

House Bill 678

By: Representatives Scott of the 76th, Neal of the 79th, Burnough of the 77th, Douglas of the 78th, and Holly of the 116th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act creating the Clayton County Board of Commissioners, approved
2 February 8, 1955 (Ga. L. 1955, p. 2064), as amended, so as to provide a code of ethics; to
3 establish a board of ethics; to provide for related matters; to repeal conflicting laws; and for
4 other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 An Act creating the Clayton County Board of Commissioners, approved February 8, 1955
8 (Ga. L. 1955, p. 2064), as amended, is amended by adding a new section to read as follows:

9 "SECTION 14.1.

10 (a) Purpose.

11 (1) It is essential to the proper administration and operation of the Clayton County
12 government that its officials and employees be, and give the appearance of being,
13 independent and impartial, that public office not be used for private gain, and that there
14 be public confidence in the integrity of Clayton County officials and employees. Because

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15 the attainment of one or more of these ends is impaired whenever there exists in fact, or
16 appears to exist, a conflict between the private interests and public responsibilities of
17 officials and employees, the public interest requires that the General Assembly protect
18 against such conflicts of interest by establishing by law appropriate ethical standards with
19 respect to the conduct of the officials and employees of Clayton County in situations
20 where a conflict may exist.

21 (2) The General Assembly recognizes that an appropriate and effective code of ethics for
22 appointed officials and employees of Clayton County is also essential for the proper
23 administration and operation of the Clayton County government.

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

25 (1) 'Agency' means any board, bureau, body, commission, committee, department, or
26 office of Clayton County to which the board of commissioners has appointment powers.

27 (2) 'Business' means any corporation, partnership, organization, sole proprietorship, other
28 entity operated for economic gain, whether professional, industrial, or commercial, and
29 entity which for purposes of federal income taxation is treated as a nonprofit
30 organization.

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

36 (4) 'Contract' means any claim or demand against or any lease, account, or agreement
37 with any person, whether express or implied, executed or executory, verbal or in writing.

38 (5) 'Emergency situation' means any circumstance or condition giving rise to an
39 immediate necessity for the execution of a contract by and between Clayton County and
40 an official or employee or between Clayton County and a business in which an official
41 or employee has an interest and where, to the satisfaction of the board of commissioners,

42 it is shown that there is no one other than such persons with whom the contract could
43 have been made and that the necessity was not brought about by such persons' own fault
44 or neglect.

45 (6) 'Immediate family' means an official or employee and his or her spouse, parents,
46 brothers, sisters, and natural or adopted children.

47 (7) 'Interest' means any direct or indirect pecuniary or material benefit held by or
48 accruing to the official or employee as a result of a contract or transaction which is or
49 may be the subject of an official act or action by or with Clayton County. Unless
50 otherwise provided in this section, the term 'interest' does not include any remote interest.
51 An official or employee shall be deemed to have an interest in transactions involving:

52 (A) Any person in the official's or employee's immediate family;

53 (B) Any person, business, or entity that the official or employee knows or should know
54 is seeking official action with Clayton County, is seeking to do or does business with
55 Clayton County, has interests that may be substantially affected by performance or
56 nonperformance of the official's or employee's official duties, or with whom a
57 contractual relationship exists whereby the official or employee may receive any
58 payment or other benefit;

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

61 (D) Any person of whom the official or employee is a creditor, whether secured or
62 unsecured.

63 (8) 'Official or employee' means any person elected or appointed to or employed or
64 retained by Clayton County or any agency, whether paid or unpaid and whether part time
65 or full time. Such term includes retired employees or former county employees during
66 the period of time in which they are later employed or retained by the county or any
67 agency. Such term does not include superior and state court judges and their immediate

68 staffs, the district attorney, the solicitor of the state court, the clerks of the superior and
69 state courts, magistrates, the judge of the probate court, and their respective staffs.

70 (9) 'Official act or action' means any legislative, administrative, appointive, or
71 discretionary act of the board of commissioners, the chairperson of the board of
72 commissioners, or a commissioner.

73 (10) 'Paid' means the receipt of, or right to receive, a salary, commission, percentage,
74 brokerage, or contingent fee.

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

78 (12) 'Person' means any individual, business, labor organization, representative,
79 fiduciary, trust, or association, whether paid or unpaid, and includes any official or
80 employee of Clayton County.

81 (13) 'Property' means any property, whether real or personal or tangible or intangible,
82 and includes currency and commercial paper.

83 (14) 'Remote interest' means the interest of:

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

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

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

89 (D) Any person who, by determination of the board of ethics, is deemed to have such
90 an interest.

91 (15) 'Transaction' means the conduct of any activity that results in or may result in an
92 official act or action of an official or employee of Clayton County.

93 (c) Proscribed Conduct. No official or employee of Clayton County shall:

- 94 (1) By his or her conduct give reasonable basis for the impression that any person can
95 improperly influence him or her or unduly enjoy his or her favor in the performance of
96 his or her official acts or actions or that he or she is affected unduly by the rank or
97 position of or kinship or association with any person;
- 98 (2)(A) Directly or indirectly request, exact, receive, or agree to receive a gift, loan,
99 favor, promise, or thing of value for himself or herself or another person if:
- 100 (i) It tends to influence him or her in the discharge of his or her official duties; or
101 (ii) He or she recently has been, or is now, or in the near future may be, involved in
102 any official act or action directly affecting the donor or lender.
- 103 (B) Subparagraph (A) of this paragraph shall not apply in the case of:
- 104 (i) An occasional nonpecuniary gift of value less than \$100.00;
105 (ii) An award publicly presented in recognition of public service; or
106 (iii) A commercially reasonable loan made in the ordinary course of business by an
107 institution authorized by the laws of Georgia to engage in the making of such a loan;
- 108 (3) Disclose or otherwise use confidential information acquired by virtue of his or her
109 position for his or her or another person's private gain;
- 110 (4) Appear on his or her own personal behalf, or represent, advise, or appear on the
111 personal behalf, whether paid or unpaid, of any person before any court or before any
112 legislative, administrative, or quasi-judicial board, agency, commission, or committee of
113 this state or of any county or municipality concerning any contract or transaction which
114 is or may be the subject of an official act or action of Clayton County or otherwise use
115 or attempt to use his or her official position to secure unwarranted privileges or
116 exemptions for himself or herself or other persons;
- 117 (5) Engage in, accept employment with, or render services for any agency, private
118 business, or professional activity when such employment or rendering of services is
119 adverse to and incompatible with the proper discharge of his or her official duties;

120 (6) Acquire an interest in any contract or transaction at a time when he or she believes
121 or has reason to believe that such an interest will be affected directly or indirectly by his
122 or her official act or actions or by the official acts or actions of other officials or
123 employees of Clayton County; or

124 (7) Engage in any activity or transaction that is prohibited by law now existing or
125 hereafter enacted which is applicable to him or her by virtue of his or her being an official
126 or employee of Clayton County.

127 (d) Gifts to certain employees. No employee of the purchasing department of Clayton
128 County shall accept any gift of value from anyone who has had or may reasonably be
129 anticipated to have any business with or before such department. Gifts from persons who
130 do not have or who would not be reasonably anticipated to have any business with or
131 before such department may be accepted by an employee of such department only when
132 such gifts are based solely on a family relationship or personal friendship.

133 (e) Disclosure of interests. An official or employee who has an interest that he or she has
134 reason to believe may be affected by his or her official acts or actions or by the official acts
135 or actions of another official or employee of Clayton County shall disclose the precise
136 nature and value of such interest by sworn written statement to the board of ethics and ask
137 for the board's opinion as to the propriety of such interest. Every official or employee who
138 knowingly has any interest, direct or indirect, in any contract to which Clayton County is
139 or is about to become a party, or in any other business with Clayton County, shall make full
140 disclosure of such interest to the board of commissioners and to the ethics officer and the
141 board of ethics. The information disclosed by such sworn statements, except for the
142 valuation attributed to the disclosed interest, shall be made a matter of public record by the
143 board of ethics. In cases where a conflict of interest exists, such official or employee shall
144 recuse himself or herself from participating or taking any official acts or actions in any
145 matter for the county affected by such conflict of interest.

146 (f) Participation in contracts.

147 (1) An official or employee shall disqualify himself or herself from participating in any
148 official act or action of Clayton County directly affecting a business or activity in which
149 he or she has any interest, whether or not a remote interest.

150 (2) Clayton County shall not enter into any contract involving services or property with
151 an official or employee of the county or with a business in which an official or employee
152 of the county has an interest. This subsection shall not apply in the case of:

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

154 (B) The borrowing of funds from any bank or lending institution which offers the
155 lowest available rate of interest for such loans;

156 (C) Contracts for services entered into with a business which is the only available
157 source for such goods or services; or

158 (D) Contracts entered into under circumstances which constitute an emergency
159 situation, provided that a record explaining the emergency is prepared by the board of
160 commissioners and submitted to the board of ethics at its next regular meeting and
161 thereafter kept on file.

162 (3) Clayton County shall not enter into any contract with, or take any official act or
163 action favorably affecting, any person, or business represented by such person, who has
164 been within the preceding two-year period an official or employee of Clayton County.

165 (g) Reporting violations.

166 (1) Any person who witnesses or becomes aware of a violation of this section may
167 complain of the violation as follows:

168 (A) A complaint may be communicated anonymously to the ethics administrator. Such
169 complaint shall be made in good faith and with veracity and sufficient specificity so as
170 to provide the ethics officer with salient and investigable facts. The ethics
171 administrator may require the anonymous complaint to be made in a manner and form

172 that is intended only to obtain relevant facts related to the alleged violation of this
173 section and that is not designed to reveal the identity of the complainant; and

174 (B) A sworn written complaint may be filed with the ethics administrator as described
175 in this subparagraph. All written complaints to be considered by the board of ethics and
176 the ethics officer shall contain the following, if applicable:

- 177 (i) The name and address of the person or persons filing the complaint;
178 (ii) The sworn verification and signature of the complainant;
179 (iii) The name and address of the party or parties against whom the complaint is filed
180 and, if such party is a candidate, the office being sought;
181 (iv) A clear and concise statement of facts upon which the complaint is based along
182 with an allegation that such facts constitute one or more violations of law under the
183 jurisdiction of the board of ethics;
184 (v) A general reference to the allegedly violated statutory provisions of the code of
185 ethics within the jurisdiction of the board of ethics; and
186 (vi) Any further information which might support the allegations in the complaint,
187 including, but not limited to, the following:

188 (I) The names and addresses of all other persons who have first-hand knowledge
189 of the facts alleged in the complaint; and

190 (II) Any documentary evidence that supports the facts alleged in the complaint.

191 (2) Upon receipt of a complaint by the ethics administrator, the ethics administrator shall
192 send a written notice to the subject of the complaint by the next business day. Both this
193 notice and any subsequent documents shall be subject to Article 4 of Chapter 18 of
194 Title 50 of the O.C.G.A.

195 (3) Upon receipt of a written, nonanonymous complaint which does not conform to the
196 applicable requirements of subparagraph (B) of paragraph (1) of this subsection, the
197 ethics administrator shall by letter acknowledge receipt of the complaint and advise the

198 complainant of the defect in the complaint and that the complaint will not be considered
199 by the board of ethics unless the defect is corrected.

200 (h) Enactment.

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

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

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

209 (i) Board of Ethics.

210 (1)(A) There is created the Board of Ethics of Clayton County to be composed of seven
211 citizens of Clayton County to be appointed as provided in paragraph (2) of this
212 subsection.

213 (B) Each member of the board of ethics shall have been a resident of Clayton County
214 for at least one year immediately preceding the date of taking office and shall remain
215 a resident of the county, and where applicable the commission district he or she
216 represents, while serving as a member of the board of ethics.

217 (C) No person shall serve as a member of the board of ethics if the person has, or has
218 had within the immediately preceding two-year period, any interest in any contract,
219 transaction, or official act or action of Clayton County.

220 (D) No member of the board of ethics shall be a member of an agency or an official or
221 employee of Clayton County or shall have served in such a capacity in the two-year
222 period immediately preceding such person's appointment to the board of ethics.

223 (E) No person shall serve as a member of the board of ethics if the person has been a
224 candidate for, or was elected to, public office in the immediately preceding three-year

225 period. Filing for an elective office shall constitute a resignation from the board of
226 ethics on the date of filing.

227 (F) Appointees to the board of ethics shall have professional knowledge or expertise
228 in matters of ethics, finance, governance, or the law.

229 (G) All proposed appointments to the board of ethics shall be subject to an education
230 and employment background check as well as a criminal history check. Persons
231 proposed to be appointed to the board of ethics shall execute all releases necessary for
232 the appointing authority to accomplish such checks. If the nominee is determined to
233 have committed a felony, the nomination shall be withdrawn.

234 (2)(A) The initial board of ethics shall be appointed as provided in this paragraph to
235 take office on January 1, 2024, and to serve for the terms prescribed in this paragraph.

236 (B) Not later than December 1, 2023, the members of the initial board of ethics shall
237 be selected as follows:

238 (i) Five members shall be appointed by the grand jury of Clayton County, provided
239 that each such member shall reside in a different commission district than the other
240 members appointed pursuant to this subparagraph; and

241 (ii) Two members shall be appointed by the tax commissioner of Clayton County.

242 (C) In addition to the members appointed as provided in subparagraph (B) of this
243 paragraph, there shall be two alternate members who shall serve to ensure a quorum
244 when members of the board are absent, have a conflict of interest, or find it necessary
245 to recuse themselves or while a vacancy exists on the board. The alternates shall be
246 selected by the clerk of the Superior Court of Clayton County.

247 (D) The members and alternates shall each serve for terms of three years; provided,
248 however, that the terms of the initial appointees of the grand jury shall be specified at
249 the time of their appointments. One shall serve until December 31, 2024, and until the
250 appointment and qualification of his or her successor, whichever occurs later; one shall
251 serve until December 31, 2025, and until the appointment and qualification of his or her

252 successor, whichever occurs later; and one shall serve until December 31, 2026, and
253 until the appointment and qualification of his or her successor, whichever occurs later.
254 The initial member appointed by the tax commissioner of Clayton County shall serve
255 until December 31, 2025, and until the appointment and qualification of his or her
256 successor, whichever occurs later. The initial alternate members appointed by the clerk
257 of the Superior Court of Clayton County shall serve the terms specified by the clerk of
258 the superior court at the time of the initial appointments. One shall serve until
259 December 31, 2024, and until the appointment and qualification of his or her successor,
260 whichever occurs later, and one shall serve until December 31, 2026, and until the
261 appointment and qualification of his or her successor, whichever occurs later.

262 (E) Successors to all members and alternates of the board of ethics and future
263 successors shall be appointed by the respective appointing authorities not less than 30
264 days prior to the expiration of each such member's term of office, and such successors
265 shall take office on January 1 following such appointment and shall serve terms of three
266 years and until their respective successors are appointed and qualified. No individual
267 shall be appointed to more than two consecutive terms, provided that the initial terms
268 under this Act shall not be counted in such determination.

269 (F) The clerk of the Superior Court of Clayton County shall provide administrative
270 assistance to the grand jury regarding the appointment of board members pursuant to
271 this section. Upon a vacancy occurring or the conclusion of the term of a board
272 member appointed pursuant to division (i) of subparagraph (B) of this paragraph, the
273 clerk of the Superior Court of Clayton County shall notify the then sitting grand jury
274 of its duty pursuant to this section.

275 (3) If a member of the board of ethics ceases to be a resident of Clayton County, and
276 where applicable the commission district he or she represents, that member's position on
277 the board of ethics, by operation of law, shall become vacant upon the establishment of
278 the fact of such nonresidency, if contested, by a court of competent jurisdiction. A

279 vacancy in the board of ethics shall exist by reason of death, the disability or incapacity
280 of a member for more than 90 days, resignation, or loss of residency as described in this
281 paragraph. A member of the board of ethics may be removed from office during a term
282 if the member becomes ineligible to hold civil office within the meaning of Code
283 Section 45-2-1 of the O.C.G.A. and that ineligibility is established by decision of a court
284 of competent jurisdiction which declares the office vacant because of such ineligibility
285 or for good cause by a majority vote of the board of ethics. The ethics officer shall notify
286 the clerk of the Superior Court of Clayton County and the tax commissioner of Clayton
287 County of a vacancy upon its occurrence, and such vacancy shall be filled for the
288 unexpired term by the respective appointing authority.

289 (4) The members of the board of ethics shall serve without compensation and shall elect
290 from their own membership a chairperson and otherwise provide for their own internal
291 organization. The board of commissioners shall provide adequate office and meeting
292 space and pay all administrative costs, including those specifically stipulated in this
293 section, pertaining to the operation of the board of ethics. The board of ethics shall be
294 authorized to employ its own staff and clerical personnel and contract for the services of
295 a competent court reporter, an attorney, and a private investigator as it deems necessary.
296 The members of the board of ethics shall have the authority to propose the budget of the
297 board and shall recommend the budget to the board of commissioners, who shall fund it
298 as a priority. In the event that the proposed budget is in excess of \$200,000.00, the board
299 of commissioners shall have the authority to authorize the additional funds requested in
300 accordance with standard budgetary procedures and requirements. The board of ethics
301 shall be completely independent and shall not be subject to control or supervision by the
302 chairperson of the board of commissioners, the board of commissioners, or any other
303 official, employee, or agency of the county government.

304 (5) The board of ethics shall have the following duties:

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

307 (B) To render advisory opinions with respect to the interpretation and application of
308 this section to all officials or employees who seek advice as to whether a particular
309 course of conduct would constitute a violation of the standards imposed in this section
310 or other applicable ethical standards. Such opinions shall be binding on the board of
311 ethics in any subsequent complaint concerning the official or employee who sought the
312 opinion and acted in good faith, unless material facts were omitted or misstated in the
313 request for the advisory opinion;

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

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

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

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

323 (j) Ethics officer.

324 (1) There is hereby created as a full-time salaried position an ethics officer for Clayton
325 County. The ethics officer must be an active member of the State Bar of Georgia in good
326 standing with five years' experience in the practice of law. The ethics officer shall be
327 appointed by a majority of the members of the board of ethics, subject to confirmation
328 by a majority of the board of commissioners, for a period not to exceed six years.
329 Removal of the ethics officer before the expiration of the designated term shall be for
330 cause by a majority vote of the members of the board of ethics. The ethics officer need
331 not be a resident of the county at the time of his or her appointment, but he or she shall

332 reside in Clayton County within six months of such appointment and continue to reside
333 therein throughout such appointment.

334 (2) The ethics officer shall not be involved in partisan or nonpartisan political activities
335 or the political affairs of Clayton County.

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

337 (A) Educating and training all county officials and employees to have an awareness
338 and understanding of the mandate for and enforcement of ethical conduct and advising
339 them of the provisions of the code of ethics of Clayton County;

340 (B) Meeting with the board of ethics;

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

343 (D) Urging compliance with the code of ethics by calling to the attention of the board
344 of ethics any failure to comply or any issues, including the furnishing of false or
345 misleading information, that the ethics officer believes should be investigated by the
346 board of ethics so that the board of ethics may take such action as it deems appropriate;

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

353 (F) Reporting, as appropriate, suspected ethical violations to the board of ethics;

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

356 (H) Filing with the board of ethics and the board of commissioners on the first Tuesday
357 of each February a written report describing the activities of the ethics officer in

358 carrying out the goals of his or her office and the code of ethics and reporting on the
359 ethical health of Clayton County.

360 (k) Ethics administrator.

361 (1) There is hereby created as a full-time salaried position an ethics administrator for
362 Clayton County. The ethics administrator shall be selected by the board of ethics and
363 shall serve at the pleasure of the board.

364 (2) The ethics administrator shall not be involved in partisan or nonpartisan political
365 activities or the political affairs of Clayton County.

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

368 (A) Maintaining the records of the board of ethics as required by Article 4 of
369 Chapter 18 of Title 50 of the O.C.G.A.;

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

375 (C) Notifying the board of ethics of any report of an alleged violation of the ethics code
376 received by the ethics administrator; and

377 (D) Such other duties as may be assigned by the board of ethics.

378 (l) Investigations and hearings.

379 (1) The board of ethics shall conduct investigations into alleged violations of the code
380 of ethics, hold hearings, and issue decisions as prescribed in this subsection.

381 (2) The proceedings and records of the board of ethics shall be open unless otherwise
382 permitted by state law.

383 (3) Upon request of the board of ethics, the Clayton County Solicitor or any attorney
384 representing the office of the Clayton County Solicitor, or in the event of a conflict any

385 attorney who shall be selected by a majority vote of the board of ethics, shall advise the
386 board of ethics.

387 (4) A complaint may be filed by the ethics officer, any resident, or a group of residents
388 of Clayton County by submitting to the ethics administrator a written, verified, and sworn
389 complaint under the penalty of perjury or false swearing. The complaint shall specifically
390 identify all provisions of the Clayton County code of ethics which the subject of the
391 complaint is alleged to have violated, set forth facts as would be admissible in evidence
392 in a court proceeding, and show affirmatively that the complainant or affiant, if in
393 addition to or different from the complainant, is competent to testify to the matter set
394 forth therein. All documents referenced in the complaint as well as supporting affidavits
395 shall be attached to the complaint.

396 (5) Upon receipt of the complaint, the ethics administrator shall bring the complaint
397 before the board of ethics which shall cause the ethics officer to conduct a preliminary
398 investigation to determine whether it meets the jurisdictional requirements as set forth in
399 this section. Upon the conclusion of the preliminary investigation, the ethics officer shall
400 report his or her findings to the board. If, in the opinion of the board, the complaint fails
401 to meet the jurisdictional requirements as set forth in this section, the board shall direct
402 the ethics officer to notify the person who filed the complaint and such person shall have
403 ten days from the date of notice to correct and refile the complaint with the board. A
404 complaint which fails to satisfy the jurisdictional requirements as established by this
405 section and by the rules and procedures established by the board of ethics shall be
406 dismissed by the board of ethics no later than 30 days after the complaint is filed with the
407 ethics administrator, unless extended by a majority vote of the board of ethics.

408 (6) The ethics officer will report his or her findings and recommendation to the board of
409 ethics and advise whether there is probable cause for belief that the code of ethics has
410 been violated, warranting a formal hearing. If the board of ethics determines, after the
411 preliminary investigation of a complaint by the ethics officer, that there does not exist

412 probable cause for belief that this section has been violated, the board of ethics shall so
413 notify the complainant and the subject of the investigation, and the complaint will be
414 dismissed. If the board of ethics determines, after a preliminary investigation of the
415 complaint by the ethics officer, that there does exist probable cause for belief that this
416 section has been violated, the board of ethics shall give notice to the person involved to
417 attend a hearing to determine whether there has been a violation of this section.

418 (7) For use in proceedings under this section, the board of ethics shall have the power to
419 issue subpoenas to compel any person to appear, give sworn testimony, or produce
420 documentary or other evidence. Any person who fails to respond to such subpoenas may
421 be subjected to the penalties set forth in subsection (m) of this section.

422 (8) All hearings of the board of ethics pursuant to this section shall be as follows:

423 (A) All testimony shall be under oath, which shall be administered by a member of the
424 board of ethics. Any person who appears before the board of ethics shall have all of the
425 due process rights, privileges, and responsibilities of a witness appearing before the
426 courts of this state. Any person whose name is mentioned during a proceeding of the
427 board of ethics and who may be adversely affected thereby may appear personally
428 before the board of ethics on such person's own behalf or may file a written sworn
429 statement for incorporation into the record to be made part of all proceedings pursuant
430 to this subsection;

431 (B) The decision of the board of ethics shall be governed by a preponderance of the
432 evidence standard; and

433 (C) At the conclusion of proceedings concerning an alleged violation, the board of
434 ethics shall immediately begin deliberations on the evidence and proceed to determine
435 by a majority vote of members present whether there has been a violation of this
436 section. The findings of the board of ethics concerning a violation and the record of the
437 proceedings shall be made public by the ethics officer as soon as practicable after the
438 determination has been made.

439 (m) Violations; appeals.

440 (1) Any intentional violation of this section, furnishing of false or misleading
441 information to the board of ethics or the ethics officer, failure to follow an opinion
442 rendered by the board of ethics, or failure to comply with a subpoena issued by the board
443 of ethics pursuant to this section shall subject the violator to any one or more of the
444 following:

445 (A) Administrative sanction of not more than \$1,000.00 assessed by the board of
446 ethics;

447 (B) Public reprimand by the board of ethics; and

448 (C) Prosecution by the Clayton County Solicitor in the magistrate court of Clayton
449 County and, upon conviction, a fine of up to \$1,000.00 per violation and up to six
450 months' imprisonment whether the official or employee is elected or appointed, paid or
451 unpaid. Nothing in this section shall be interpreted to conflict with state law. An action
452 for violation of this section or the furnishing of false or misleading information or the
453 failure to comply with a subpoena issued by the board of ethics must be brought within
454 two years after the violation is discovered.

455 (2) With regard to violations by persons other than officials or employees, in addition to
456 the remedies in paragraph (1) of this subsection, the board of ethics may recommend to
457 the board of commissioners any one or more of the following:

458 (A) Suspension of a contractor; and

459 (B) Disqualification or debarment from contracting or subcontracting with Clayton
460 County.

461 (3) The decision of the board of ethics after a hearing shall be final; provided, however,
462 that such proceeding shall be subject to review by writ of certiorari to the Superior Court
463 of Clayton County. The designee of the board of ethics shall be authorized to
464 acknowledge service of any such writ and shall, within the time provided by law, certify
465 and cause to be filed with the clerk of the superior court a record of the proceedings

466 before the board of ethics, the decision of the board of ethics, and the notice of the final
467 actions of the board of ethics."

468 **SECTION 2.**

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