

Senate Bill 359

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

AS PASSED

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 as defined in paragraph (1.1) of subsection (b) of this section, and
15 their officials and employees be, and give the appearance of being, independent and
16 impartial, that public office not be used for private gain, and that there be public

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

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

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

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

30 (1.1) 'Authority' means any local authority created by:

31 (A) Henry County pursuant to the authority granted by state law; or

32 (B) General or local Act of the General Assembly for Henry County;

33 and may include joint public instrumentalities.

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

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

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

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

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

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

70 (8) 'Official or employee' means any person elected or appointed to or employed or
71 retained by Henry County or any agency, whether paid or unpaid and whether part time
72 or full time. Such term includes retired employees or former county employees during
73 the period of time in which they are later employed or retained by the county or any
74 agency. Such term does not include superior and state court judges and their immediate
75 staffs, the district attorney, the solicitor of the state court, the clerks of the superior and
76 state courts, magistrates, the judge of the probate court, and their respective staffs.

77 (9) 'Official act or action' means any legislative, administrative, appointive, or
78 discretionary act of the board of commissioners, the chairperson of the board of
79 commissioners, or a commissioner.

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

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

85 (12) 'Person' means any individual, business, labor organization, representative,
86 fiduciary, trust, or association, whether paid or unpaid, and includes any official or
87 employee of Henry County.

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

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

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

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

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

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

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

100 (c) Proscribed conduct. No official or employee of Henry County shall:

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

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

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

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

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

111 (i) An occasional nonpecuniary gift of value less than \$100.00;

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

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

115 (3) Disclose or otherwise use confidential information acquired by virtue of his or her
116 position for his or her or another person's private gain;

117 (4) Appear on his or her own personal behalf, or represent, advise, or appear on the
118 personal behalf, whether paid or unpaid, of any person before any court or before any
119 legislative, administrative, or quasi-judicial board, agency, commission, or committee of
120 this state or of any county or municipality concerning any contract or transaction which
121 is or may be the subject of an official act or action of Henry County or otherwise use or

122 attempt to use his or her official position to secure unwarranted privileges or exemptions
123 for himself or herself or other persons;

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

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

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

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

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

145 (e) Disclosure of interests. An official or employee who has an interest that he or she has
146 reason to believe may be affected by his or her official acts or actions or by the official acts
147 or actions of another official or employee of Henry County shall disclose the precise nature
148 and value of such interest by sworn written statement to the board of ethics and ask for the

149 board's opinion as to the propriety of such interest. Every official or employee who
150 knowingly has any interest, direct or indirect, in any contract to which Henry County is or
151 is about to become a party, or in any other business with Henry County, shall make full
152 disclosure of such interest to the board of commissioners, the ethics officer, and the board
153 of ethics. The information disclosed by such sworn statements, except for the valuation
154 attributed to the disclosed interest, shall be made a matter of public record by the board of
155 ethics. In cases where a conflict of interest exists, such official or employee shall recuse
156 himself or herself from participating or taking any official acts or actions in any matter for
157 the county affected by such conflict of interest.

158 (f) Participation in contracts.

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

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

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

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

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

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

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

177 (g) Reporting violations.

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

180 (A) A complaint may be communicated anonymously to the ethics administrator. Such
181 complaint shall be made in good faith and with veracity and sufficient specificity so as
182 to provide the ethics officer with salient and investigable facts. The ethics
183 administrator may require the anonymous complaint to be made in a manner and form
184 that is intended only to obtain relevant facts related to the alleged violation of this
185 section and that is not designed to reveal the identity of the complainant;

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

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

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

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

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

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

- 200 (v) A general reference to the allegedly violated statutory provisions of the code of
201 ethics within the jurisdiction of the board of ethics; and
- 202 (vi) Any further information which might support the allegations in the complaint,
203 including, but not limited to, the following:
- 204 (I) The names and addresses of all other persons who have first-hand knowledge
205 of the facts alleged in the complaint; and
- 206 (II) Any documentary evidence that supports the facts alleged in the complaint.
- 207 (2) Upon receipt of a complaint by the ethics administrator, the ethics administrator shall
208 send a written notice to the subject of the complaint, as well as the county manager and
209 the human resources director, by the next business day. Both this notice and any
210 subsequent documents shall be subject to Article 4 of Chapter 18 of Title 50 of the
211 O.C.G.A.
- 212 (3) Upon receipt of a written, nonanonymous complaint which does not conform to the
213 applicable requirements of subparagraph (B) of paragraph (1) of this subsection, the
214 ethics administrator shall by letter acknowledge receipt of the complaint and advise the
215 complainant of the defect in the complaint and that the complaint will not be considered
216 by the board of ethics unless the defect is corrected.
- 217 (4) Any complaint received by the ethics administrator, and all evidence related to such
218 complaint, shall be available for inspection and review by each member of the board of
219 ethics.
- 220 (5) All complaints received by the ethics administrator, and all evidence related to such
221 complaints, shall be treated as confidential information by the members of the board of
222 ethics, the ethics officer, the ethics administrator, the county manager, the human
223 resource director, the person filing such complaint, the subject of such complaint, and any
224 other employee of Henry County until such time as the board of ethics has determined
225 that probable cause exists so as to proceed to a formal hearing upon such complaint.
- 226 (h) Enactment.

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

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

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

235 (i) Board of Ethics.

236 (1)(A) There is created the Board of Ethics of Henry County to be composed of five
237 citizens of Henry County to be appointed as provided in paragraph (2) of this
238 subsection.

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

242 (C) No person shall serve as a member of the board of ethics if the person has, or has
243 had within the immediately preceding two-year period, any interest in any contract,
244 transaction, or official act or action of Henry County, as confirmed by the Henry
245 County government.

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

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

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

255 (G) All proposed appointments to the board of ethics shall be subject to an education
256 and employment background check as well as a criminal history check. Persons
257 proposed to be appointed to the board of ethics shall execute all releases necessary for
258 the appointing authority to accomplish such checks. If the nominee is determined to
259 have been convicted of a felony, the nomination shall be withdrawn.

260 (2)(A) A new board of ethics shall be appointed as provided in this paragraph to take
261 office on January 1, 2027, and to serve for the terms prescribed in this paragraph.

262 (B) Not later than December 1, 2026, the members of the new board of ethics shall be
263 selected as follows, one member shall be appointed by each of the following appointing
264 authorities:

- 265 (i) The Clerk of the Superior Court of Henry County;
- 266 (ii) The Judge of the Probate Court of Henry County;
- 267 (iii) The Sheriff of Henry County;
- 268 (iv) The Tax Commissioner of Henry County; and
- 269 (v) The Solicitor General of Henry County.

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

275 (D) The members and alternates shall each serve for terms of three years; provided,
276 however, that the terms of the initial appointees of the Judge of the Probate Court of
277 Henry County and the Solicitor General of Henry County shall serve until
278 December 31, 2027, and until the appointment and qualification of his or her successor;

279 and the initial appointees of the Sheriff of Henry County shall serve until December 31,
280 2028, and until the appointment and qualification of his or her successor.

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

288 (3) If a member of the board of ethics ceases to be a resident of Henry County that
289 member's position on the board of ethics, by operation of law, shall become vacant upon
290 the establishment of the fact of such nonresidency, if contested, by a court of competent
291 jurisdiction. A vacancy in the board of ethics shall exist by reason of death, the disability
292 or incapacity of a member for more than 90 days, resignation, or loss of residency as
293 described in this paragraph. A member of the board of ethics may be removed from
294 office during a term if the member becomes ineligible to hold civil office within the
295 meaning of Code Section 45-2-1 of the O.C.G.A. and that ineligibility is established by
296 decision of a court of competent jurisdiction which declares the office vacant because of
297 such ineligibility or for good cause by a majority vote of the board of ethics. The ethics
298 officer shall notify the clerk of the Superior Court of Henry County and the tax
299 commissioner of Henry County of a vacancy upon its occurrence, and such vacancy shall
300 be filled for the unexpired term by the respective appointing authority.

301 (4) The members of the board of ethics shall serve without compensation and shall elect
302 from their own membership a chairperson and otherwise provide for their own internal
303 organization. The board of commissioners shall provide adequate office and meeting
304 space and pay all administrative costs, consistent with county policies and procedures,
305 including those specifically stipulated in this section, pertaining to the operation of the

306 board of ethics. The board of ethics shall be authorized to employ its own staff and
307 clerical personnel and contract for the services of a competent court reporter, an attorney,
308 and a private investigator as it deems necessary. The members of the board of ethics
309 shall have the authority to propose the budget of the board and shall recommend the
310 budget to the board of commissioners, who shall fund it as a priority. In the event that
311 the proposed budget is in excess of \$200,000.00, the board of commissioners shall have
312 the authority to authorize the additional funds requested in accordance with standard
313 budgetary procedures and requirements. The board of ethics shall be completely
314 independent and shall not be subject to control or supervision by the chairperson of the
315 board of commissioners, the board of commissioners, or any other official, employee, or
316 agency of the county government. The board of ethics shall be bound by county
317 purchasing and procurement, travel and training, and budget policies. The board of ethics
318 shall also abide by county personnel policies and procedures.

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

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

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

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

331 (D) To receive and hear complaints of violations of this code of ethics by elected and
332 appointed county officials using the standards required by this section over which it has

333 personal and subject matter jurisdiction, excluding human resources and internal
334 department issues or grievances; provided, however, that the board of ethics shall not
335 accept or hear complaints of violations of this code of ethics against county employees;
336 (E) To make such investigations as it deems necessary to determine whether any
337 official or employee has violated or is about to violate any provisions of this section;
338 and

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

341 (j) Ethics officer.

342 (1) There is hereby created as a full-time salaried position an ethics officer for Henry
343 County. The ethics officer must be an active member of the State Bar of Georgia in good
344 standing with five years' experience in the practice of law. The ethics officer shall be
345 appointed by the chief judge of the Superior Court of Henry County for a period not to
346 exceed six years. Removal of the ethics officer before the expiration of the designated
347 term shall be for cause by the chief judge of the Superior Court of Henry County. The
348 ethics officer need not be a resident of the county at the time of his or her appointment,
349 but he or she shall reside in Henry County within six months of such appointment and
350 continue to reside therein throughout such appointment.

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

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

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

357 (B) Meeting with the board of ethics;

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

- 360 (D) Urging compliance with the code of ethics by calling to the attention of the board
361 of ethics any failure to comply or any issues, including the furnishing of false or
362 misleading information, that the ethics officer believes should be investigated by the
363 board of ethics so that the board of ethics may take such action as it deems appropriate;
- 364 (E) Monitoring, evaluating, and acting upon information obtained from an ethics
365 hotline, which shall be a county telephone number for the receipt of information about
366 ethical violations. Each complaint, as of the time it is reported, whether by telephone
367 or otherwise, shall be deemed to be a separate pending investigation of a complaint
368 against a public officer or employee as provided by Article 4 of Chapter 18 of Title 50
369 of the O.C.G.A.;
- 370 (F) Reporting, as appropriate, suspected ethical violations to the board of ethics;
- 371 (G) Reporting, as appropriate, suspected criminal violations to state or federal law
372 enforcement agencies; and
- 373 (H) Filing with the board of ethics and the board of commissioners on the first Tuesday
374 of each calendar quarter a written report describing the activities of the ethics officer
375 in carrying out the goals of his or her office and the code of ethics and reporting on the
376 ethical health of Henry County. The report provided for in this subparagraph shall,
377 within three business days of the date provided for in this subparagraph, be made
378 available, via email, to any member of the General Assembly that represents all or any
379 portion of Henry County.
- 380 (k) Ethics administrator.
- 381 (1) There is hereby created as a full-time salaried position an ethics administrator for
382 Henry County. The ethics administrator shall be selected by the board of ethics and shall
383 serve at the pleasure of the board.
- 384 (2) The ethics administrator shall not be involved in partisan or nonpartisan political
385 activities or the political affairs of Henry County.

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

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

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

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

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

398 (1) Investigations and hearings.

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

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

403 (3) Upon request of the board of ethics, the Solicitor General of Henry County or any
404 attorney representing the office of the Solicitor General of Henry County, or in the event
405 of a conflict any attorney who shall be selected by a majority vote of the board of ethics,
406 shall advise the board of ethics.

407 (4) A complaint may be filed by the ethics officer, any resident, or a group of residents
408 of Henry County by submitting to the ethics administrator a written and sworn complaint
409 under the penalty of perjury or false swearing. The complaint shall specifically identify
410 all provisions of the Henry County code of ethics which the subject of the complaint is
411 alleged to have violated, set forth facts as would be admissible in evidence in a court
412 proceeding, and show affirmatively that the complainant or affiant, if in addition to or

413 different from the complainant, is competent to testify to the matter set forth therein. All
414 documents referenced in the complaint as well as supporting affidavits shall be attached
415 to the complaint.

416 (5) Upon receipt of the complaint, the ethics administrator shall bring the complaint to
417 the board of ethics which shall cause the ethics officer to conduct a preliminary
418 investigation to determine whether it meets the jurisdictional requirements as set forth in
419 this section. Upon the conclusion of the preliminary investigation, the ethics officer shall
420 report his or her findings to the board. If, in the opinion of the board, the complaint fails
421 to meet the jurisdictional requirements as set forth in this section, the board shall direct
422 the ethics administrator to notify the person who filed the complaint, and such person
423 shall have ten days from the date of notice to correct and refile the complaint with the
424 ethics administrator. A complaint which fails to satisfy the jurisdictional requirements
425 as established by this section and by the rules and procedures established by the board of
426 ethics shall be dismissed by the board of ethics no later than 30 days after the complaint
427 is filed with the ethics administrator, unless extended by a majority vote of the board of
428 ethics.

429 (6) The ethics officer will report his or her findings and recommendation to the board of
430 ethics and advise whether there is probable cause for belief that the code of ethics has
431 been violated, warranting a formal hearing. If the board of ethics determines, after the
432 preliminary investigation of a complaint by the ethics officer, that there does not exist
433 probable cause for belief that this section has been violated, the board of ethics shall so
434 notify the complainant and the subject of the investigation, and the complaint will be
435 dismissed. If the board of ethics determines, after a preliminary investigation of the
436 complaint by the ethics officer, that there does exist probable cause for belief that this
437 section has been violated, the board of ethics shall give notice to the person involved to
438 attend a hearing to determine whether there has been a violation of this section.

439 (7) For use in proceedings under this section, the board of ethics shall have the power to
440 issue subpoenas to compel any person to appear, give sworn testimony, or produce
441 documentary or other evidence. Any person who fails to respond to such subpoenas may
442 be subjected to the penalties set forth in subsection (m) of this section; provided,
443 however, any person who is compelled by subpoena to appear shall have the right to seek
444 to quash such subpoena in the same manner as provided by general law for the quashing
445 of subpoenas issued by quasi-judicial bodies.

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

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

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

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

463 (9) Any investigation or hearing pursuant to this subsection shall be commenced within
464 two years of the date of the alleged violation; provided, however, that any complaint filed
465 against an elected official within 60 days of an election in which such official is a

466 candidate for public office shall not be acted upon until such election is concluded and
467 certified.

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

470 (m) Violations; appeals.

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

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

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

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

486 (2) With regard to violations by persons other than officials, including, but not limited
487 to contractors, authorities, or agents, in addition to the remedies in paragraph (1) of this
488 subsection, the board of ethics may recommend to the board of commissioners any one
489 or more of the following:

490 (A) Suspension of a contractor; and

491 (B) Disqualification or debarment from contracting or subcontracting with Henry
492 County.

493 (3) The decision of the board of ethics after a hearing shall be final; provided, however,
494 that such proceeding shall be subject to review by writ of certiorari to the Superior Court
495 of Henry County. The ethics administrator shall be authorized to acknowledge service
496 of any such writ and shall, within the time provided by law, certify and cause to be filed
497 with the clerk of the superior court a record of the proceedings before the board of ethics,
498 the decision of the board of ethics, and the notice of the final actions of the board of
499 ethics."

500 **SECTION 2.**

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

502 "(b) The chairperson shall:

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

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

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

507 (4)(A) Appoint and have the authority to fire, discipline, or suspend the county
508 manager and county clerk, subject to a majority vote of the board of commissioners.

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

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

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

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

- 518 (8) Coordinate intergovernmental activity between the county and municipalities, other
519 counties, other political subdivisions, and state and federal agencies;
- 520 (9) Either individually or with the other members of the board of commissioners, initiate
521 the assessment of the needs of the county, evaluate county services, and develop the
522 policies of the county;
- 523 (10) Represent or designate an individual to represent Henry County at ceremonial
524 functions;
- 525 (11) Have the power to delegate, in writing, administrative duties of the county to the
526 county manager;
- 527 (12) Approve all expense, reimbursement, or other nonsalary payments to
528 commissioners, provided that if such payment is denied by the chairperson, a majority
529 of the board of commissioners may vote to approve such payment at a regular meeting
530 of the board of commissioners;
- 531 (13) Unless a specific appointment authority is otherwise provided by state law, appoint
532 a member to any authority, board, or commission established by the board of
533 commissioners; and
- 534 (14) After consultation with the board of commissioners, approve an annual work plan
535 for the county manager.
- 536 (c)(1) Except as provided in paragraph (2) of this subsection, the county manager shall
537 have the power to hire, fire, discipline, suspend, or demote any employee of Henry
538 County or delegate such power to one or more nonelected employees. Deputy county
539 managers and department heads may be hired, fired, disciplined, suspended, or demoted
540 by the county manager with the approval of the chairperson. Subject to the approval of
541 the chairperson, the county manager shall have the power to establish and change
542 organizational charts for all county departments.
- 543 (2) Assistant county clerks may be hired, fired, disciplined, suspended, or demoted by
544 the county clerk."

545

SECTION 3.

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