

House Bill 597 (AS PASSED HOUSE AND SENATE)

By: Representatives Holcomb of the 81st, Oliver of the 82nd, Jacobs of the 80th, Kendrick of the 93rd, Mitchell of the 88th, 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), and an Act approved April 13, 1992 (Ga. L. 1992, p. 6137), so as to
6 change the jurisdiction of the Board of Ethics of DeKalb County; to change the manner of
7 appointment of the members of the board; to provide for terms of office of members of the
8 board; to provide for qualifications of members of the board; to provide funding for the
9 board; to provide for a referendum; to provide for contingent effective dates; to provide for
10 related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

20 style="text-align:center">"SECTION 22A.

21 style="text-align:center">Code of Ethics

22 (a) Purpose.

23 (1) It is essential to the proper administration and operation of the DeKalb County
24 government that its officials and employees be, and give the appearance of being,

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

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

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

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

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

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

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

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

63 An official or employee shall be deemed to have an interest in transactions involving:

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

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

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

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

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

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

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

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

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

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

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

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

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

- 99 (C) Any person in a representative capacity, such as a receiver, trustee, or
100 administrator; or
- 101 (D) Any person who, by determination of the Board of Ethics, is deemed to have such
102 an interest.
- 103 (15) 'Transaction' means the conduct of any activity that results in or may result in an
104 official act or action of an official or employee of DeKalb County.
- 105 (c) Proscribed Conduct. No official or employee of DeKalb County shall:
- 106 (1) By his or her conduct give reasonable basis for the impression that any person can
107 improperly influence him or her or unduly enjoy his or her favor in the performance of
108 his or her official acts or actions or that he or she is affected unduly by the rank or
109 position of or kinship or association with any person;
- 110 (2)(A) Directly or indirectly request, exact, receive, or agree to receive a gift, loan,
111 favor, promise, or thing of value for himself or herself or another person if:
- 112 (i) It tends to influence him or her in the discharge of his or her official duties; or
113 (ii) He or she recently has been, or is now, or in the near future may be, involved in
114 any official act or action directly affecting the donor or lender.
- 115 (B) Subparagraph (A) of this paragraph shall not apply in the case of:
- 116 (i) An occasional nonpecuniary gift of value less than \$100.00;
117 (ii) An award publicly presented in recognition of public service; or
118 (iii) A commercially reasonable loan made in the ordinary course of business by an
119 institution authorized by the laws of Georgia to engage in the making of such a loan;
- 120 (3) Disclose or otherwise use confidential information acquired by virtue of his or her
121 position for his or her or another person's private gain;
- 122 (4) Appear on his or her own personal behalf, or represent, advise, or appear on the
123 personal behalf, whether paid or unpaid, of any person before any court or before any
124 legislative, administrative, or quasi-judicial board, agency, commission, or committee of
125 this state or of any county or municipality concerning any contract or transaction which
126 is or may be the subject of an official act or action of DeKalb County or otherwise use
127 or attempt to use his or her official position to secure unwarranted privileges or
128 exemptions for himself or herself or other persons;
- 129 (5) Engage in, accept employment with, or render services for any agency, private
130 business, or professional activity when such employment or rendering of services is
131 adverse to and incompatible with the proper discharge of his or her official duties;
- 132 (6) Acquire an interest in any contract or transaction at a time when he or she believes
133 or has reason to believe that such an interest will be affected directly or indirectly by his
134 or her official act or actions or by the official acts or actions of other officials or
135 employees of DeKalb County; or

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

139 (d) Disclosure of interests. An official or employee who has an interest that he or she has
140 reason to believe may be affected by his or her official acts or actions or by the official acts
141 or actions of another official or employee of DeKalb County shall disclose the precise
142 nature and value of such interest by sworn written statement to the Board of Ethics and ask
143 for the board's opinion as to the propriety of such interest. Every official or employee who
144 knowingly has any interest, direct or indirect, in any contract to which DeKalb County is
145 or is about to become a party, or in any other business with DeKalb County, shall make full
146 disclosure of such interest to the Chief Executive and the Commission and to the ethics
147 officer and the Board of Ethics. The information disclosed by such sworn statements,
148 except for the valuation attributed to the disclosed interest, shall be made a matter of public
149 record by the Board of Ethics.

150 (e) Participation in contracts.

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

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

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

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

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

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

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

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

171 (1) A complaint may be communicated anonymously to the ethics officer. Such
172 complaint shall be made in good faith and with veracity and sufficient specificity so as

173 to provide the ethics officer with salient and investigable facts. The ethics officer may
 174 require the anonymous complaint to be made in a manner and form that is intended only
 175 to obtain relevant facts related to the alleged violation of this section and that is not
 176 designed to reveal the identity of the complainant.

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

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

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

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

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

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

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

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

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

194 (3) Upon receipt of a complaint, whether by the ethics officer or by the Board of Ethics,
 195 the ethics officer or the secretary of the Board of Ethics shall send a written notice to the
 196 subject of the complaint by the next business day. Both this notice and any subsequent
 197 documents shall be subject to Article 4 of Chapter 18 of Title 50 of the O.C.G.A.

198 (4) Upon receipt of a written, nonanonymous complaint which does not conform to the
 199 applicable requirements of paragraph (2) of this subsection, the ethics officer shall by
 200 letter acknowledge receipt of the complaint and advise the complainant of the defect in
 201 the complaint and that the complaint will not be considered by the Board of Ethics unless
 202 the defect is corrected.

203 (g) Enactment.

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

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

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

212 (h) Board of Ethics.

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

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

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

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

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

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

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

236 (2)(A) The members of the Board of Ethics in office on the effective date of this
237 section shall serve until December 31, 2015, and then their terms shall terminate. A
238 new board shall be appointed as provided in this paragraph to take office on January 1,
239 2016, and to serve for the terms prescribed in this paragraph.

240 (B) Not later than December 31, 2015, the members of the new Board of Ethics shall
241 be selected as follows:

242 (i) One member shall be appointed by the DeKalb Bar Association, chosen from the
243 attorney members of the association;

244 (ii) One member shall be appointed by the DeKalb County Chamber of Commerce,
245 which member shall not be an attorney;

- 246 (iii) One member shall be appointed by a majority vote of the DeKalb County
247 legislative delegation;
- 248 (iv) One member shall be appointed by the judge of the Probate Court of DeKalb
249 County;
- 250 (v) One member shall be appointed by Leadership DeKalb;
- 251 (vi) One member shall be appointed by the six major universities and colleges located
252 within DeKalb County (Agnes Scott College, Columbia Theological Seminary,
253 Emory University, Georgia State University, Mercer University, and Oglethorpe
254 University), which member shall not be an attorney; and
- 255 (vii) One member shall be appointed by the chief judge of the Superior Court of
256 DeKalb County.
- 257 (C) The members shall each serve for terms of three years; provided, however, that the
258 initial terms of the first DeKalb County Chamber of Commerce appointee, the first
259 Leadership DeKalb appointee, and the first DeKalb County legislative delegation
260 appointee shall be two years; and provided, further, that the initial terms of the six
261 major institutes of higher learning within DeKalb County appointee and the judge of
262 the Probate Court appointee shall be one year.
- 263 (D) Successors to all members of the Board of Ethics and future successors shall be
264 appointed by the respective appointing authorities not less than 30 days prior to the
265 expiration of each such member's term of office, and such successors shall take office
266 on January 1 following such appointment and shall serve terms of three years and until
267 their respective successors are appointed and qualified.
- 268 (3) If a member of the Board of Ethics ceases to be a resident of DeKalb County, that
269 member's position on the Board of Ethics, by operation of law, shall become vacant upon
270 the establishment of the fact of such nonresidency, if contested, by a court of competent
271 jurisdiction. A vacancy in the Board of Ethics shall exist by reason of death, the
272 disability or incapacity of a member for more than 90 days, resignation, or loss of
273 residency as described in this paragraph. A member of the Board of Ethics may be
274 removed from office during a term if the member becomes ineligible to hold civil office
275 within the meaning of Code Section 45-2-1 of the O.C.G.A. and that ineligibility is
276 established by decision of a court of competent jurisdiction which declares the office
277 vacant because of such ineligibility or for good cause by a majority vote of the Board of
278 Ethics. The ethics officer shall notify the appointing authority of a vacancy upon its
279 occurrence, and such vacancy shall be filled for the unexpired term by the respective
280 appointing authority.
- 281 (4) The members of the Board of Ethics shall serve without compensation and shall elect
282 from their own membership a chairperson and otherwise provide for their own internal

283 organization. The Commission shall provide adequate office and meeting space and pay
 284 all administrative costs, including those specifically stipulated in this section, pertaining
 285 to the operation of the Board of Ethics. The Board of Ethics shall be authorized to
 286 employ its own staff and clerical personnel and contract for the services of a competent
 287 court reporter, an attorney, and a private investigator as it deems necessary. The
 288 members of the Board of Ethics shall have the authority to propose the budget of the
 289 board and shall recommend the budget to the Commission, who shall fund it as a priority.
 290 In the event that the proposed budget is in excess of \$300,000.00, the Commission shall
 291 have the authority to authorize the additional funds requested in accordance with standard
 292 budgetary procedures and requirements. The Board of Ethics shall be completely
 293 independent and shall not be subject to control or supervision by the Chief Executive, the
 294 Commission, or any other official or employee or agency of the county government.

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

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

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

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

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

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

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

314 (i) Ethics officer.

315 (1) There is hereby created as a full-time salaried position an ethics officer for DeKalb
 316 County. The ethics officer must be an active member of the Georgia Bar Association in
 317 good standing with five years' experience in the practice of law. The ethics officer shall
 318 be appointed by a majority of the members of the Board of Ethics, subject to confirmation
 319 by a majority of the Commission and approval by the Chief Executive, for a period not

320 to exceed six years. Removal of the ethics officer before the expiration of the designated
321 term shall be for cause by a majority vote of the members of the Board of Ethics. The
322 ethics officer need not be a resident of the county at the time of his or her appointment,
323 but he or she shall reside in DeKalb County within six months of such appointment and
324 continue to reside therein throughout such appointment.

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

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

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

331 (B) Maintaining the records of the Board of Ethics as required by Article 4 of Chapter
332 18 of Title 50 of the O.C.G.A.;

333 (C) Meeting with the Board of Ethics;

334 (D) Advising officials and employees regarding disclosure statements and reviewing
335 the same to ensure full and complete financial reporting;

336 (E) Urging compliance with the code of ethics by calling to the attention of the Board
337 of Ethics any failure to comply or any issues, including the furnishing of false or
338 misleading information, that the ethics officer believes should be investigated by the
339 Board of Ethics so that the Board of Ethics may take such action as it deems
340 appropriate;

341 (F) Monitoring, evaluating, and acting upon information obtained from an 'ethics
342 hotline' which shall be a city telephone number for the receipt of information about
343 ethical violations. Each complaint, as of the time it is reported, whether by telephone
344 or otherwise, shall be deemed to be a separate pending investigation of a complaint
345 against a public officer or employee as provided by Article 4 of Chapter 18 of Title 50
346 of the O.C.G.A.;

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

352 (H) Notifying the Board of Ethics of any report of an alleged violation of the ethics
353 code received by the ethics officer;

354 (I) Reporting, as appropriate, suspected ethical violations to the Board of Ethics;

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

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

361 (j) Investigations and hearings. The Board of Ethics shall conduct investigations into
362 alleged violations of the code of ethics, hold hearings, and issue decisions as prescribed in
363 this subsection:

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

366 (2) Upon request of the Board of Ethics, the Solicitor of DeKalb County or any attorney
367 representing the office of the Solicitor of DeKalb County, or in the event of a conflict any
368 attorney who shall be selected by a majority vote of the Board of Ethics, shall advise the
369 Board of Ethics.

370 (3) A complaint may be filed by the ethics officer, any resident, or a group of residents
371 of DeKalb County by submitting to the office of the ethics officer a written, verified, and
372 sworn complaint under the penalty of perjury or false swearing. The complaint shall
373 specifically identify all provisions of the DeKalb County code of ethics which the subject
374 of the complaint is alleged to have violated, set forth facts as would be admissible in
375 evidence in a court proceeding, and show affirmatively that the complainant or affiant (if
376 in addition to or different from the complainant) is competent to testify to the matter set
377 forth therein. All documents referenced in the complaint as well as supporting affidavits
378 shall be attached to the complaint.

379 (4) Upon receipt of the complaint, the ethics officer shall conduct a preliminary
380 investigation to determine whether it meets the jurisdictional requirements as set forth in
381 this section. If in the opinion of the ethics officer the complaint fails to meet these
382 requirements, the ethics officer shall notify the person who filed the complaint and he or
383 she shall have ten days from the date of notice to correct and refile the complaint directly
384 with the ethics officer. A complaint which fails to satisfy the jurisdictional requirements
385 as established by this section and by the rules and procedures established by the Board
386 of Ethics shall be dismissed by the Board of Ethics no later than 30 days after the
387 complaint is filed with the office of the ethics officer, unless extended by a majority vote
388 of the Board of Ethics.

389 (5) The ethics officer will report his or her findings and recommendation to the Board
390 of Ethics and advise whether there is probable cause for belief that the code of ethics has
391 been violated, warranting a formal hearing. If the Board of Ethics determines, after the
392 preliminary investigation of a complaint by the ethics officer, that there does not exist
393 probable cause for belief that this section has been violated, the Board of Ethics shall so

394 notify the complainant and the subject of the investigation, and the complaint will be
395 dismissed. If the Board of Ethics determines, after a preliminary investigation of the
396 complaint by the ethics officer, that there does exist probable cause for belief that this
397 section has been violated, the Board of Ethics shall give notice to the person involved to
398 attend a hearing to determine whether there has been a violation of this section.

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

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

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

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

414 (C) At the conclusion of proceedings concerning an alleged violation, the Board of
415 Ethics shall immediately begin deliberations on the evidence and proceed to determine
416 by a majority vote of members present whether there has been a violation of this
417 section. The findings of the Board of Ethics concerning a violation and the record of
418 the proceedings shall be made public by the ethics officer as soon as practicable after
419 the determination has been made.

420 (k) Violations; appeals.

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

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

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

429 (C) Prosecution by the DeKalb County Solicitor in municipal court and, upon
430 conviction, a fine of up to \$1,000.00 per violation and up to six months imprisonment,

431 whether the official or employee is elected or appointed, paid or unpaid. Nothing in
 432 this section shall be interpreted to conflict with state law. An action for violation of this
 433 section or the furnishing of false or misleading information or the failure to comply
 434 with a subpoena issued by the Board of Ethics must be brought within two years after
 435 the violation is discovered.

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

439 (A) Suspension of a contractor; and

440 (B) Disqualification or debarment from contracting or subcontracting with DeKalb
 441 County.

442 (3) The decision of the Board of Ethics after a hearing shall be final; provided, however,
 443 that such proceeding shall be subject to review by writ of certiorari to the DeKalb County
 444 Superior Court. The designee of the Board of Ethics shall be authorized to acknowledge
 445 service of any such writ and shall, within the time provided by law, certify and cause to
 446 be filed with the clerk of the superior court a record of the proceedings before the Board
 447 of Ethics, the decision of the Board of Ethics, and the notice of the final actions of the
 448 Board of Ethics."

449 **SECTION 2.**

450 The election superintendent of DeKalb County shall call and conduct an election as provided
 451 in this section for the purpose of submitting this Act to the electors of DeKalb County for
 452 approval or rejection. The election superintendent shall conduct that election on the Tuesday
 453 next following the first Monday in November, 2015, and shall issue the call and conduct that
 454 election as provided by general law. The election superintendent shall cause the date and
 455 purpose of the election to be published once a week for two weeks immediately preceding
 456 the date thereof in the official organ of DeKalb County. The ballot shall have written or
 457 printed thereon the words:

458 "() YES Shall the Act be approved which revises the Board of Ethics for DeKalb

459 () NO County?"

460 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
 461 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
 462 such question are for approval of the Act, Section 1 of this Act shall become of full force and
 463 effect immediately. If the Act is not so approved or if the election is not conducted as
 464 provided in this section, Section 1 of this Act shall not become effective, and this Act shall
 465 be automatically repealed on the first day of January immediately following that election

466 date. The expense of such election shall be borne by DeKalb County. It shall be the election
467 superintendent's duty to certify the result thereof to the Secretary of State.

468 **SECTION 3.**

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

471 **SECTION 4.**

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