

Senate Bill 359

By: Senators Jones of the 10th, Davenport of the 17th, Strickland of the 42nd and Williams of the 25th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend an Act to provide for a new Board of Commissioners of Henry County, approved
2 March 28, 1974 (Ga. L. 1974, p. 3680), as amended, so as to revise and restate provisions
3 regarding the code of ethics; to revise provisions related to the chairperson of the board of
4 commissioners and county manager; to provide for related matters; to repeal conflicting laws;
5 and for other purposes.

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

7 **SECTION 1.**

8 An Act to provide for a new Board of Commissioners of Henry County, approved
9 March 28, 1974 (Ga. L. 1974, p. 3680), as amended, is amended by revising Section 7.1 as
10 follows:

11 **"SECTION 7.1.**

12 (a) Purpose.

13 (1) It is essential to the proper administration and operation of the Henry County
14 government, authorities of the county, and their officials and employees be, and give the
15 appearance of being, independent and impartial, that public office not be used for private

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

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

26 (3) This Article supersedes and replaces any ethics or conflicts of interest ordinances of
27 Henry County.

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

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

31 (1.1) 'Authority' means any local authority created by Henry County pursuant to the
32 authority granted by state law, and may include joint public instrumentalities established
33 by the county.

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

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

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

45 (5) 'Emergency situation' means any circumstance or condition giving rise to an
46 immediate necessity for the execution of a contract by and between Henry County and
47 an official or employee or between Henry County and a business in which an official or
48 employee has an interest and where, to the satisfaction of the board of commissioners, it
49 is shown that there is no one other than such persons with whom the contract could have
50 been made and that the necessity was not brought about by such persons' own fault or
51 neglect.

52 (6) 'Henry County' means the government of Henry County, Georgia, and encompasses
53 any affiliated departments, agencies, boards, and commissions under its jurisdiction or
54 control.

55 (6.1) 'Immediate family' means an official or employee and his or her spouse, parents,
56 brothers, sisters, and natural or adopted children related by blood, marriage, or legal court
57 order, and spouses of such persons.

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

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

64 (B) Any person, business, or entity that the official or employee knows or should know
65 is seeking official action with Henry County, is seeking to do or does business with
66 Henry County, has interests that may be substantially affected by performance or
67 nonperformance of the official's or employee's official duties, or with whom a
68 contractual relationship exists whereby the official or employee may receive any
69 payment or other benefit;

- 70 (C) Any business in which the official or employee is a director, officer, employee,
71 shareholder, or consultant; or
- 72 (D) Any person of whom the official or employee is a creditor, whether secured or
73 unsecured.
- 74 (8) 'Official or employee' means any person elected or appointed to or employed or
75 retained or contracted by Henry County, the board of commissioners, or any agency.
76 Such term includes retired employees or former county employees during the period of
77 time in which they are later employed or retained by the county or any associated agency.
78 Such term does not include superior and state court judges and their immediate staffs, the
79 district attorney, the solicitor of the state court, the clerks of the superior and state courts,
80 magistrates, the judge of the probate court, sheriff, tax commissioner, and their respective
81 staffs, including but not limited to employees of court created programs.
- 82 (9) 'Official act or action' means any legislative, administrative, appointive, or
83 discretionary act of any official or employee of the board of commissioners or any
84 affiliated agency.
- 85 (10) 'Paid' means the receipt of, or right to receive, a salary, commission, percentage,
86 brokerage, or contingent fee.
- 87 (11) 'Participate' means to take part in official acts, actions, or proceedings personally
88 as an official or employee through approval, disapproval, decision, recommendation,
89 investigation, the rendering of advice, or the failure to act or perform a duty.
- 90 (12) 'Person' means any individual, business, labor organization, representative,
91 fiduciary, trust, or association, whether paid or unpaid, and includes any official or
92 employee.
- 93 (13) 'Property' means any property, whether real or personal or tangible or intangible,
94 and includes currency and commercial paper.
- 95 (14) 'Remote interest' means the interest of:
- 96 (A) A nonsalaried director, officer, or employee of a nonprofit organization;

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

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

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

103 (14.1) 'Reprimand' means an action taken by the board of ethics, which constitutes and
104 transmits a public disapproval of the conduct of an officer's or employee's conduct.

105 (15) 'Transaction' means the conduct of any activity that results in or may result in an
106 official act or action.

107 (c) Proscribed conduct. No official or employee shall:

108 (1) By his or her conduct give reasonable basis for the impression that any person can
109 improperly influence him or her or unduly enjoy his or her favor in the performance of
110 his or her official acts or actions or that he or she is affected unduly by the rank or
111 position of or kinship or association with any person;

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

114 (i) It tends to influence him or her in the discharge of his or her official duties; or

115 (ii) He or she recently has been, or is now, or in the near future may be, involved in
116 any official act or action directly affecting the donor or lender.

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

118 (i) Payment by Henry County of salaries, compensation, expense, or employee
119 benefits, or payments by an employer or business other than Henry County of salaries,
120 compensation, expense, or employee benefits or payment of fees for services rendered
121 pursuant to a contract, when the payment is unrelated to the official's or employee's
122 status with Henry County and is not made for the purpose of influencing, directly or
123 indirectly, a vote, official action, or decision of such official or employee;

- 124 (ii) Campaign or political contributions made and reported in accordance with federal
125 or state law;
- 126 (iii) Reasonable registration fees, tickets, meals or refreshments furnished in
127 connection with an official's or employee's appearance in an official capacity at a
128 public, civic, charitable or non-profit ceremony, event, convention or conference
129 whether the sponsor of the event does or does not do business with Henry County;
- 130 (iv) Hospitality, or meals, extended for a social, charitable, non-profit, convention,
131 conference, or business purpose unrelated to the official business;
- 132 (v) Reimbursements from non-county sources of reasonable hosting expenses,
133 including travel, meals, and lodging, provided to an official or employee in
134 connection with speaking engagements, participation on professional or civic panels,
135 teaching, or attendance at events and/or conferences in an official capacity;
- 136 (vi) An award, plaque, certificate, memento, novelty or similar item given in
137 recognition of the recipient's civic, charitable, political, professional, or public
138 service;
- 139 (vii) Nominal gifts, meals, or other tokens of recognition valued, less than \$100.00;
- 140 (viii) Anything of value when the thing of value is offered to Henry County, is
141 accepted on behalf of Henry County, and is to remain the property of Henry County;
- 142 (ix) A commercially reasonable loan made in the ordinary course of business by an
143 institution authorized by the laws of Georgia to engage in the making of such a loan;
- 144 (x) Anything of value received as a devise, bequest, or inheritance; or
- 145 (xi) A gift received from the official's or employee's immediate family or a relative
146 within the third degree of consanguinity under the civil law computation method;
- 147 (3) Disclose or otherwise use confidential information acquired by virtue of his or her
148 position for his or her or another person's private gain;
- 149 (4) Appear on his or her own personal behalf, or represent, advise, or appear on the
150 personal behalf, whether paid or unpaid, of any person before any court or before any

151 legislative, administrative, or quasi-judicial board, agency, commission, or committee of
152 this state or of any county or municipality concerning any contract or transaction which
153 is or may be the subject of an official act or action or otherwise use or attempt to use his
154 or her official position to secure unwarranted privileges or exemptions for himself or
155 herself or other persons;

156 (5) Engage in, accept employment with, or render services for any agency, private
157 business, or professional activity when such employment or rendering of services is
158 adverse to and incompatible with the proper discharge of his or her official duties; or

159 (6) Engage in any activity or transaction that is prohibited by law now existing or
160 hereafter enacted which is applicable to him or her by virtue of his or her being an official
161 or employee of Henry County.

162 (c.1) Additional proscribed conduct for commissioners. Members of the board of
163 commissioners shall not issue directives to employees who report to the county manager,
164 threaten to terminate the employment of a county employee, threaten to terminate a county
165 contract so as to exert undue influence, or engage in conduct that is unbecoming of a
166 member of the board of commissioners.

167 (d) Gifts to certain employees. No employee of the purchasing department of Henry
168 County shall accept any gift of value from anyone who has had or may reasonably be
169 anticipated to have any business with or before such department. Gifts from persons who
170 do not have or who would not be reasonably anticipated to have any business with or
171 before such department may be accepted by an employee of such department only when
172 such gifts are based solely on a family relationship or personal friendship.

173 (e)(1) An official or employee who has an interest that he or she has reason to believe
174 may be affected by his or her official acts or actions or by the official acts or actions of
175 another officials or employees of Henry County shall:

176 (A) Prior to taking such official act or action, unless as otherwise provided in
177 paragraph (e)(2) of this section, disclose the precise nature and value of such interest

178 by sworn written statement to the ethics officer and the clerk of the governing board or
179 the entity (board of commissioners or agency) to which the official or employee serves;
180 and

181 (B) Recuse or disqualify himself or herself from participating or taking any official
182 acts or actions affected by such interest.

183 (2) In the situation where the information regarding the official act or action was not
184 made available to the official or employee a reasonable time before the official act or
185 action was to take place so that it would be unreasonable for such person to have made
186 the disclosure required by subparagraph (e)(1)(A) of this section in advance, such person
187 shall make an unsworn verbal public disclosure at the meeting, comply with
188 subparagraph (e)(1)(B) of this section, and submit the sworn disclosure as soon as
189 possible, but not more than 45 days after the official act or action.

190 (3) Nothing in this subsection (e) of this section shall be construed to preclude or
191 interfere with the official acts or actions of those officials or employees who do not have
192 an interest subject to this subsection.

193 (f) Participation in contracts.

194 (1) No official or employee shall acquire an interest in any contract or transaction at a
195 time when he or she believes or has reason to believe that such an interest will be
196 affected directly or indirectly by his or her official act or actions or by the official acts or
197 actions of other officials or employees.

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

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

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

- 204 (C) Contracts for services entered into with a business which is the only available
205 source for such goods or services;
- 206 (D) Contracts entered into under circumstances which constitute an emergency
207 situation, provided that a record explaining the emergency is prepared by the board of
208 commissioners and submitted to the board of ethics at its next regular meeting and
209 thereafter kept on file;
- 210 (E) Contracts for property, goods, or services with an officer or employee, or member
211 of the immediate family of an officer or employee, or a business that employs an officer
212 or employee, or member of the immediate family of an officer or employee, where:
- 213 (i) The contract is competitively procured; and
214 (ii) The officer or employee does not participate in any aspect of the procurement or
215 performance of the contract; or
- 216 (F) Contracts for legal, psychological, or medical services.
- 217 (3) Henry County shall not enter into any contract with, or take any official act or action
218 favorably affecting, any person, or business represented by such person, who has been
219 within the preceding one-year period an official or employee.
- 220 (f.1) No county official or employee shall use or threaten to use his or her position or
221 authority related to that position to retaliate against, discourage, restrain or interfere with
222 any other person for the purpose of preventing such person from acting in good faith to
223 make or pursue a complaint under this article, to assist with or otherwise provide support
224 for such complaint, or to participate in an investigation or proceedings relating to any such
225 complaint.
- 226 (g) Reporting violations.
- 227 (1) The board of ethics or any person who witnesses or becomes aware of a violation of
228 this section may complain of the violation as follows:
- 229 (A) A complaint may be communicated anonymously to the ethics administrator. Such
230 complaint shall be made in good faith and with veracity and sufficient specificity so as

231 to provide the ethics officer with salient and investigable facts. The ethics
232 administrator may require the anonymous complaint to be made in a manner and form
233 that is intended only to obtain relevant facts related to the alleged violation of this
234 section and that is not designed to reveal the identity of the complainant;

235 (A.1) Complaints regarding adverse activities, departmental issues, behaviors, or
236 relations shall be submitted to the county's department of human resources and no
237 further review shall be conducted pursuant to this section, including hearings by the
238 ethics board, officer, or administrator;

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

242 (i) The name and address of the person or persons filing the complaint;

243 (ii) The sworn verification and signature of the complainant;

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

246 (iv) A clear and concise statement of facts upon which the complaint is based along
247 with an allegation that such facts constitute one or more violations of law under the
248 jurisdiction of the board of ethics;

249 (v) A general reference to the allegedly violated statutory provisions of the code of
250 ethics within the jurisdiction of the board of ethics; and

251 (vi) Any further information which might support the allegations in the complaint,
252 including, but not limited to, the following:

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

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

256 (2) Upon receipt of a complaint by the ethics administrator, the ethics administrator shall
257 send a written notice to the subject of the complaint, the county manager, the human

258 resources director, and the risk management director within three business days. Both
259 this notice and any subsequent documents shall be subject to Article 4 of Chapter 18 of
260 Title 50 of the O.C.G.A.

261 (3) Upon receipt of a written complaint which does not conform to the applicable
262 requirements of subparagraph (B) of paragraph (1) of this subsection, the ethics
263 administrator shall by letter acknowledge receipt of the complaint and advise the
264 complainant of the defect in the complaint and that the complaint will not be considered
265 by the board of ethics unless the defect is corrected within ten days. A complaint which
266 fails to satisfy the technical requirements of this article following one amendment shall
267 be dismissed.

268 (h) Enactment.

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

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

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

277 (i) Board of Ethics.

278 (1)(A) There is created the Board of Ethics of Henry County to be composed of seven
279 citizens of Henry County to be appointed as provided in paragraph (2) of this
280 subsection.

281 (B) Each member of the board of ethics shall have been a resident of Henry County for
282 at least one year immediately preceding the date of taking office and shall remain a
283 resident of the county while serving as a member of the board of ethics.

284 (C) No person shall serve as a member of the board of ethics if the person has, or has
285 had within the immediately preceding one-year period, any interest in any contract,
286 transaction, or official act or action of Henry County, as confirmed by the government
287 of said county.

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

291 (E) No person shall serve as a member of the board of ethics if the person has been a
292 candidate for, or was elected to, public office in the immediately preceding three-year
293 period. Filing for an elective office shall constitute a resignation from the board of
294 ethics on the date of filing.

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

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

302 (2)(A) A new board of ethics shall be appointed as provided in this paragraph to take
303 office on January 1, 2026, and to serve for the terms prescribed in this paragraph.

304 (B) Not later than December 1, 2025, the members of the new board of ethics shall be
305 selected as follows, one member shall be appointed by each of the following appointing
306 authorities:

- 307 (i) The Clerk of the Superior Court of Henry County;
- 308 (ii) The Judge of the Probate Court of Henry County;
- 309 (iii) The Sheriff of Henry County;
- 310 (iv) The Tax Commissioner of Henry County; and

311 (v) The Solicitor-General of Henry County.

312 (C) In addition to the members appointed as provided in subparagraph (B) of this
313 paragraph, each appointing authority shall appoint one alternate member who shall
314 serve to ensure a quorum when members of the board are absent, have a conflict of
315 interest, or find it necessary to recuse themselves or while a vacancy exists on the
316 board.

317 (D) The members and alternates shall each serve for terms of three years; provided,
318 however, that the terms of the initial appointees of the Judge of the Probate Court of
319 Henry County and the Solicitor-General of Henry County shall serve until
320 December 31, 2026, and until the appointment and qualification of his or her successor;
321 and the initial appointees of the Sheriff of Henry County shall serve until December 31,
322 2027, and until the appointment and qualification of his or her successor.

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

330 (F) The clerk of the Superior Court of Henry County shall provide administrative
331 assistance to the grand jury regarding the appointment of board members pursuant to
332 this section. Upon a vacancy occurring or the conclusion of the term of a board
333 member appointed pursuant to division (i) of subparagraph (B) of this paragraph, the
334 clerk of the Superior Court of Henry County shall notify the then sitting grand jury of
335 its duty pursuant to this section.

336 (3) If a member of the board of ethics ceases to be a resident of Henry County, and
337 where applicable the commission district he or she represents, that member's position on

338 the board of ethics, by operation of law, shall become vacant upon the establishment of
339 the fact of such nonresidency, if contested, by a court of competent jurisdiction. A
340 vacancy in the board of ethics shall exist by reason of death, the disability or incapacity
341 of a member for more than 90 days, resignation, or loss of residency as described in this
342 paragraph. A member of the board of ethics may be removed from office during a term
343 if the member becomes ineligible to hold civil office within the meaning of Code
344 Section 45-2-1 of the O.C.G.A. and that ineligibility is established by decision of a court
345 of competent jurisdiction which declares the office vacant because of such ineligibility
346 or for good cause by a majority vote of the board of ethics. The ethics officer shall notify
347 the clerk of the Superior Court of Henry County and the tax commissioner of Henry
348 County of a vacancy upon its occurrence, and such vacancy shall be filled for the
349 unexpired term by the respective appointing authority.

350 (4) The members of the board of ethics shall be paid a per diem in the amount of \$150.00
351 and shall elect from their own membership a chairperson and otherwise provide for their
352 own internal organization. At the same time, the ethics board shall elect one of its
353 members to act as vice-chairperson for the same term and to act for the chairperson in his
354 absence because of disqualification or vacancy. If the office of chairperson or
355 vice-chairperson is vacated in any manner before the expiration of the term, the ethics
356 board shall elect a temporary successor. It shall elect a permanent chairperson or
357 vice-chairperson only after any vacancy on the ethics board is filled. The board of
358 commissioners shall provide adequate office and meeting space and pay all
359 administrative costs, including those specifically stipulated in this section, pertaining to
360 the operation of the board of ethics. In the event that adequate space is not available, the
361 county shall support the acquisition of suitable space as needed. The board of ethics shall
362 be authorized to employ its own staff and clerical personnel and contract for the services
363 of a competent court reporter, an attorney, and a private investigator as it deems
364 necessary. The members of the board of ethics shall have the authority to propose the

365 budget of the board and shall recommend the budget to the board of commissioners, who
366 shall fund it as a priority. In the event that the proposed budget is in excess
367 of \$300,000.00, the board of commissioners shall have the authority to authorize the
368 additional funds requested in accordance with standard budgetary procedures and
369 requirements. The board of ethics shall be completely independent and shall not be
370 subject to control or supervision by the chairperson of the board of commissioners, the
371 board of commissioners, or any other official, employee, or agency of the county
372 government; provided, however, that the board of ethics and its staff shall be bound by
373 county purchasing, procurement budget, travel, and training policies that are generally
374 applicable to county departments and employees. Neither the board of commissioners
375 no any officer or employee shall engage in any conduct designed to interfere with or
376 improperly influence the members of the board of ethics in the performance of their
377 duties under this code of ethics.

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

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

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

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

390 (D) To receive and hear complaints of violations of the ethics standards required by
391 this section over which it has personal and subject matter jurisdiction, excluding human
392 resources and internal department complaints and grievances;

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

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

398 (j) Ethics officer.

399 (1) There is hereby created as a full-time salaried position an ethics officer for Henry
400 County. The ethics officer must be an active member of the State Bar of Georgia in good
401 standing with five years' experience in the practice of law. The ethics officer shall be
402 appointed by a majority of the members of the board of ethics. Removal of the ethics
403 officer shall be for cause by a majority vote of the members of the board of ethics. The
404 ethics officer need not be a resident of the county at the time of his or her appointment,
405 but he or she shall reside in Henry County within six months of such appointment and
406 continue to reside therein throughout such appointment.

407 (2) The ethics officer shall not be involved in partisan or nonpartisan political activities
408 or the political affairs of Henry County.

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

410 (A) Educating and training all county officials and employees annually to have an
411 awareness and understanding of the mandate for and enforcement of ethical conduct
412 and advising them of the provisions of the code of ethics of Henry County;

413 (B) Meeting with the board of ethics;

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

- 416 (D) Urging compliance with the code of ethics by calling to the attention of the board
417 of ethics any failure to comply or any issues, including the furnishing of false or
418 misleading information, that the ethics officer believes should be investigated by the
419 board of ethics so that the board of ethics may take such action as it deems appropriate;
- 420 (E) Monitoring, evaluating, and acting upon information obtained from an ethics
421 hotline, which shall be a county telephone number for the receipt of information about
422 ethical violations. Each complaint, as of the time it is reported, whether by telephone
423 or otherwise, shall be deemed to be a separate pending investigation of a complaint
424 against a public officer or employee as provided by Article 4 of Chapter 18 of Title 50
425 of the O.C.G.A.;
- 426 (F) Reporting, as appropriate, suspected ethical violations to the board of ethics;
- 427 (G) Reporting, as appropriate, suspected criminal violations to state or federal law
428 enforcement agencies; and
- 429 (H) Filing with the board of ethics and the board of commissioners on the first Tuesday
430 of each February a written report describing the activities of the ethics officer in
431 carrying out the goals of his or her office and the code of ethics and reporting on the
432 ethical health of Henry County.
- 433 (k) Ethics administrator.
- 434 (1) There is hereby created as a full-time salaried position an ethics administrator for
435 Henry County. The ethics administrator shall be selected by the board of ethics and shall
436 serve at the pleasure of the board.
- 437 (2) The ethics administrator shall not be involved in partisan or nonpartisan political
438 activities or the political affairs of Henry County.
- 439 (3) The duties of the ethics administrator shall include, but not be limited to, the
440 following:
- 441 (A) Maintaining the records of the board of ethics as required by Article 4 of
442 Chapter 18 of Title 50 of the O.C.G.A.;

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

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

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

451 (l) Investigations and hearings.

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

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

456 (3) Upon request of the board of ethics, the Henry County Solicitor or any attorney
457 representing the office of the Henry County Solicitor, or in the event of a conflict any
458 attorney who shall be selected by a majority vote of the board of ethics, shall advise the
459 board of ethics.

460 (4) Reserved.

461 (5) Upon receipt of the complaint in compliance with this section, the ethics
462 administrator shall bring the complaint before the board of ethics which shall cause the
463 ethics officer to conduct a preliminary investigation to determine whether it meets the
464 jurisdictional requirements as set forth in this section. Upon the conclusion of the
465 preliminary investigation, if the ethics officer finds that the complaint fails to meet the
466 jurisdictional requirements as set forth in this section, the ethics officer may dismiss the
467 complaint no later than 30 days after the complaint is filed. The ethics officer shall report
468 his or her findings regarding the dismissal to the board.

469 (6) If a complaint is not dismissed for lack of jurisdiction, the ethics officer will report
470 his or her findings and recommendation to the board of ethics and advise whether there
471 is probable cause for belief that the code of ethics has been violated, warranting a formal
472 hearing. If the board of ethics determines, after the preliminary investigation of a
473 complaint by the ethics officer, that there does not exist probable cause for belief that this
474 section has been violated, the board of ethics shall so notify the complainant and the
475 subject of the investigation, and the complaint will be dismissed. If the board of ethics
476 determines, after a preliminary investigation of the complaint by the ethics officer, that
477 there does exist probable cause for belief that this section has been violated, the board of
478 ethics shall give notice to the person involved to attend a hearing to determine whether
479 there has been a violation of this section.

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

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

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

493 (B) The ethics board shall have the right to request the attendance of witnesses and/or
494 the production of documents or other tangible items, upon written request of any party
495 or on its own behalf, so as to facilitate a full hearing and otherwise properly investigate

496 the complaint. The decision of the board of ethics shall be governed by a
497 preponderance of the evidence standard;

498 (C) At the conclusion of proceedings concerning an alleged violation, the board of
499 ethics shall immediately begin deliberations on the evidence and proceed to determine
500 by a majority vote of members present whether there has been a violation of this
501 section. The findings of the board of ethics concerning a violation and the record of the
502 proceedings shall be made public by the ethics officer as soon as practicable after the
503 determination has been made; and

504 (D) Decisions of the board of ethics following a hearing shall be final; provided,
505 however, that such decisions shall be subject to review by the superior court pursuant
506 to Chapter 3 of Title 5 of the O.C.G.A. The ethics administrator shall be authorized to
507 acknowledge service of any such petition and shall certify and cause to be filed with the
508 clerk of the superior court a record of the proceedings before the board of ethics, the
509 decision of the board of ethics, and the notice of final action of the board ethics within
510 the time provided by general law.

511 (9) Any investigation or hearing pursuant to this subsection shall be commenced within
512 two years of the date of the alleged violation; provided, however, that any complaint filed
513 against an elected official within 60 days of an election in which such official is a
514 candidate for public office shall not be acted upon until such election is concluded and
515 certified.

516 (10) The county attorney shall be prohibited from appearing before the board of ethics
517 on behalf of any person.

518 (m) Violations; appeals.

519 (1) Any intentional violation of this section, furnishing of false or misleading
520 information to the board of ethics or the ethics officer, failure to follow an opinion
521 rendered by the board of ethics, or failure to comply with a subpoena issued by the board

522 of ethics pursuant to this section shall subject the violator to any one or more of the
523 following:

524 (A) Administrative sanction of not more than \$1,000.00 per violation assessed by the
525 board of ethics, which shall be deposited in the general fund of the county;

526 (B) Public reprimand by the board of ethics; or

527 (C) Prosecution by the Henry County Solicitor in the magistrate court of Henry County
528 and, upon conviction, a fine of up to \$1,000.00 per violation and up to six months'
529 imprisonment whether the official or employee is elected or appointed, paid or unpaid.

530 Nothing in this section shall be interpreted to conflict with state law. An action for
531 violation of this section or the furnishing of false or misleading information or the
532 failure to comply with a subpoena issued by the board of ethics must be brought within
533 two years after the violation is discovered.

534 (1.1) With regard to violations by persons who are an official or employee, the board of
535 ethics may recommend to the board of commissioners or the appropriate authority
536 disciplinary action in accordance with the personnel rules and regulations of Henry
537 County.

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

541 (A) Suspension of a contractor; and

542 (B) Disqualification or debarment from contracting or subcontracting with Henry
543 County.

544 (n) Every official and employee shall receive ethics training annually. The ethics office
545 shall be responsible for providing such training. All officials and employees shall
546 acknowledge that the employee understands and shall comply with the applicable
547 provisions of this code.

548 (o) No member of the board of ethics, or any person acting on behalf of the board of
549 ethics, shall be liable to any person for any damages arising out of the enforcement or
550 operation of this ethics code except in the case of willful or wanton conduct. This
551 limitation of liability shall apply to Henry County, the members of the board of ethics, the
552 employees of the board of ethics, and any person acting under the direction of the board
553 of ethics."

554

SECTION 2.

555 Said Act is further amended by revising subsections (b) and (c) of Section 8.2 as follows:

556 "(b) The chairperson shall:

557 (1) Serve as the chief elected officer of the county;

558 (2) Serve as a full voting member of the board of commissioners;

559 (3) Serve as presiding officer over meetings of the board of commissioners and shall set
560 the agenda for all meetings of the board of commissioners;

561 (4)(A) Appoint, subject to majority vote of the board of commissioners, and have the
562 authority to fire, discipline, or suspend the county manager, county clerk, and county
563 employees.

564 (B) In the event that the board of commissioners rejects an appointment made pursuant
565 to subparagraph (A) of this paragraph, the chairperson shall appoint a new officer to
566 serve subject to rejection by the board of commissioners as provided for in
567 paragraph (1) of subsection (a) of this section;

568 (5) Execute documents and instruments on behalf of the county;

569 (6) After consultation with the county manager, submit to the board of commissioners
570 an annual budget for consideration and adoption by the board of commissioners;

571 (7) See that the ordinances, resolutions, and regulations of the board of commissioners
572 and the laws of the state are faithfully executed and enforced;

- 573 (8) Coordinate intergovernmental activity between the county and municipalities, other
574 counties, other political subdivisions, and state and federal agencies;
- 575 (9) Either individually or with the other members of the board of commissioners, initiate
576 the assessment of the needs of the county, evaluate county services, and develop the
577 policies of the county;
- 578 (10) Represent or designate an individual to represent Henry County at ceremonial
579 functions;
- 580 (11) Have the power to delegate, in writing, administrative duties of the county to the
581 county manager;
- 582 (12) Approve all expense, reimbursement, or other nonsalary payments to
583 commissioners, provided that if such payment is denied by the chairperson, a majority
584 of the board of commissioners may vote to approve such payment at a regular meeting
585 of the board of commissioners;
- 586 (13) Unless a specific appointment authority is otherwise provided by state law, appoint
587 a member to any authority, board, or commission established by the board of
588 commissioners; and
- 589 (14) After consultation with the board of commissioners, approve an annual work plan
590 for the county manager.
- 591 (c)(1) Except as provided in paragraph (2) of this subsection, the county manager shall
592 have the power to hire, fire, discipline, suspend, or demote any employee of Henry
593 County or delegate such power to one or more nonelected employees. Deputy county
594 managers and department heads may be hired, fired, disciplined, suspended, or demoted
595 by the county manager with the approval of the chairperson. Subject to the approval of
596 the chairperson, the county manager shall have the power to establish and change
597 organizational charts for all county departments.
- 598 (2) Assistant county clerks may be hired, fired, disciplined, suspended, or demoted by
599 the county clerk."

600

SECTION 3.

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