

The House Committee on Intragovernmental Coordination - Local Legislation offers the following substitute to SB 273:

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

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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 an official's or employee's
 90 spouse, children, dependents, and parents.
- 91 (8) 'Interest' means any direct or indirect pecuniary or material benefit held by or
 92 accruing to the official or employee as a result of a contract or transaction which is or
 93 may be the subject of an official act or action by or with DeKalb County. Unless
 94 otherwise provided in this section, the term 'interest' does not include any remote interest.
 95 An official or employee shall be deemed to have an interest in transactions involving:
- 96 (A) Any person in the official's or employee's immediate family;
- 97 (B) Any person, business, or entity that the official or employee knows or should know
 98 is seeking official action with DeKalb County, is seeking to do or does business with

99 DeKalb County, has interests that may be substantially affected by performance or
100 nonperformance of the official's or employee's official duties, or with whom a
101 contractual relationship exists whereby the official or employee may receive any
102 payment or other benefit;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 136 (B) A holder of less than 5 percent of the legal or beneficial ownership of the total
137 shares of a business;
- 138 (C) Any person in a representative capacity, such as a receiver, trustee, or
139 administrator; or
- 140 (D) Any person who, by determination of the Board of Ethics, is deemed to have such
141 an interest.
- 142 (17) 'Transaction' means the conduct of any activity that results in or may result in an
143 official act or action of an official or employee of DeKalb County.
- 144 (c) Proscribed Conduct. No official or employee of DeKalb County shall:
- 145 (1) By his or her conduct give reasonable basis for the impression that any person can
146 improperly influence him or her or unduly expect his or her favor or disfavor in the
147 performance of his or her official acts or actions or that he or she is affected unduly by
148 the rank or position of or kinship or association with any person;
- 149 (2) Accept any gratuity from a prohibited source. An official or employee may accept
150 unsolicited gifts from a person or entity, other than a prohibited source, having an
151 aggregate market value of \$40.00 or less per source and per occasion, provided that the
152 aggregate market value of individual gifts received from any one source shall not
153 exceed \$120.00 in a calendar year;
- 154 (3) Solicit or accept any gift which tends to influence a vote, decision, or the exercise of
155 official authority in any manner involving the county; provided, however, that nothing
156 in this section shall prohibit any official or employee from accepting a gift on behalf of
157 the county where the donor is not a prohibited source;
- 158 (4) Disclose or otherwise use confidential information acquired by virtue of his or her
159 position for his or her or another person's private gain;
- 160 (5) Appear on behalf of, represent, or advise private interests of, whether paid or unpaid,
161 any person before any court or before any legislative, administrative, or quasi-judicial
162 board, agency, commission, or committee of this state or of any county or municipality
163 concerning any contract or transaction which is or may be the subject of an official act
164 or action of DeKalb County or otherwise use or attempt to use his or her official position
165 to secure unwarranted privileges or exemptions for himself or herself or other persons.
166 An official or employee may, however, appear on his or her own behalf or in relation to
167 his or her own property interests, and county commissioners may appear on behalf of
168 constituents or in the performance of public or civic obligations before any agency, but
169 only without compensation or remuneration of any kind. In no instance shall a county
170 commissioner appear before the zoning review board on behalf of constituents or in the
171 performance of their public or civic obligations;

- 172 (6) Engage in, accept employment with, or render services for any agency, private
173 business, or professional activity when such employment or rendering of services is
174 adverse to or incompatible with the proper discharge of his or her official duties. For the
175 purposes of this paragraph, acceptance of employment by an official or employee outside
176 of DeKalb County is not incompatible per se if the employment is unrelated to any
177 contract or transaction by or with DeKalb County. Employees of DeKalb County shall
178 be required to report any outside positions to their immediate supervisor;
- 179 (7) Acquire an interest in any financial, business, commercial, or other private contract
180 or transaction at a time when he or she believes or has reason to believe that such an
181 interest will be affected directly or indirectly by his or her official acts or actions or by
182 the official acts or actions of other officials or employees of DeKalb County;
- 183 (8) Participate directly or indirectly in the preparation of any part of any specifications
184 or requests for proposal, influence the content of any specification or contract standard,
185 render advice, investigate, audit, or review any proceeding or application, request for
186 ruling, or other determination, claim, or other matter pertaining to any contract or
187 subcontract and any solicitation or proposal therefor or seek to influence the votes or
188 decisions of others with respect thereto when the official or employee knows or with
189 reasonable investigation should know that there is a financial or personal interest
190 possessed by:
- 191 (A) The official or employee;
 - 192 (B) One or more members of the official's or employee's immediate family;
 - 193 (C) A business other than a public agency in which the official or employee, or a
194 member of the official's or employee's immediate family, serves as an officer, director,
195 stockholder, creditor, trustee, partner, or employee; or
 - 196 (D) Any other person or business with whom the official or employee, or a member of
197 the official's or employee's immediate family, is negotiating or seeking prospective
198 employment or other business or professional relationship;
- 199 (9) Request or permit the use of or use any county or government owned or supported
200 property, vehicle, equipment, material, labor, service, or funds for the private advantage
201 of such official or employee or any other person or private entity, including, but not
202 limited to, the use of such property, vehicle, equipment, material, labor, service, or funds
203 for the benefit of political campaigns. However, no official or employee shall be
204 prohibited from requesting or permitting the use of or using any county or government
205 owned or supported property, vehicle, equipment, material, labor, service, or funds which
206 as a matter of county policy is made available to the public at large;
- 207 (10) Participate in any employment decision that may be viewed as a conflict of interest,
208 such as one involving an immediate family member, a close friend, a business partner,

209 or a professional, political, or commercial relationship that would lead to preferential
 210 treatment or compromise the appearance of fairness. Additionally, if any official or
 211 employee comes into a direct line of supervision over one of these persons, he or she
 212 shall have six months to come into compliance or to obtain a waiver from the Board of
 213 Ethics;

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

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

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

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

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

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

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

239 (d) Disclosure of interests.

240 (1) An official or employee who has an interest that he or she has reason to believe
 241 may be affected by his or her official acts or actions or by the official acts or actions of
 242 another official or employee of DeKalb County shall disclose the precise nature and
 243 value of such interest by sworn written statement to the Board of Ethics and ask for the
 244 board's opinion as to whether the interest presents a conflict. Every official or
 245 employee who knowingly has any interest, direct or indirect, in any contract to which

246 DeKalb County is or is about to become a party, or in any other business with DeKalb
 247 County, shall make full disclosure of such interest to the Chief Executive, the
 248 Commission, and the Board of Ethics. The information disclosed by such sworn
 249 statements, except for the valuation attributed to the disclosed interest, shall be made
 250 a matter of public record by the Board of Ethics.

251 (2) An official or employee shall disqualify himself or herself from participating in any
 252 official act or action of DeKalb County directly affecting a business or activity in which
 253 he or she has any interest, whether or not a remote interest.

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

258 (1) The designation of a bank or trust company as a depository for county funds;

259 (2) The borrowing of funds from any bank or lending institution which offers the lowest
 260 available rate of interest for such loans;

261 (3) A business which employs an official or employee where the employment of such
 262 official or employee is unrelated to any contract or transaction by or with DeKalb
 263 County;

264 (4) Contracts for services entered into with a business which is the only available source
 265 for such goods or services; or

266 (5) Contracts entered into under circumstances which constitute an emergency situation,
 267 provided that a record explaining the emergency is prepared by the Chief Executive and
 268 submitted to the Board of Ethics at its next regular meeting and thereafter kept on file.

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

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

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

280 (A) The name and address of the person or persons filing the complaint;

281 (B) The sworn verification and signature of the complainant;

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

284 (D) A statement of acts upon which the complaint is based along with the allegedly
 285 violated provision or provisions of this section;

286 (E) A statement of all facts that would be admissible as evidence in a court proceeding;
 287 and

288 (F) Any further information which might support the allegations in the complaint
 289 including, but not limited to, the following:

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

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

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

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

302 (g) Enactment.

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

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

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

311 (h) Board of Ethics.

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

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

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

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

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

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

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

335 (2)(A) The members of the Board of Ethics in office on the effective date of this
336 section shall serve until February 1, 2018.

337 (B) On and after February 1, 2018, the members of the Board of Ethics shall be
338 selected as follows:

339 (i) Four members shall be appointed by majority vote of the DeKalb County
340 legislative delegation in the House of Representatives;

341 (ii) Three members shall be appointed by majority vote of the DeKalb County
342 legislative delegation in the Senate;

343 (iii) Two alternate members shall be appointed by majority vote of the DeKalb
344 County legislative delegation in the House of Representatives; and

345 (iv) Two alternate members shall be appointed by majority vote of the DeKalb
346 County legislative delegation in the Senate.

347 The DeKalb Bar Association, the DeKalb Lawyers Association, Inc., the DeKalb
348 County Chamber of Commerce, Leadership DeKalb, the DeKalb County chapter of the
349 NAACP, the six major universities and colleges located within DeKalb County (Agnes
350 Scott College, Columbia Theological Seminary, Emory University, Georgia State
351 University, Mercer University, and Oglethorpe University), and other individuals and
352 organizations may recommend individuals to the respective delegations for
353 appointment; however, the legislative delegations shall not be limited to such
354 recommendations. For the initial appointments under this paragraph, any such

355 recommendations shall be delivered to the chairpersons of the House legislative
356 delegation and the Senate legislative delegation not later than December 15, 2017. For
357 appointments thereafter, any such recommendations shall be delivered to the
358 chairpersons of the House legislative delegation and the Senate legislative delegation
359 not later than November 15 of each year.

360 (C) The members shall each serve for terms of three years; provided, however, that, for
361 the initial appointments under this paragraph, two of the members appointed by the
362 House legislative delegation shall have terms of office expiring on January 1, 2021; one
363 member and one alternate member appointed by the House legislative delegation shall
364 have a term of office expiring on January 1, 2020; one member and one alternate
365 member appointed by the House legislative delegation shall have a term of office
366 expiring on January 1, 2019; one member appointed by the Senate legislative delegation
367 shall have a term of office expiring on January 1, 2021; one member and one alternate
368 member appointed by the Senate legislative delegation shall have a term of office
369 expiring on January 1, 2020; one member and one alternate member appointed by the
370 Senate legislative delegation shall have a term of office expiring on January 1, 2019.
371 The House and Senate legislative delegations shall specify which members are serving
372 which terms in making their respective appointments. Such initial appointments shall
373 be made not later than January 15, 2018. Thereafter, successors shall be appointed by
374 the respective appointing delegations not later than December 15 immediately
375 preceding the end of each member's term of office and such appointee shall take office
376 on January 1 following such appointment. All appointees shall serve until their
377 respective successors are appointed and qualified.

378 (D) In making appointments under the provisions of this paragraph, the members of
379 the DeKalb County legislative delegation in the General Assembly shall consider the
380 need for diversity in the membership of the Board of Ethics.

381 (E) Alternate members shall attend all meetings of the Board of Ethics but shall only
382 participate in deliberations and actions of the Board of Ethics in the event that a quorum
383 of the Board of Ethics is not present and only to the extent necessary to create a
384 quorum. Alternate members shall be chosen to serve on the Board of Ethics on a
385 rotating basis in alphabetical order of surname.

386 (3) If a member of the Board of Ethics ceases to be a resident of DeKalb County, that
387 member's position on the Board of Ethics, by operation of law, shall become vacant upon
388 the establishment of the fact of such nonresidency, if contested, by a court of competent
389 jurisdiction. A vacancy in the Board of Ethics shall exist by reason of death, the
390 disability or incapacity of a member for more than 90 days, resignation, or loss of
391 residency as described in this paragraph. A member of the Board of Ethics may be

392 removed from office during a term for good cause, which shall include, but not be limited
393 to, misfeasance and malfeasance in office, by a majority vote of the DeKalb County
394 legislative delegation in the House of Representatives or the Senate, as appropriate, that
395 appointed such member. The ethics officer shall notify the appointing authority of a
396 vacancy upon its occurrence, and such vacancy shall be filled for the unexpired term by
397 the respective appointing authority.

398 (4) The members of the Board of Ethics shall serve without compensation and shall elect
399 from their own membership a chairperson and otherwise provide for their own internal
400 organization. The Commission shall provide adequate office and meeting space and pay
401 all administrative costs, including those specifically stipulated in this section, as well as
402 costs incurred by the Solicitor of DeKalb County, pertaining to the operation of the Board
403 of Ethics and the office of the DeKalb County attorney shall provide legal representation
404 regarding any civil litigation involving the Board of Ethics. The Board of Ethics shall be
405 authorized to employ its own staff and clerical personnel and contract for the services of
406 a competent court reporter and a private investigator as it deems necessary. The members
407 of the Board of Ethics shall have the authority to propose the budget of the board and
408 shall recommend the budget to the Commission, who shall fund it as a priority. The
409 Board of Ethics shall be completely independent and shall not be subject to control or
410 supervision by the Chief Executive, the Commission, or any other official or employee
411 or agency of the county government.

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

- 413 (A) To establish procedures, rules, and regulations governing its internal organization
414 and the conduct of its affairs, including a recusal policy for its members;
- 415 (B) To render advisory opinions with respect to the interpretation and application of
416 this section to all officials or employees who seek advice as to whether a particular
417 course of conduct would constitute a violation of the standards imposed in this section
418 or other applicable ethical standards. Such opinions shall be binding on the Board of
419 Ethics in any subsequent complaint concerning the official or employee who sought the
420 opinion and acted in good faith, unless material facts were omitted or misstated in the
421 request for the advisory opinion;
- 422 (C) To prescribe forms for the disclosures required in this section and to make
423 available to the public the information disclosed as provided in this section;
- 424 (D) To receive and hear complaints of violations of the standards required by this
425 section over which it has personal and subject matter jurisdiction;
- 426 (E) To commission such independent investigations as it deems necessary to determine
427 whether any official or employee has violated or is about to violate any provisions of
428 this section; and

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

431 (5) In the event that any individual requests a member of the Board of Ethics to
432 disqualify himself or herself pursuant to paragraph (2) of subsection (d) of this section,
433 and such member refuses to do so, a majority of the DeKalb County delegation of the
434 General Assembly shall appoint an attorney who is member of either DeKalb Bar
435 Association, Inc., or DeKalb Lawyers Association, Inc., on an alternating basis, to review
436 the matter before the Board of Ethics and make a determination whether, under the
437 recusal standards of Georgia Uniform Rules for the Superior Courts, such member should
438 disqualify himself or herself. In the event that such attorney determines that such
439 member should be disqualified, such member shall be disqualified as set forth in
440 paragraph (2) of subsection (d) of this section.

441 (i) Ethics officer.

442 (1) There is hereby created as a full-time salaried position an ethics officer for DeKalb
443 County. The ethics officer must be an active member of the Georgia Bar Association in
444 good standing with five years' experience in the practice of law. The ethics officer shall
445 be appointed by a majority of the members of the Board of Ethics after consultation with
446 the DeKalb County legislative delegation, subject to confirmation by a majority of the
447 Commission and approval by the Chief Executive, for a period of four years. Removal
448 of the ethics officer before the expiration of the designated term shall be for cause by a
449 majority vote of the members of the Board of Ethics. The ethics officer need not be a
450 resident of the county at the time of his or her appointment, but he or she shall reside in
451 DeKalb County within six months of such appointment and continue to reside therein
452 throughout such appointment.

453 (2) The ethics officer shall not be involved, in any way whatsoever, in partisan or
454 nonpartisan political activities or the political affairs of DeKalb County.

455 (3) The duties of the ethics officer shall include, but not be limited to, the following:

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

459 (B) Maintaining the records of the Board of Ethics as required by Article 4 of
460 Chapter 18 of Title 50 of the O.C.G.A.;

461 (C) Meeting with the Board of Ethics;

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

464 (E) Urging compliance with the code of ethics by calling to the attention of the Board
465 of Ethics any failure to comply or any issues, including the furnishing of false or

466 misleading information, that the ethics officer believes should be investigated by the
467 Board of Ethics so that the Board of Ethics may take such action as it deems
468 appropriate;

469 (F) Monitoring, evaluating, and acting upon information obtained from an 'ethics
470 hotline' which shall be a city telephone number for the receipt of information about
471 ethical violations. Each complaint, as of the time it is reported, whether by telephone
472 or otherwise, shall be deemed to be a separate pending investigation of a complaint
473 against a public officer or employee as provided by Article 4 of Chapter 18 of Title 50
474 of the O.C.G.A.;

475 (G) Notifying the subject of a report of any alleged violation of the ethics code,
476 whether the report is anonymous, is made by an identified individual, or is written.
477 Such notice shall be given promptly in writing by first-class mail, return receipt
478 requested, by statutory overnight delivery, or by electronic mail if agreed to by the
479 respondent. The notice shall be given at the same time and in the same form that any
480 disclosure of information is required by Article 4 of Chapter 18 of Title 50 of the
481 O.C.G.A.;

482 (H) Notifying the Board of Ethics of any report of an alleged violation of the ethics
483 code received by the ethics officer;

484 (I) Reporting, as appropriate, suspected ethical violations to the Board of Ethics;

485 (J) Reporting, as appropriate, suspected criminal violations to state or federal law
486 enforcement agencies;

487 (K) Filing with the Board of Ethics, the Chief Executive, and the Commission on the
488 first Tuesday of each February a written report describing the activities of the ethics
489 officer in carrying out the goals of his or her office and the code of ethics and reporting
490 on the ethical health of DeKalb County; and

491 (L) If the ethics officer has a conflict of interest with any person who is the subject of
492 an ethics investigation or complaint or if the ethics officer is the subject of an ethics
493 investigation or complaint, the Board of Ethics shall appoint an acting ethics officer for
494 such matter who shall have for such matter the same powers and duties as the ethics
495 officer.

496 (j) Investigations and hearings. The Board of Ethics shall commission investigations into
497 alleged violations of the code of ethics, hold hearings, and issue decisions as prescribed in
498 this subsection:

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

501 (2) Upon request of the Board of Ethics, the Solicitor of DeKalb County or any attorney
502 representing the office of the Solicitor of DeKalb County, or, in the event of a conflict,

503 any attorney who shall be selected by a majority vote of the Board of Ethics, shall advise
504 the Board of Ethics.

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

509 (4)(A) Except as otherwise provided in subparagraph (B) of this paragraph, upon
510 receipt of the complaint, the ethics officer shall conduct a preliminary investigation to
511 determine whether it meets the jurisdictional requirements as set forth in this section.
512 If in the opinion of the ethics officer the complaint fails to meet these requirements, the
513 ethics officer shall notify the person who filed the complaint and he or she shall have
514 ten days from the date of notice to correct and refile the complaint directly with the
515 ethics officer. A complaint which fails to satisfy the jurisdictional requirements as
516 established by this section and by the rules and procedures established by the Board of
517 Ethics shall be dismissed by the Board of Ethics no later than 30 days after the
518 complaint is filed with the office of the ethics officer, unless extended by a majority
519 vote of the Board of Ethics.

520 (B) Upon receipt of a complaint against any member of the Board of Ethics, the ethics
521 officer or any employee of the Board of Ethics shall forward such complaint directly
522 to the Solicitor of DeKalb County to conduct an investigation as set forth in
523 subparagraph (B) of paragraph (5) of this subsection.

524 (5)(A) The ethics officer shall report his or her findings and recommendation to the
525 Board of Ethics and advise whether there is probable cause for belief that the code of
526 ethics has been violated, warranting a formal hearing. If the Board of Ethics
527 determines, after the preliminary investigation of a complaint by the ethics officer, that
528 there does not exist probable cause for belief that this section has been violated, the
529 Board of Ethics shall so notify the complainant and the subject of the investigation, and
530 the complaint will be dismissed.

531 (B) After a preliminary investigation of the complaint by the ethics officer, if the Board
532 of Ethics determines by majority vote that there does exist probable cause for belief that
533 this section has been violated, the Board of Ethics shall forward the complaint to the
534 Solicitor of DeKalb County to conduct an independent investigation into the alleged
535 violation and, prior to any hearing conducted by the Board of Ethics, to present to the
536 Board of Ethics a written report of the findings of the investigation and a
537 recommendation as to the presence or absence of violations of this section.

538 (6) The Board of Ethics, after receipt of the report of the DeKalb County Solicitor's
 539 investigation, shall give notice to the person involved to attend a hearing to determine
 540 whether there has been a violation of this section.

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

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

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

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

556 (C) At the conclusion of proceedings concerning an alleged violation, the Board of
 557 Ethics shall immediately begin deliberations on the evidence and proceed to determine
 558 by a unanimous vote of members present whether there has been a violation of this
 559 section. The findings of the Board of Ethics concerning a violation and the record of
 560 the proceedings shall be made public by the ethics officer as soon as practicable after
 561 the determination has been made.

562 (k) Violations; appeals.

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

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

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

571 (C) Prosecution by the DeKalb County Solicitor in the State Court of DeKalb County
 572 and, upon conviction, a fine of up to \$1,000.00 per violation and up to six months'
 573 imprisonment, whether the official or employee is elected or appointed, paid or unpaid.

574 Nothing in this section shall be interpreted to conflict with state law. An action for

575 violation of this section or the furnishing of false or misleading information or the
 576 failure to comply with a subpoena issued by the Board of Ethics must be brought within
 577 two years after the violation is discovered.

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

581 (A) Suspension of a contractor; and

582 (B) Disqualification or debarment from contracting or subcontracting with DeKalb
 583 County.

584 (3) The decision of the Board of Ethics after a hearing shall be final; provided, however,
 585 that such proceeding shall be subject to review by writ of certiorari to the DeKalb County
 586 Superior Court. The designee of the Board of Ethics shall be authorized to acknowledge
 587 service of any such writ and shall, within the time provided by law, certify and cause to
 588 be filed with the clerk of the superior court a record of the proceedings before the Board
 589 of Ethics, the decision of the Board of Ethics, and the notice of the final actions of the
 590 Board of Ethics.

591 (4) In the event that an individual who is accused of a violation of this section is not
 592 found to have violated this section after a hearing before the Board of Ethics, such
 593 individual may seek from the Board of Ethics an order for reimbursement by the
 594 complainant of his or her reasonably incurred attorney's fees, to be paid from the general
 595 fund of DeKalb County, should a majority of the Board of Ethics determine that there
 596 existed such a complete absence of any justiciable issue of law or fact in the complaint
 597 that it could not be reasonably believed that the Board of Ethics or any court would
 598 accept the asserted claim or position."

599 **SECTION 2.**

600 The election superintendent of DeKalb County shall call and conduct an election as provided
 601 in this section for the purpose of submitting this Act to the electors of DeKalb County for
 602 approval or rejection. The election superintendent shall conduct that election on the Tuesday
 603 next following the first Monday in November, 2017, and shall issue the call and conduct that
 604 election as provided by general law. The election superintendent shall cause the date and
 605 purpose of the election to be published once a week for two weeks immediately preceding
 606 the date thereof in the official organ of DeKalb County. The ballot shall have written or
 607 printed thereon the words:

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

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

618 **SECTION 3.**

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

621 **SECTION 4.**

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