance under the
12 federal Voting Rights Act; to provide for a contingent effective date; to repeal conflicting
13 laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

15 An Act revising, superseding, and consolidating the laws relating to the governing authority
16 of DeKalb County, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly
17 by an Act establishing the form of government of DeKalb County and fixing the powers and
18 duties of the officers constituting the governing authority of DeKalb County, approved
19 April 9, 1981 (Ga. L. 1981, p. 4304), as amended, is amended by revising subsection (e) of
20 Section 2 as follows:
21

22 "(e) Each commissioner shall be a citizen of this state, at least 25 years of age, and shall
23 have been a resident of the geographic area encompassed by the respective commissioner
24 district for at least one year prior to taking office. Each commissioner shall be elected by
25 a majority of the electors voting within the respective commissioner district. Except for
26 displacement of their residences from their respective commissioner districts due to

1 reapportionment of the districts, any commissioners who cease to be residents of their
 2 respective commissioner districts during their terms of office shall thereby vacate their
 3 seats on the commission. All members of the commission shall be nominated and elected
 4 pursuant to the provisions of Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election
 5 Code,' as now or hereafter amended."

6 **SECTION 2.**

7 Said Act is further amended by revising subsection (a) of Section 5 as follows:

8 "(a) The chief executive of DeKalb County shall be a citizen of this State, at least 30 years
 9 of age, and shall have been a resident of DeKalb County for at least two years immediately
 10 prior to taking office. The chief executive shall be elected by a majority of the electors
 11 voting from the county at large. The chief executive shall be nominated and elected
 12 pursuant to Chapter 21-2 of the O.C.G.A., the 'Georgia Election Code,' as now or hereafter
 13 amended."

14 **SECTION 3.**

15 Said Act is further amended by revising paragraph (1) of Section 8 as follows:

16 "(1) The chief executive officer of DeKalb County shall be compensated in an amount
 17 equal to the compensation which the chief executive officer received in 1991, to be paid
 18 in equal monthly installments;".

19 **SECTION 4.**

20 Said Act is further amended by adding new paragraphs (20) through (25) to subsection (a)
 21 of Section 9 as follows:

22 "(20) To oversee and, where necessary, to investigate the operations of the chief
 23 executive and departments, authorities, or similar divisions of the county government.
 24 To effect the purposes of this paragraph, the commission may, through its presiding
 25 officer and upon the vote of three commissioners, issue subpoenas to compel the
 26 attendance of and to receive testimony from witnesses. Upon the affirmative vote of at
 27 least four members of the commission, the commission shall be authorized to refer to the
 28 superior court contempt proceedings for alleged violations of any subpoena issued
 29 pursuant to this paragraph, and the superior court shall conduct a hearing on the referred
 30 violation in the same manner as it would for an alleged violation of a subpoena issued by
 31 the clerk of superior court. The commission is authorized to draft the form of its
 32 subpoena, which shall be substantially similar in form to subpoenas issued by the clerk
 33 of superior court.

1 (21) To issue calls for agenda items, which list it shall prepare and publish, and the same
 2 shall serve as the agenda for the commission unless superseded by subsequent action of
 3 the commission.

4 (22) To fix the compensation of the executive assistant and the county attorney.

5 (23) To fix the compensation of administrators appointed by the chief executive pursuant
 6 to subsection (f) of Section 14 of this Act.

7 (24) Subject to the regulations of the Merit System of DeKalb County and budgetary
 8 limitations, to fix the compensation of the planning director, finance director, and merit
 9 system director.

10 (25) To fix the compensation of persons filling offices and positions created by state
 11 statutes within budgetary limitations when such state statutes authorize or require such
 12 compensation to be fixed by county governments or by county governing authorities."

13 **SECTION 5.**

14 Said Act is further amended by revising subsection (b) of Section 10 as follows:

15 "(b) The outside auditor shall be employed pursuant to written contract to be signed by the
 16 auditor and the presiding officer of the commission and to be entered upon the minutes of
 17 the commission. The contract shall state clearly and concisely the depth and scope of the
 18 audit and that it shall be conducted in accordance with the requirements of the Act
 19 providing uniform standards for audits of municipalities and counties within the State of
 20 Georgia, approved April 21, 1967 (Ga. L. 1967, p. 883), as amended, by an Act approved
 21 March 28, 1968 (Ga. L. 1968, p. 464). The auditor shall immediately inform the
 22 commission in writing of any irregularities found in the management of county business
 23 by an officer or department of the county government."

24 **SECTION 6.**

25 Said Act is further amended by adding a new subsection (e) to Section 10 as follows:

26 "(e) The commission shall be authorized to refer for prosecution alleged violations of this
 27 Act, county ordinances, and other laws of this state or of the United States to the
 28 appropriate law enforcement agency."

29 **SECTION 7.**

30 Said Act is further amended by revising subsection (a) of Section 11 as follows:

31 "(a) The chief executive shall have no vote at any regular or specially called meeting of
 32 the commission unless the members of the commission are equally divided. Even when
 33 the members of the commission are equally divided, the chief executive may not vote on

1 a matter which is not subject to veto by said officer under the provisions of subsection (d)
 2 of Section 15 of this Act."

3 **SECTION 8.**

4 Said Act is further amended by revising subsection (c) of Section 11 as follows:

5 "(c) The presiding officer shall preside at meetings of the commission and shall have the
 6 following additional duties:

7 (1) To convene such special meetings of the commission as are deemed necessary, but
 8 all members shall be notified at least three days in advance of any such special meeting;

9 (2) To appoint the members and chairmen of such committees of the commission as the
 10 commission, by its rules, may establish and fill vacancies therein, but any such
 11 appointments may be rejected by a majority vote of the total membership of the
 12 commission;

13 (3) To compel the attendance of members at meetings of the commission by subpoena,
 14 if necessary, and to refer for prosecution alleged violations of such subpoena to the
 15 superior court, subject to the policy of the commission as established by its rules; and

16 (4) To exercise such other powers and duties as may be assigned to the presiding officer
 17 by ordinance or rules and regulations of the commission."

18 **SECTION 9.**

19 Said Act is further amended by revising Section 12 as follows:

20 "SECTION 12.

21 Meetings.

22 The commission shall hold regular meetings on the second and fourth Tuesdays of each
 23 month at the county seat, which meetings shall be open to the public, and may hold such
 24 additional meetings as shall be necessary when called by the chief executive, the presiding
 25 officer, or any four members of the commission, but all members shall be notified at least
 26 three days in advance of any such additional meeting. No official action shall be taken by
 27 the commission except in a meeting which is open to the public. The presiding officer and
 28 any three members of the commission, or any four members of the commission exclusive of
 29 the presiding officer, shall constitute a quorum, except that a lesser number shall be sufficient
 30 to recess or adjourn any meeting; but no official action shall be taken except upon the
 31 affirmative vote of at least four members of the commission. The presiding officer shall be
 32 entitled to the same voting rights as the commission members on questions considered by the
 33 commission."

SECTION 10.

Said Act is further amended by revising Section 13 as follows:

"SECTION 13.**Powers and duties of the chief executive.**

(a) The chief executive shall have the power, subject to the oversight authority of the commission, to supervise, direct, and control the administration of the county government. The chief executive shall carry out, execute, and enforce all ordinances, policies, rules, and regulations of the commission when such ordinances, policies, rules, and regulations become effective. No member of the commission shall directly or indirectly order, instruct, or otherwise attempt to control the actions of county personnel subject to the administrative and supervisory control of the chief executive, except pursuant to the commission's oversight authority. Nothing herein shall be construed to preclude any commissioner from obtaining from any person, including any employee of DeKalb County, information necessary to provide ordinary constituent services and to establish policy. For purposes of this subsection, the term 'ordinary constituent services' shall include, by way of example and not of limitation, responding to constituent concerns and inquiries regarding the ministerial activities of the administration, such as road repairs, traffic control device management, licensing, and the like.

(b) Subject to the approval of the commission, the chief executive shall have the power to change, consolidate, or abolish any departments, agencies, or offices over which the chief executive exercises supervision and control, except that the department of finance shall be maintained at all times as a separate and distinct department and may not be abolished by the chief executive or by the commission. Subject to the approval of the commission, the chief executive may create other departments, agencies, and offices, which departments, agencies, and offices, when created, shall be under the supervision and control of the chief executive.

(c)(1) Subject to confirmation by a majority vote of the commission, the chief executive shall appoint the executive assistant and the county attorney. The executive assistant shall be subject to the requirements of Section 14 of this Act. No member of the commission or the commission itself shall be authorized to nominate persons for the office of executive assistant or county attorney. Both of said officers shall serve at the pleasure of the chief executive. The commission may also discharge either such officer for cause, but the affirmative vote of at least five members of the commission shall be required to discharge either such officer.

1 (2) Subject to confirmation by a majority vote of the commission, the chief executive
2 shall appoint the planning director, finance director, and merit system director. No
3 member of the commission or the commission itself shall be authorized to nominate
4 persons for any such position. All three of said officers shall be under the DeKalb
5 County Merit System.

6 (d) Subject to budgetary limitations and DeKalb County Merit System regulations, the
7 chief executive shall have exclusive authority to appoint and remove all employees and
8 officials of the county, except employees of the commission, and except that deputies and
9 employees of the elected county officers of DeKalb County shall be subject to
10 appointment, removal, supervision, and control of the respective elective county officers.

11 (e) The chief executive may convene special meetings of the commission when deemed
12 necessary, but all members shall be notified at least three days in advance of any such
13 special meeting.

14 (f) Reserved.

15 (g) The chief executive shall have the power to investigate the affairs, records, and
16 expenditures of the various authorities, boards, councils, commissions, committees, and
17 similar bodies or agencies, whether created by ordinance of the commission or by Acts of
18 the General Assembly, relating to the affairs of the county and to report thereon to the
19 commission.

20 (h) The chief executive shall represent the county in intergovernmental matters and shall
21 seek to promote and improve the government of the county and encourage the growth of
22 the county and promote and develop the prosperity and well-being of the citizens of the
23 county.

24 (i) The chief executive, within 120 days after the close of each fiscal year, shall prepare
25 and submit to the commission a complete annual report on the financial affairs and
26 activities of the county for the immediately preceding fiscal year. The annual report shall
27 show all income from all sources, including state, county, and federal funds, and all
28 expenditures. The chief executive shall cause a summary of said annual report to be
29 published in the official organ of DeKalb County. Said published summary shall state that
30 a copy of the full report is available from the office of the chief executive. The chief
31 executive shall also send copies of the full report to each branch of the county library. The
32 chief executive shall also make financial reports during the year as may be required by the
33 commission.

34 (j) The chief executive may recommend, at any time, to the commission for its formal
35 consideration such measures or proposals as are deemed necessary or desirable to improve
36 the administration of the affairs of the county.

1 (k) The chief executive shall devote full time to the duties of the office and shall have no
 2 other source of employment."

3 **SECTION 11.**

4 Said Act is further amended by revising Section 13A as follows:

5 "SECTION 13A.

6 (a)(1) When this Act or any other law of this state authorizes or requires a county
 7 governing authority, including any such law which refers to a local governing body with
 8 the intention of including a county governing authority, to appoint or elect a person to fill
 9 a post or vacancy in any public office or as a member of any public authority, board,
 10 commission, or other body or agency, such post or vacancy shall be filled as follows:

11 (A) The chief executive shall nominate a person by sending a written notice to the
 12 commission, and such notice shall specify the post or vacancy to be filled, the date such
 13 post or vacancy is to be filled, the qualifications, if any, which must be possessed by
 14 a person filling the post or vacancy, and the name of the person nominated by the chief
 15 executive;

16 (B) Within 20 days after the date the notice described in subparagraph (A) of this
 17 subsection is received, the commission, either at a regular or called meeting, shall
 18 confirm or reject the nominee of the chief executive; and

19 (C) If the nominee of the chief executive is rejected by the commission, then the
 20 process in subparagraphs (A) and (B) of this paragraph shall be repeated, beginning ten
 21 days after such rejection, until the commission approves a person nominated by the
 22 chief executive.

23 (2) When the need to fill a post or vacancy is known by the chief executive at least 60
 24 days in advance of the date on which the post or vacancy should be filled, the chief
 25 executive shall initiate the procedures provided by paragraph (1) of this subsection far
 26 enough in advance to permit such post or vacancy to be filled at the proper time. In all
 27 other cases, the chief executive shall initiate such procedures as soon as practicable after
 28 learning of the need to fill the post or vacancy.

29 (b) When a law described in subsection (a) of this section authorizes a person elected or
 30 appointed to fill a post or vacancy to be removed from office by a county governing
 31 authority, such power of removal may be exercised by the affirmative vote of at least four
 32 members of the commission. Such power of removal may be exercised by the commission
 33 without the concurrence of the chief executive, but the chief executive may recommend
 34 such removal to the commission.

1 (c) Whenever any other law of this state authorizes or requires the chairman of the board
 2 of commissioners of a county or the elected chief executive officer of a county, by
 3 whatever name designated, to hold another office or to serve as a member of any public
 4 authority, board, commission, or other body or agency, such law shall be construed to grant
 5 such authority or apply such requirement to the chief executive.

6 (d) Whenever any other law of this state refers, for purposes other than those described in
 7 subsection (c) of this section, to the chairman of the board of commissioners of a county
 8 or to the elected chief executive officer of a county, by whatever name designated, such
 9 law shall be construed to refer to the chief executive."

10 **SECTION 12.**

11 Said Act is further amended by revising Section 14 as follows:

12 "SECTION 14.

13 Executive assistant; administrators.

14 (a) Subject to the qualifications for said office as hereinafter provided in this section, the
 15 chief executive shall nominate, and the commission shall confirm pursuant to the
 16 provisions of paragraph (1) of subsection (a) of Section 13A, an executive assistant. The
 17 executive assistant shall be the chief administrative aide to the chief executive and the
 18 commission and shall be responsible to the chief executive and the commission for the
 19 proper administration of the affairs of the county.

20 (b) When directed to do so by the chief executive, the executive assistant may exercise any
 21 of the administrative duties and powers vested in the chief executive by law or by
 22 ordinances, rules, and regulations adopted by the commission.

23 (c) The executive assistant shall hold a college degree in public administration, political
 24 science, urban affairs, business administration, engineering, or a related field and must
 25 have at least five years of experience in a supervisory capacity as an employee, director,
 26 administrator, or manager of a city or county government or a state or federal agency or
 27 equivalent experience in the private sector or any combination thereof.

28 (d) Reserved.

29 (e) After appointment, the executive assistant shall not take part in the management of any
 30 political campaign for any elective public office or hold office in any political party or
 31 body. If the executive assistant participates in political activities in violation of this
 32 subsection, such participation, by operation of law, shall result in the immediate discharge
 33 of the executive assistant, and the office of executive assistant shall be vacant.

1 (f) The chief executive shall also have exclusive power to appoint and remove from office
 2 two administrators to assist the executive assistant in such manner as the chief executive
 3 shall direct."

4 **SECTION 13.**

5 Said Act is further amended by revising the second unnumbered paragraph of Section 17 as
 6 follows:

7 "The chief executive shall cause to be published in the official organ of DeKalb County a
 8 copy of the proposed budget along with a notice to the public that a public hearing on the
 9 proposed budget shall be held at a time and place certain, which time shall be not less than
 10 ten days following the date of the publication. At this public hearing, the commission shall
 11 review the proposed budget. It may adopt the budget as presented by the chief executive
 12 or it may make such amendments thereto as it deems necessary to maintain the county in
 13 a sound financial condition. Nothing herein shall prevent the commission from continuing
 14 the hearing on the proposed budget from time to time, provided that the time and place to
 15 which the hearing is continued shall be publicly announced at the previous hearing.
 16 However, the final budget shall be approved and adopted before March 1 of the year to
 17 which it pertains. The final budget shall constitute the commission's appropriations of all
 18 funds for such year. The budget may be amended during the calendar year which it covers
 19 upon formal action of the commission in a regular meeting, but no increase in
 20 appropriations shall be made therein without provision also being made for financing
 21 same."

22 **SECTION 14.**

23 Said Act is further amended by revising paragraph (11) of subsection (a) of Section 19 as
 24 follows:

25 "(11) Perform such other duties as may be assigned by the chief executive to the extent
 26 that they relate reasonably to the functions listed herein."

27 **SECTION 15.**

28 Said Act is further amended by revising Section 22 as follows:

29 **"SECTION 22.**

30 **Officials not to be interested in contracts.**

31 Neither the chief executive nor any member of the commission or other county officer
 32 empowered to use public or county funds for the purchase of goods, property, or services of

1 any kind for public or county purposes shall be financially interested, directly or indirectly,
 2 in any contract to which the county is a party, either as principal, surety, or otherwise. Such
 3 officer and any partner, agent, servant, or employee of a firm of which such officer is a
 4 member or by whom he or she is employed shall be prohibited from purchasing from or
 5 selling to the county any real or personal property, goods, or services. Any contract made
 6 in violation of any of the foregoing provisions shall be void, and the officer so offending
 7 shall be removed from office upon proper proceedings instituted by any taxpayer in said
 8 county in accordance with the provisions of Section 36-1-14 of the O.C.G.A.; provided,
 9 however, that the provisions of this Section shall not be applicable to any contract where
 10 such financial interest has been disclosed fully pursuant to Section 22A of this Act and which
 11 has been approved, prior to execution, performance, and payment thereon, by a majority vote
 12 of the commission by a proper entry on the minutes of the commission."

13 **SECTION 16.**

14 Said Act is further amended by revising paragraph (1) of subsection (a) of Section 22A as
 15 follows:

16 "(a)(1) It is essential to the proper administration and operation of the DeKalb County
 17 government that the members of its governing authority be and give the appearance of
 18 being independent and impartial; that public office not be used for private gain; and that
 19 there be public confidence in the integrity of the DeKalb County governing authority.
 20 Because the attainment of one or more of these ends is impaired whenever there exists
 21 or appears to exist a conflict between the private interests and public responsibilities of
 22 members of the DeKalb County governing authority, the public interest requires that the
 23 General Assembly protect against such conflicts of interest by establishing by law
 24 appropriate ethical standards with respect to the conduct of the members of the governing
 25 authority in situations where a conflict may exist."

26 **SECTION 17.**

27 Said Act is further amended by revising subsections (c), (d), and (e) of Section 22A as
 28 follows:

29 "(c) No member of the governing authority shall:

30 (1) By the member's conduct give reasonable basis for the impression that any person
 31 can improperly influence the member or unduly enjoy the member's favor in the
 32 performance of his or her official acts or actions or that the member is affected unduly
 33 by the rank or position of or kinship or association with any person;

34 (2)(A) Directly or indirectly request, exact, receive, or agree to receive a gift, loan,
 35 favor, promise, or thing of value for himself or herself or another person if:

- 1 (i) It tends to influence him or her in the discharge of his or her official duties; or
- 2 (ii) The member recently has been, or is now, or in the near future may be, involved
- 3 in any official act or action directly affecting the donor or lender.

4 (B) Subparagraph (A) of this paragraph shall not apply in the case of:

- 5 (i) An occasional nonpecuniary gift of insignificant value;
- 6 (ii) An award publicly presented in recognition of public service; or
- 7 (iii) A commercially reasonable loan made in the ordinary course of business by an
- 8 institution authorized by the laws of Georgia to engage in the making of such a loan;

9 (3) Disclose or otherwise use confidential information acquired by virtue of the

10 member's position for his or her or another person's private gain;

11 (4) Appear on the member's own personal behalf or represent, advise, or appear on the

12 personal behalf of, whether paid or unpaid, any person before any court or before any

13 legislative, administrative, or quasi-judicial board, agency, commission, or committee of

14 the state or of any county or municipality concerning any contract or transaction which

15 is or may be the subject of an official act or action of DeKalb County or otherwise use

16 or attempt to use the member's official position to secure unwarranted privileges or

17 exemptions for himself or herself or other persons;

18 (5) Engage in, accept employment with, or render services for any private business or

19 professional activity when such employment or rendering of services is adverse to and

20 incompatible with the proper discharge of his or her official duties. For the purposes of

21 this paragraph, the employment of a consultant by any business involving matters

22 unrelated to any contract or transaction by or with DeKalb County shall not be deemed

23 incompatible with such consultant's official duties;

24 (6) Acquire an interest in any contract or transaction at a time when the member believes

25 or has reason to believe that such an interest will be affected directly or indirectly by his

26 or her official act or actions or by the official acts or actions of the governing authority

27 of DeKalb County; or

28 (7) Engage in any activity or transaction that is prohibited by law now existing or

29 hereafter enacted which is applicable to the member by virtue of being a member of the

30 governing authority.

31 (d) A member of the governing authority who has an interest that he or she has reason to

32 believe may be affected by the member's official acts or actions or by the official acts or

33 actions of the governing authority of DeKalb County shall disclose the precise nature and

34 value of such interest by sworn written statement to the board of ethics and ask for its

35 opinion as to the propriety of said interest. Every member of the governing authority who

36 knowingly has any interest, direct or indirect, in any contract to which DeKalb County is

37 or is about to become a party, or in any other business with DeKalb County, shall make full

1 disclosure of such interest to the governing authority of DeKalb County and to the board
 2 of ethics. The information disclosed by such sworn statements, except for the valuation
 3 attributed to the disclosed interest, shall be made a matter of public record by the board of
 4 ethics.

5 (e) A member of the governing authority shall disqualify himself or herself from
 6 participating in any official act or action of DeKalb County directly affecting a business
 7 or activity in which the member has any interest, regardless of whether it is a remote
 8 interest."

9 **SECTION 18.**

10 Said Act is further amended by revising subsections (g) and (h) of Section 22A as follows:

11 "(g) DeKalb County shall not enter into any contract with or take any official act or action
 12 favorably affecting any person or business represented by such person who has been within
 13 the preceding 12-month period a member of the governing authority.

14 (h)(1) This section shall be construed liberally to effectuate its purposes and policies and
 15 to supplement such existing laws as may relate to the conduct of members of the
 16 governing authority.

17 (2) The propriety of any official act or action taken by or transaction involving any
 18 member of the governing authority immediately prior to the time this section shall take
 19 effect shall not be affected by the enactment of this section.

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

23 **SECTION 19.**

24 Said Act is further amended by revising subparagraph (i)(5)(B) of Section 22A as follows:

25 "(B) To render advisory opinions with respect to the interpretation and application
 26 of this section to all persons who seek such opinions regarding whether a particular
 27 course of conduct would constitute a violation of the standards imposed in this section
 28 or other applicable ethical standards. Such opinions shall be binding on the board of
 29 ethics in any subsequent complaint concerning the person who sought the opinion and
 30 acted in good faith, unless material facts were omitted or misstated in the request for
 31 the advisory opinion;".

32 **SECTION 20.**

33 Unless otherwise prohibited by the federal Voting Rights Act of 1965, as amended, the
 34 election superintendent of DeKalb County shall call and conduct a special election for the

