

House Bill 1243 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED

AN ACT

1 To amend an Act revising, superseding, and consolidating the laws to the governing authority
2 of DeKalb County and creating a chairman and board of commissioners of said county,
3 approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved
4 April 9, 1981 (Ga. L. 1981, p. 4304), an Act approved March 20, 1990 (Ga. L. 1990, p.
5 3900), and an Act approved April 13, 1992 (Ga. L. 1992, p. 6137), and an Act approved May
6 12, 2015 (Ga. L. 2015, p. 3811), so as to change the manner of appointment and terms of
7 office of the members of the board; to provide for alternates; to provide for recusal; to
8 prohibit DeKalb County employees from accepting certain gifts; to provide for an ethics
9 administrator and the duties of such person; to revise procedures for reporting violations and
10 filing complaints; to provide for a referendum, effective dates, and automatic repeal; to
11 repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

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

21 **SECTION 22A.**

22 **Code of Ethics**

23 (a) Purpose.

24 (1) It is essential to the proper administration and operation of the DeKalb County
 25 government that its officials and employees be, and give the appearance of being,
 26 independent and impartial, that public office not be used for private gain, and that there
 27 be public confidence in the integrity of DeKalb County officials and employees. Because
 28 the attainment of one or more of these ends is impaired whenever there exists in fact, or
 29 appears to exist, a conflict between the private interests and public responsibilities of
 30 officials and employees, the public interest requires that the General Assembly protect
 31 against such conflicts of interest by establishing by law appropriate ethical standards with
 32 respect to the conduct of the officials and employees of DeKalb County in situations
 33 where a conflict may exist.

34 (2) The General Assembly recognized that an appropriate and effective code of ethics
 35 for appointed officials and employees of DeKalb County is also essential for the proper
 36 administration and operation of the DeKalb County government.

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

38 (1) ‘Agency’ means any board, bureau, body, commission, committee, department, or
 39 office of DeKalb County to which the governing authority has appointment powers.

40 (2) ‘Business’ means any corporation, partnership, organization, sole proprietorship, and
 41 any other entity operated for economic gain, whether professional, industrial, or
 42 commercial, and entities which for purposes of federal income taxation are treated as
 43 nonprofit organizations.

44 (3) ‘Confidential information’ means information which has been obtained in the course
 45 of holding public office, employment, acting as an independent contractor, or otherwise
 46 acting as an official or employee and which information is not available to members of
 47 the public under state law or other law or regulation and which the official, independent
 48 contractor, or employee is not authorized to disclose.

49 (4) ‘Contract’ means any claim or demand against any lease, account, or agreement with
 50 any person, whether express or implied, executed or executory, verbal or in writing.

51 (5) ‘Emergency situation’ means any circumstance or condition giving rise to an
 52 immediate necessity for the execution of a contract by and between DeKalb County and
 53 an official or employee or between DeKalb County and a business in which an official or
 54 employee has an interest and where, to the satisfaction of the Chief Executive, it is shown
 55 that there is no one other than such persons with whom the contract could have been
 56 made and that the necessity was not brought about by such persons’ own fault or neglect.

57 (6) ‘Immediate family’ means an official or employee and his or her spouse, parents,
 58 brothers, sisters, and natural or adopted children.

59 (7) ‘Interest’ means any direct or indirect pecuniary or material benefit held by or
 60 accruing to the official or employee as a result of a contract or transaction which is or

61 may be the subject of an official act or action by or with DeKalb County. Unless
 62 otherwise provided in this section, the term ‘interest’ does not include any remote
 63 interest. An official or employee shall be deemed to have an interest in transactions
 64 involving:

65 (A) Any person in the official’s or employee’s immediate family;

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

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

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

76 (8) ‘Official or employee’ means any person elected or appointed to or employed or
 77 retained by DeKalb County or any agency, whether paid or unpaid and whether part time
 78 or full time. This definition includes retired employees or former county employees
 79 during the period of time in which they are later employed or retained by the county or
 80 any agency. This definition does not include superior and state court judges and their
 81 immediate staffs, the district attorney, the solicitor of the state court, the clerks of the
 82 superior and state courts, magistrates, judges of the recorders court, the judge of the
 83 probate court, and their respective staffs.

84 (9) ‘Official act or action’ means any legislative, administrative, appointive, or
 85 discretionary act of the Commission, the Chief Executive, or a commissioner.

86 (10) ‘Paid’ means the receipt of, or right to receive, a salary, commission, percentage,
 87 brokerage, or contingent fee.

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

91 (12) ‘Person’ means any individual, business, labor organization, representative,
 92 fiduciary, trust, or association, whether paid or unpaid, and includes any official or
 93 employee of DeKalb County.

94 (13) ‘Property means any property, whether real or personal or tangible or intangible, and
 95 includes currency and commercial paper.

96 (14) ‘Remote interest’ means the interest of:

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

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

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

102 (D) Any person who, by determination of the Board of Ethics, is deemed to have
 103 such an interest.

104 (15) ‘Transaction’ means the conduct of any activity that results in or may result in an
 105 official act or action of an official or employee of DeKalb County.

106 (c) Proscribed Conduct. No official or employee of DeKalb County shall:

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

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

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

115 (ii) He or she recently has been, or is now, or in the near future may be, involved
 116 in 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) An occasional nonpecuniary gift of value less than \$100.00;

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

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

123 (3) Disclose or otherwise use confidential information acquired by virtue of his or
 124 her position for his or her or another person’s private gain;

125 (4) Appear on his or her own personal behalf, or represent, advise, or appear on the
 126 personal behalf, whether paid or unpaid, of any person before any court or before any
 127 legislative, administrative, or quasi-judicial board, agency, commission, or committee
 128 of this state or of any county or municipality concerning any contract or transaction
 129 which is or may be the subject of an official act or action of DeKalb County or
 130 otherwise use or attempt to use his or her official position to secure unwarranted
 131 privileges or exemptions for himself or herself or other persons;

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

135 (6) Acquire an interest in any contract or transaction at a time when he or she believes
 136 or has reason to believe that such an interest will be affected directly or indirectly by
 137 is or her official act or actions or by the official acts or actions of other officials or
 138 employees of DeKalb County; or

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

142 (c.1) No employee of the Purchasing and Contracting Department of DeKalb County
 143 shall accept any gift of value from anyone who has had or may reasonably be anticipated
 144 to have any business with or before such department. Gifts from persons who do not
 145 have or who would not be reasonably anticipated to have any business with or before
 146 such department may be accepted by an employee or such department only when such
 147 gifts are based solely on a family relationship or personal friendship.

148 (d) Disclosure of interests. An official or employee who has an interest that he or she has
 149 reason to believe may be affected by his or her official acts or actions or by the official
 150 acts or actions of another official or employee of DeKalb County shall disclose the
 151 precise nature and value of such interest by sworn written statement to the Board of Ethics
 152 and ask for the board's opinion as to the propriety of such interest. Every official or
 153 employee who knowingly has any interest, direct or indirect, in any contract to which
 154 DeKalb County is or is about to become a party, or in any other business with DeKalb
 155 County, shall make full disclosure of such interest to the Chief Executive and the
 156 Commission and to the ethics officer and the Board of Ethics. The information disclosed
 157 by such sworn statements, except for the valuation attributed to the disclosed interest,
 158 shall be made a matter of public record by the Board of Ethics. In cases where a conflict
 159 of interest exists, such official or employee shall recuse himself or herself from
 160 participating or taking any official acts or actions in any matter for the county affected
 161 by such conflict of interest.

162 (e) Participation in contracts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

199 (E) A general reference to the allegedly violated statutory provision(s) of the code of
 200 ethics within the jurisdiction of the Board of Ethics; and

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

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

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

206 (3) Upon receipt of a complaint by the ethics administrator, the ethics administrator shall
 207 send a written notice to the subject of the complaint by the next business day. Both this
 208 notice and any subsequent documents shall be subject to Article 4 of Chapter 18 of Title
 209 50 of the O.C.G.A.

210 (4) Upon receipt of a written, nonanonymous complaint which does not conform to the
 211 applicable requirements of paragraph (2) of this subsection, the ethics administrator shall
 212 by letter acknowledge receipt of the complaint and advise the complainant of the defect
 213 in the complaint and that the complaint will not be considered by the Board of Ethics
 214 unless the defect is corrected.

215 (g) Enactment.

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

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

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

224 (h) Board of Ethics.

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

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

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

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

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

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

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

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

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

254 (i) Three members shall be appointed by majority vote of the DeKalb County
255 legislative delegation in the House of Representatives of the Georgia General
256 Assembly;

257 (ii) Three members shall be appointed by majority vote of the DeKalb County
258 legislative delegation in the Senate of the Georgia General Assembly; and

259 (iii) One member shall be appointed by the tax commissioner of DeKalb County.

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

265 (D) The members and alternates shall each serve for terms of three years; provided,
266 however, that the terms of the initial appointees of the House legislative delegation shall
267 be specified at the time of their appointments. One shall serve until December 31, 2021,
268 and until the appointment and qualification of his or her successor, whichever occurs
269 later; one shall serve until December 31, 2022, and until the appointment and
270 qualification of his or her successor, whichever occurs later; and one shall serve until
271 December 31, 2023, and until the appointment and qualification of his or her successor,

272 whichever occurs later. The initial member appointed by the tax commissioner of
273 DeKalb County shall serve until December 31, 2022, and until the appointment and
274 qualification of his or her successor, whichever occurs later. The initial alternate
275 members appointed by the clerk of superior court of DeKalb County shall serve the terms
276 specified by the clerk of superior court at the time of the initial appointments. One shall
277 serve until December 31, 2021, and until the appointment and qualification of his or her
278 successor, whichever occurs later, and one shall serve until December 31, 2023, and until
279 the appointment and qualification of his or her successor, whichever occurs later.

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

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

299 (4) The members of the Board of Ethics shall serve without compensation and shall elect
300 from their own membership a chairperson and otherwise provide for their own internal
301 organization. The Commission shall provide adequate office and meeting space and pay
302 all administrative costs, including those specifically stipulated in this section, pertaining
303 to the operation of the Board of Ethics. The Board of Ethics shall be authorized to employ
304 its own staff and clerical personnel and contract for the services of a competent court
305 reporter, an attorney, and a private investigator as it deems necessary. The members of
306 the Board of Ethics shall have the authority to propose the budget of the board and shall
307 recommend the budget to the Commission, who shall fund it as a priority. In the event
308 that the proposed budget is in excess of \$300,000.00, the Commission shall have the

309 authority to authorize the additional funds requested in accordance with standard
310 budgetary procedures and requirements. The Board of Ethics shall be completely
311 independent and shall not be subject to control or supervision by the Chief Executive, the
312 Commission, or any other official or employee or agency of the county government.

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

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

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

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

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

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

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

332 (i) Ethics officer.

333 (1) There is hereby created as a full-time salaried position an ethics officer for DeKalb
334 County. The ethics officer must be an active member of the Georgia Bar Association in
335 good standing with five years' experience in the practice of law. The ethics officer shall
336 be appointed by a majority of the members of the Board of Ethics, subject to confirmation
337 by a majority of the Commission and approval by the Chief Executive, for a period not
338 to exceed six years. Removal of the ethics officer before the expiration of the designated
339 term shall be for cause by a majority vote of the members of the Board of Ethics. The
340 ethics officer need not be a resident of the county at the time of his or her appointment,
341 but he or she shall reside in DeKalb County within six months of such appointment and
342 continue to reside therein throughout such appointment.

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

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

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

349 (B) Meeting with the Board of Ethics;

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

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

357 (E) Monitoring, evaluating, and acting upon information obtained from an ‘ethics
 358 hotline’ which shall be a city telephone number for the receipt of information about
 359 ethical violations. Each complaint, as of the time it is reported, whether by telephone
 360 or otherwise, shall be deemed to be a separate pending investigation of a complaint
 361 against a public officer or employee as provided by Article 4 of Chapter 18 of Title
 362 50 of the O.C.G.A.;

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

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

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

370 (i.1) Ethics administrator.

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

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

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

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

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

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

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

388 (j) Investigations and hearings.

389 The Board of Ethics shall conduct investigations into alleged violations of the code of
390 ethics, hold hearings, and issue decisions as prescribed in this subsection:

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

393 (2) Upon request of the Board of Ethics, the Solicitor of DeKalb County or any attorney
394 representing the office of the Solicitor of DeKalb County, or in the event of a conflict
395 any attorney who shall be selected by a majority vote of the Board of Ethics, shall advise
396 the Board of Ethics.

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

406 (4) Upon receipt of the complaint, the ethics administrator shall bring the complaint
407 before the Board of Ethics which shall cause the ethics officer to conduct preliminary
408 investigation to determine whether it meets the jurisdictional requirements as set forth in
409 this section. Upon the conclusion of the preliminary investigation, the ethics officer shall
410 report his or her findings to the board. If, in the opinion of the board, the complaint fails

411 to meet the jurisdictional requirements as set forth in this section, the board shall direct
412 the ethics officer to notify the person who filed the complaint and such person shall have
413 ten days from the date of notice to correct and refile the complaint with the board. A
414 complaint which fails to satisfy the jurisdictional requirements as established by this
415 section and by the rules and procedures established by the Board of Ethics shall be
416 dismissed by the Board of Ethics no later than 30 days after the complaint is filed with
417 the ethics administrator, unless extended by a majority vote of the Board of Ethics.

418 (5) The ethics officer will report his or her findings and recommendation to the Board of
419 Ethics and advise whether there is probable cause for belief that the code of ethics has
420 been violated, warranting a formal hearing. If the Board of Ethics determines, after the
421 preliminary investigation of a complaint by the ethics officer, that there does not exist
422 probable cause for belief that this section has been violated, the Board of Ethics shall so
423 notify the complainant and the subject of the investigation, and the complaint will be
424 dismissed. If the Board of Ethics determines, after a preliminary investigation of the
425 complaint by the ethics officer, that there does exist probable cause for belief that this
426 section has been violated, the Board of Ethics shall give notice to the person involved to
427 attend a hearing to determine whether there has been a violation of this section.

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

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

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

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

443 (C) At the conclusion of proceedings concerning an alleged violation, the Board of
444 Ethics shall immediately begin deliberations on the evidence and proceed to
445 determine by a majority vote of members present whether there has been a violation
446 of this section. The findings of the Board of Ethics concerning a violation and the

447 record of the proceedings shall be made public by the ethics officer as soon as
 448 practicable after the determination has been made.

449 (k) Violations; appeals.

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

454 (A) Administrative sanction of not more than \$1,000.00 assessed by the Board of
 455 Ethics;

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

457 (C) Prosecution by the DeKalb County Solicitor in municipal court and, upon
 458 conviction, a fine of up to \$1,000.00 per violation and up to six months imprisonment,
 459 whether the official or employee is elected or appointed, paid or unpaid. Nothing in
 460 this section shall be interpreted to conflict with state law. An action for violation of
 461 this section or the furnishing of false or misleading information or the failure to
 462 comply with a subpoena issued by the Board of Ethics must be brought within two
 463 years after the violation is discovered.

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

467 (A) Suspension of a contractor; and

468 (B) Disqualification or debarment from contracting or subcontracting with DeKalb
 469 County.

470 (3) The decision of the Board of Ethics after a hearing shall be final; provided, however,
 471 that such proceeding shall be subject to review by writ of certiorari to the DeKalb County
 472 Superior Court. The designee of the Board of Ethics shall be authorized to acknowledge
 473 service of any such writ and shall, within the time provided by law, certify and cause to
 474 be filed with the clerk of the superior court a record of the proceedings before the Board
 475 of Ethics, the decision of the Board of Ethics, and the notice of the final actions of the
 476 Board of Ethics.

477 **SECTION 2.**

478 The election superintendent of DeKalb County shall call and conduct an election as
 479 provided in this section for the purpose of submitting this Act to the electors of DeKalb
 480 County for approval or rejection. The election superintendent shall conduct that election

481 on Tuesday next following the first Monday in November, 2020, and shall issue the call
 482 and conduct that election as provided by general law. The election superintendent shall
 483 cause the date and purpose of the election to be published once a week for two weeks
 484 immediately preceding the date thereof in the official organ of DeKalb County. The
 485 ballot shall have written or printed thereon the words:

486 “() YES Shall the Act be approved which revises the Board of Ethics for DeKalb
 487 () NO County?”

488 All persons desiring to vote for approval of the Act shall vote “Yes,” and all persons
 489 desiring to vote for rejection of the Act shall vote “No.” If more than one-half of the
 490 votes cast on such question are for approval of the Act, Sections 1 through 7 of this
 491 Act shall become of full force and effect immediately. If the Act is not so approved
 492 or if the election is not conducted as provided in this section, Sections 1 through 7 of
 493 this Act shall not become effective, and this Act shall be automatically repealed on
 494 the first day of January immediately following that election date. The expense of such
 495 election shall be borne by DeKalb County. It shall be the election superintendent’s
 496 duty to certify the result thereof to the Secretary of State.

497 SECTION 3.

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

500 SECTION 4.

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