

House Bill 1243

By: Representatives Davis of the 87<sup>th</sup>, Mitchell of the 88<sup>th</sup>, Shannon of the 84<sup>th</sup>, Nguyen of the 89<sup>th</sup>, Henson of the 86<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend an Act revising, superseding, and consolidating the laws relating to the governing  
2 authority of DeKalb County and creating a chairman and board of commissioners of said  
3 county, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act  
4 approved 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 the manner of appointment  
7 and terms of office of the members of the board; to provide for alternates; to provide for  
8 recusal; to prohibit DeKalb County employees from accepting certain gifts; to provide for  
9 an ethics administrator and the duties of such person; to revise procedures for reporting  
10 violations and filing complaints; to provide for related matters; to provide for a referendum,  
11 effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 An Act revising, superseding, and consolidating the laws relating to the governing authority  
15 of DeKalb County and creating a chairman and board of commissioners of said county,  
16 approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved  
17 April 9, 1981 (Ga. L. 1981, p. 4304), an Act approved March 20, 1990 (Ga. L. 1990,  
18 p. 3900), an Act approved April 13, 1992 (Ga. L. 1992, p. 6137), and an Act approved  
19 May 12, 2015 (Ga. L. 2015, p. 3811), is amended by revising subparagraph (c)(2)(B) of  
20 Section 22A as follows:

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

22 (i) A gift from a friend or family member that does not exceed \$10.00 in value;

23 (ii) An award publicly presented in recognition of public service; or

24 (iii) A commercially reasonable loan made in the ordinary course of business by an  
25 institution authorized by the laws of Georgia to engage in the making of such a loan;"

26 **SECTION 2.**

27 Said Act is amended by adding a new subsection to Section 22A to read as follows:

28 "(c.1) No employee of DeKalb County shall accept a gift from anyone other than a  
29 family member."

30 **SECTION 3.**

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

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

46 **SECTION 4.**

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

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

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

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

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

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

- 61 (C) The name and address of the party or parties against whom the complaint is filed  
 62 and, if such party is a candidate, the office being sought;
- 63 (D) A clear and concise statement of acts upon which the complaint is based along  
 64 with an allegation that such facts constitute one or more violations of law under the  
 65 jurisdiction of the Board of Ethics;
- 66 (E) A general reference to the allegedly violated statutory provision(s) of the code of  
 67 ethics within the jurisdiction of the Board of Ethics; and
- 68 (F) Any further information which might support the allegations in the complaint  
 69 including, but not limited to, the following:
- 70 (i) The names and addresses of all other persons who have first-hand knowledge of  
 71 the facts alleged in the complaint; and
- 72 (ii) Any documentary evidence that supports the facts alleged in the complaint.
- 73 (3) Upon receipt of a complaint by the ethics administrator, the ethics administrator shall  
 74 send a written notice to the subject of the complaint by the next business day. Both this  
 75 notice and any subsequent documents shall be subject to Article 4 of Chapter 18 of  
 76 Title 50 of the O.C.G.A.
- 77 (4) Upon receipt of a written, nonanonymous complaint which does not conform to the  
 78 applicable requirements of paragraph (2) of this subsection, the ethics administrator shall  
 79 by letter acknowledge receipt of the complaint and advise the complainant of the defect  
 80 in the complaint and that the complaint will not be considered by the Board of Ethics  
 81 unless the defect is corrected."

82 **SECTION 5.**

83 Said Act is further amended by repealing subparagraphs (h)(2)(A) through (h)(2)(D) of  
 84 Section 22A and by inserting in lieu thereof the following:

85 "(2)(A) The members of the Board of Ethics in office on the effective date of this  
 86 section shall serve until December 31, 2020, and then their terms shall terminate. A  
 87 new board shall be appointed as provided in this paragraph to take office on  
 88 January 1, 2021, and to serve for the terms prescribed in this paragraph.

89 (B) Not later than December 31, 2020, the members of the new Board of Ethics shall  
 90 be selected as follows:

- 91 (i) Three members shall be appointed by majority vote of the DeKalb County  
 92 legislative delegation in the House of Representatives of the Georgia General  
 93 Assembly;
- 94 (ii) Three members shall be appointed by majority vote of the DeKalb County  
 95 legislative delegation in the Senate of the Georgia General Assembly; and
- 96 (iii) One member shall be appointed by the tax commissioner of DeKalb County.

97 (C) In addition to the members appointed as provided in subparagraph (B) of this  
 98 paragraph, there shall be two alternate members who shall serve to ensure a quorum  
 99 when members of the board are absent, have a conflict of interest, or find it necessary  
 100 to recuse themselves or while a vacancy exists on the board. The alternates shall be  
 101 selected by the Clerk of Superior Court of DeKalb County.

102 (D) The members and alternates shall each serve for terms of three years; provided,  
 103 however, that the terms of the initial appointees of the House legislative delegation  
 104 shall be specified at the time of their appointments. One shall serve until  
 105 December 31, 2021, and until the appointment and qualification of his or her successor,  
 106 whichever occurs later; one shall serve until December 31, 2022, and until the  
 107 appointment and qualification of his or her successor, whichever occurs later; and one  
 108 shall serve until December 31, 2023, and until the appointment and qualification of his  
 109 or her successor, whichever occurs later. The initial member appointed by the tax  
 110 commissioner of DeKalb County shall serve until December 31, 2022, and until the  
 111 appointment and qualification of his or her successor, whichever occurs later. The  
 112 initial alternate members appointed by the clerk of superior court of DeKalb County  
 113 shall serve the terms specified by the clerk of superior court at the time of the initial  
 114 appointments. One shall serve until December 31, 2021, and until the appointment and  
 115 qualification of his or her successor, whichever occurs later, and one shall serve until  
 116 December 31, 2023, and until the appointment and qualification of his or her successor,  
 117 whichever occurs later.

118 (E) Successors to all members and alternates of the Board of Ethics and future  
 119 successors shall be appointed by the respective appointing authorities not less than 30  
 120 days prior to the expiration of each such member's term of office, and such successors  
 121 shall take office on January 1 following such appointment and shall serve terms of three  
 122 years and until their respective successors are appointed and qualified. No individual  
 123 may be appointed to more than two consecutive terms, provided that the initial terms  
 124 under this Act shall not be counted in such determination."

125 **SECTION 6.**

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

127 "(i) Ethics officer.

128 (1) There is hereby created as a full-time salaried position an ethics officer for DeKalb  
 129 County. The ethics officer must be an active member of the Georgia Bar Association in  
 130 good standing with five years' experience in the practice of law. The ethics officer shall  
 131 be appointed by a majority of the members of the Board of Ethics, subject to confirmation  
 132 by a majority of the Commission and approval by the Chief Executive, for a period not

133 to exceed six years. Removal of the ethics officer before the expiration of the designated  
 134 term shall be for cause by a majority vote of the members of the Board of Ethics. The  
 135 ethics officer need not be a resident of the county at the time of his or her appointment,  
 136 but he or she shall reside in DeKalb County within six months of such appointment and  
 137 continue to reside therein throughout such appointment.

138 (2) The ethics officer shall not be involved in partisan or nonpartisan political activities  
 139 or the political affairs of DeKalb County.

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

141 (A) Educating and training all city officials and employees to have an awareness and  
 142 understanding of the mandate for and enforcement of ethical conduct and advising them  
 143 of the provisions of the code of ethics of DeKalb County;

144 (B) Meeting with the Board of Ethics;

145 (C) Advising officials and employees regarding disclosure statements and reviewing  
 146 the same to ensure full and complete financial reporting;

147 (D) Urging compliance with the code of ethics by calling to the attention of the Board  
 148 of Ethics any failure to comply or any issues, including the furnishing of false or  
 149 misleading information, that the ethics officer believes should be investigated by the  
 150 Board of Ethics so that the Board of Ethics may take such action as it deems  
 151 appropriate;

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

158 (F) Reporting, as appropriate, suspected ethical violations to the Board of Ethics;

159 (G) Reporting, as appropriate, suspected criminal violations to state or federal law  
 160 enforcement agencies; and

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

165 **SECTION 7.**

166 Said Act is further amended by adding an additional subsection to Section 22A to read as  
 167 follows:

168 "(i.1) Ethics administrator.

169 (1) There is hereby created as a full-time salaried position an ethics administrator for  
170 DeKalb County. The ethics administrator shall be selected by the Board of Ethics and  
171 shall serve at the pleasure of the board.

172 (2) The ethics administrator shall not be involved in partisan or nonpartisan political  
173 activities or the political affairs of DeKalb County.

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

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

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

183 (C) Notifying the Board of Ethics of any report of an alleged violation of the ethics  
184 code received by the ethics administrator; and

185 (D) Such other duties as may be assigned by the Board of Ethics."

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#### **SECTION 8.**

187 Said Act is further amended by revising paragraphs (3) and (4) of subsection (j) of  
188 Section 22A as follows:

189 "(3) A complaint may be filed by the ethics officer, any resident, or a group of residents  
190 of DeKalb County by submitting to the ethics administrator a written, verified, and sworn  
191 complaint under the penalty of perjury or false swearing. The complaint shall specifically  
192 identify all provisions of the DeKalb County code of ethics which the subject of the  
193 complaint is alleged to have violated, set forth facts as would be admissible in evidence  
194 in a court proceeding, and show affirmatively that the complainant or affiant (if in  
195 addition to or different from the complainant) is competent to testify to the matter set  
196 forth therein. All documents referenced in the complaint as well as supporting affidavits  
197 shall be attached to the complaint.

198 (4) Upon receipt of the complaint, the ethics administrator shall bring the complaint  
199 before the Board of Ethics which shall cause the ethics officer to conduct a preliminary  
200 investigation to determine whether it meets the jurisdictional requirements as set forth in  
201 this section. Upon the conclusion of the preliminary investigation, the ethics officer shall  
202 report his or her findings to the board. If, in the opinion of the board, the complaint fails  
203 to meet the jurisdictional requirements as set forth in this section, the board shall direct  
204 the ethics officer to notify the person who filed the complaint and such person shall have

205 ten days from the date of notice to correct and refile the complaint with the board. A  
 206 complaint which fails to satisfy the jurisdictional requirements as established by this  
 207 section and by the rules and procedures established by the Board of Ethics shall be  
 208 dismissed by the Board of Ethics no later than 30 days after the complaint is filed with  
 209 the ethics administrator, unless extended by a majority vote of the Board of Ethics."

210 **SECTION 9.**

211 The election superintendent of DeKalb County shall call and conduct an election as provided  
 212 in this section for the purpose of submitting this Act to the electors of DeKalb County for  
 213 approval or rejection. The election superintendent shall conduct that election on the Tuesday  
 214 next following the first Monday in November, 2020, and shall issue the call and conduct that  
 215 election as provided by general law. The election superintendent shall cause the date and  
 216 purpose of the election to be published once a week for two weeks immediately preceding  
 217 the date thereof in the official organ of DeKalb County. The ballot shall have written or  
 218 printed thereon the words:

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

221 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring  
 222 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on  
 223 such question are for approval of the Act, Sections 1 through 8 of this Act shall become of  
 224 full force and effect immediately. If the Act is not so approved or if the election is not  
 225 conducted as provided in this section, Sections 1 through 8 of this Act shall not become  
 226 effective, and this Act shall be automatically repealed on the first day of January immediately  
 227 following that election date. The expense of such election shall be borne by DeKalb County.  
 228 It shall be the election superintendent's duty to certify the result thereof to the Secretary of  
 229 State.

230 **SECTION 10.**

231 Except as otherwise provided in Section 9 of this Act, this Act shall become effective upon  
 232 its approval by the Governor or upon its becoming law without such approval.

233 **SECTION 11.**

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