

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

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

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

27 **SECTION 2.**

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

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

43 **SECTION 3.**

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

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

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

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

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

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

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

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

- 63 (E) A general reference to the allegedly violated statutory provision(s) of the code of
 64 ethics within the jurisdiction of the Board of Ethics; and
- 65 (F) Any further information which might support the allegations in the complaint
 66 including, but not limited to, the following:
- 67 (i) The names and addresses of all other persons who have first-hand knowledge of
 68 the facts alleged in the complaint; and
- 69 (ii) Any documentary evidence that supports the facts alleged in the complaint.
- 70 (3) Upon receipt of a complaint by the ethics administrator, the ethics administrator shall
 71 send a written notice to the subject of the complaint by the next business day. Both this
 72 notice and any subsequent documents shall be subject to Article 4 of Chapter 18 of
 73 Title 50 of the O.C.G.A.
- 74 (4) Upon receipt of a written, nonanonymous complaint which does not conform to the
 75 applicable requirements of paragraph (2) of this subsection, the ethics administrator shall
 76 by letter acknowledge receipt of the complaint and advise the complainant of the defect
 77 in the complaint and that the complaint will not be considered by the Board of Ethics
 78 unless the defect is corrected."

79 **SECTION 4.**

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

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

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

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

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

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

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

122 SECTION 5.

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

124 "(i) Ethics officer.

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

- 135 (2) The ethics officer shall not be involved in partisan or nonpartisan political activities
 136 or the political affairs of DeKalb County.
- 137 (3) The duties of the ethics officer shall include, but not be limited to, the following:
- 138 (A) Educating and training all city officials and employees to have an awareness and
 139 understanding of the mandate for and enforcement of ethical conduct and advising them
 140 of the provisions of the code of ethics of DeKalb County;
- 141 (B) Meeting with the Board of Ethics;
- 142 (C) Advising officials and employees regarding disclosure statements and reviewing
 143 the same to ensure full and complete financial reporting;
- 144 (D) Urging compliance with the code of ethics by calling to the attention of the Board
 145 of Ethics any failure to comply or any issues, including the furnishing of false or
 146 misleading information, that the ethics officer believes should be investigated by the
 147 Board of Ethics so that the Board of Ethics may take such action as it deems
 148 appropriate;
- 149 (E) Monitoring, evaluating, and acting upon information obtained from an 'ethics
 150 hotline' which shall be a city telephone number for the receipt of information about
 151 ethical violations. Each complaint, as of the time it is reported, whether by telephone
 152 or otherwise, shall be deemed to be a separate pending investigation of a complaint
 153 against a public officer or employee as provided by Article 4 of Chapter 18 of Title 50
 154 of the O.C.G.A.;
- 155 (F) Reporting, as appropriate, suspected ethical violations to the Board of Ethics;
- 156 (G) Reporting, as appropriate, suspected criminal violations to state or federal law
 157 enforcement agencies; and
- 158 (H) Filing with the Board of Ethics, the Chief Executive, and the Commission on the
 159 first Tuesday of each February a written report describing the activities of the ethics
 160 officer in carrying out the goals of his or her office and the code of ethics and reporting
 161 on the ethical health of DeKalb County."

162 **SECTION 6.**

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

164 "(i.1) Ethics administrator.

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

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

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

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

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

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

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

182 **SECTION 7.**

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

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

194 (4) Upon receipt of the complaint, the ethics administrator shall bring the complaint
195 before the Board of Ethics which shall cause the ethics officer to conduct a preliminary
196 investigation to determine whether it meets the jurisdictional requirements as set forth in
197 this section. Upon the conclusion of the preliminary investigation, the ethics officer shall
198 report his or her findings to the board. If, in the opinion of the board, the complaint fails
199 to meet the jurisdictional requirements as set forth in this section, the board shall direct
200 the ethics officer to notify the person who filed the complaint and such person shall have
201 ten days from the date of notice to correct and refile the complaint with the board. A
202 complaint which fails to satisfy the jurisdictional requirements as established by this
203 section and by the rules and procedures established by the Board of Ethics shall be
204 dismissed by the Board of Ethics no later than 30 days after the complaint is filed with
205 the ethics administrator, unless extended by a majority vote of the Board of Ethics."

206 **SECTION 8.**

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

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

217 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
218 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
219 such question are for approval of the Act, Sections 1 through 7 of this Act shall become of
220 full force and effect immediately. If the Act is not so approved or if the election is not
221 conducted as provided in this section, Sections 1 through 7 of this Act shall not become
222 effective, and this Act shall be automatically repealed on the first day of January immediately
223 following that election date. The expense of such election shall be borne by DeKalb County.
224 It shall be the election superintendent's duty to certify the result thereof to the Secretary of
225 State.

226 **SECTION 9.**

227 Except as otherwise provided in Section 8 of this Act, this Act shall become effective upon
228 its approval by the Governor or upon its becoming law without such approval.

229 **SECTION 10.**

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