

ORGANIZATIONAL ACT*

Sec. 1. Governing authority [described].

(a) There is hereby created the board of commissioners of DeKalb County to be elected and organized as hereinafter provided. There is hereby created the office of chief executive officer of DeKalb County, and said chief executive officer, who shall not be a member of the commission, shall be elected as hereinafter provided.

(b) The board of commissioners of DeKalb County, hereinafter referred to as the "commission," and the chief executive officer of DeKalb County, hereinafter referred to as the "chief executive" shall constitute the governing authority of DeKalb County, and the respective powers and duties of the commission and the chief executive shall be as provided in this act.

(Acts 1981, p. 4304, § 1)

Sec. 2. The commission.

(a) The commission shall consist of seven members.

(b) For the purposes of electing members to represent Commissioner Districts 1 through 5, DeKalb County shall be divided into five commissioner districts as follows:

Commissioner District 1:

DEKALB COUNTY

VTD	Location	ATD	Location
0002	Ashford Dunwoody	0057	Huntley Hills
0005	Austin	0064	Kingsley
0020	Chamblee North	0069	Lavista and Livsey
0021	Chamblee South	0089	Mt. Vernon
0023	Chestnut	0090	Nancy Creek
0032	Doraville North	0093	Northwoods
0033	Doraville South	0095	Oakcliff
0037	Dunwoody	0099	Peachtree
0040	Embry Hills	00AD	Pleasantdale
0043	Evansdale	00AW	Shallowford
0053	Henderson Mill	00AX	Silver Hill (Part)

Tract: 0219.03

Block(s):101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 119C, 120B, 121, 122, 139B, 142, 143, 144, 149, 150, 201C, 206B, 208B, 209B, 211B, 213B, 214B, 215B, 247, 325C, 325D, 328B, 335, 336B, 337B, 341B, 344, 348

VTD	Location	ATD	Location
00AY	Silver Lak	00BQ	Vanderlyn
00BB	Smoke Rise	00BR	Vermack
00BP	Tucker	00BU	Warren

Commissioner District: 2

DEKALB COUNTY

VTD	Location	ATD	Location
0003	Ashford Park	0054	Heritage
0008	Briar Vista	0061	Johnson Estates
0009	Briarcliff North	0067	Lakeside
0010	Briarcliff South	0068	Laurel Ridge
0011	Briarlake	0074	Margaret Harris
0012	Briarwood	0079	Medlock
0014	Callanwolde	0086	Montclair
0024	Clairemont	0092	Northlake
0025	Clairmont Hills	0094	Oak Grove
0028	Coralwood	00AE	Ponce De Leon
0030	Cross Keys	00AR	Sagamore
0034	Dresden	00AU	Scott
0035	Druid Hills and Mary Lin	00BA	Skyland
0041	Emory	00BD	South Decatur
0042	Epworth	00BW	Wesley Woods
0045	Fernbank	00BX	Westchester
0048	Glennwood	00CB	Winnona
0052	Hawthorne		

Commissioner District: 3

DEKALB COUNTY

VTD	Location	ATD	Location
0013	Brockett	0065	Kirkwood
0016	Candler	0066	Knollwood
0027	Clifton	0076	McLendon
0038	East Lake	0078	Meadowview
0039	Eastland	0087	Montreal
0046	Flat Shoals	0088	Moreland
0047	Forrest Hills	0091	North Decatur
0049	Gordon	00AA	Peterson
0050	Gresham Park	00AK	Rehoboth
0055	Hooper Alexander	00BJ	Terry Mill
0058	Idlewood	00BK	Tilson
0063	Kelly Lake	00BL	Toney (Part)

Tract: 0231.01

Block(s): 206, 207

Tract: 0235.01

Block(s): 201, 202, 203

VTD	Location	ATD	Location
00BM	Toomer	00CA	Whitefoord South
00BY	Whitefoord North		

Commissioner District: 4

DEKALB COUNTY

VTD	Location	ATD	Location
0006	Avondale Estates	00CA	Whitefoord South
0026	Clarkston	0083	Midwax
0036	Dunair	0084	Midway Park
0051	Hambrick	0098	Peachcrest
0059	Indian Creek	00AC	Pine Lake
0060	Ingleside	00AH	Redan North
0062	Jolly	00AJ	Redan South
0070	Lithonia	00AL	Rockbridge
0072	Mainstreet North	00AM	Rock Chapel
0073	Mainstreet South	00AP	Rowland Hills
0080	Memorial North	00AV	Scottdale
0081	Memorial South	00AX	Silver Hill (Part)

Tract: 0219.03

Block(s): 349B

VTD	Location	ATD	Location
00BF	Stone Mill	00BH	Stoneview
00BG	Stone Mountain		

Commissioner District: 5

DEKALB COUNTY

VTD	Location	ATD	Location
0001	Allgood	0085	Miller Road
0004	Atherton	0096	Panola
0007	Bob Mathis	0097	Panola Way
0015	Canby	00AB	Phillips
0017	Carriage Cluster and Woodridge	00AF	Rainbow
0018	Casa Linda	00AG	Rainbow Park
0019	Cedar Grove	00AN	Rowland
0022	Chapel Hill	00AQ	Rowland Road
0029	County Line	00AT	Salem
0031	Crossroads	00BC	Snapfinger
0044	Fairington	00BE	Spring Hill
0077	McWilliams	00BL	Toney (Part)

Tract: 0235.02

Block(s): 303, 305, 306, 307, 308, 309, 310, 311A, 311B, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410

VTD	Location	ATD	Location
00BN	Towers	00BV	Wesley Chapel
00BT	Wadsworth		

(c) For the purposes of electing the remaining two members of the board, who were elected by the county at large under previously existing provisions of this Act, Dekalb County shall be divided into two commissioner districts as follows:

Commissioner District: 6

DEKALB COUNTY

VTD	Location	ATD	Location
0014	Callanwolde	0081	Memorial South
0020	Chamblee North	0086	Montclair
0021	Chamblee South	0089	Mt. Vernon
0023	Chestnut	0090	Nancy Creek
0024	Clairemont	0091	North Decatur
0025	Clairmont Hills	0092	Northlake
0026	Clarkston	0093	Northwoods
0028	Coralwood	0094	Oak Grove
0030	Cross Keys	0095	Oakcliff
0032	Doraville North	0099	Peachtree
0033	Doraville South	00AC	Pine Lake
0034	Dresden	00AE	Ponce De Leon
0035	Druid Hills and Mary Lin	00AK	Rehoboth
0036	Dunaire	00AM	Rock Chapel
0037	Dunwoody	00AQ	Rowland Road
0041	Emory	00AR	Sagamore
0042	Epworth	00AU	Scott
0045	Fernbank	00AV	Scottdale
0047	Forrest Hills	00AW	Shallowford
0048	Glennwood	00AY	Silver Lake
0051	Hambrick	00BA	Skyland
0052	Hawthorne	00BD	South Decatur
0053	Henderson Mill	00BF	Stone Mill
0054	Heritage	00BG	Stone Mountain
0057	Huntley Hills	00BQ	Vanderlyn
0058	Idlewood	00BR	Vermack
0059	Indian Creek	00BW	Wesley Woods
0060	Ingleside	00BX	Westchester
0061	Johnson Estates	00CB	Winnona

Commissioner District: 7

DEKALB COUNTY

VTD	Location	VTD	Location
0004	Atheron	0087	Montreal
0007	Bob Mathis	0088	Moreland
0013	Brockett	0096	Panola
0015	Canby	0097	Panola Way
0016	Candler	0098	Peachcrest
0017	Carriage Cluster and oodbridge	00AA	Peterson
0018	Casa Linda	00AB	Phillips
0019	Cedar Grove	00AD	Pleasantdale
0022	Chapel Hill	00AF	Rainbow
0027	Clifton	00AG	Rainbow Park
0029	County Line	00AH	Redan North
0031	Crossroads	00AJ	Redan South
0038	East Lake	00AL	Rockbridge
0039	Eastland	00AN	Rowland
0040	Embry Hills	00AP	Rowland Hills
0043	Evansdale	00AT	Salem
0044	Fairington	00AX	Silver Hill
0046	Flat Shoals	00BB	Smoke Rise
0049	Gordon	00BC	Snapfinger
0050	Gresham Park	00BE	Spring Hill
0055	Hooper Alexander	00BH	Stoneview
0056	Hugh Howell	00BJ	Terry Mill
0063	Kelly Lake	00BK	Tilson
0065	Kirkwood	00BL	Toney
0066	Knollwood	00BM	Toomer
0069	Lavista and Livsey	00BN	Towers
0070	Lithonia	00BP	Tucker
0077	McWilliams	00BT	Wadsworth
0078	Meadowview	00BU	Warren
0083	Midwax	00BV	Wesley Chapel
0084	Midway Park	00BY	Whitefoord North
0085	Miller Road	00CA	Whitefoord South

(d) For purposes of this section:

(1) The terms "tract," "block," and "VTD" shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 1990 for the State of Georgia;

(2) The term "precinct" is synonymous with the term "voting precinct" and means a geographical area designated by Article 7 of Chapter 2 or 3 of Title 21 of the O.C.G.A., within which all electors vote at one polling place;

(3) Whenever the description of any commissioner district refers to a named city, it shall mean the geographical boundaries of that city as shown on the census map for the United States decennial census of 1990 for the State of Georgia;

(4) Precinct names and designations following VTD designations are included for convenience only; and in the event the description of any commissioner district contains a conflict between the geographical boundaries of any VTD and the boundaries of the following named precinct, the geographical boundary of the VTD as shown on the census map for the United States decennial census of 1990 for the State of Georgia shall control;

(5) Any part of DeKalb County which is not included in any commissioner district described in this section shall be included within that commissioner district contiguous to such part which contains the least population according to the United States decennial census of 1990 for the State of Georgia; and

(6) Any part of DeKalb County which is described in this section as being included in a particular commissioner district shall nevertheless not be included within such commissioner district if such part is not contiguous to such commissioner district. Such noncontiguous part shall instead be included within that commissioner district contiguous to such part which contains the least population according to the United States decennial census of 1990 for the State of Georgia.

(e) Each commissioner shall be a citizen of this state, at least 25 years of age, and shall have been a resident of the geographic area encompassed by the respective commissioner district for at least two years immediately prior to taking office. Each commissioner shall be elected by a majority of the electors voting within the respective commissioner district. Except for displacement of their residences from their respective districts due to reapportionment of the districts, any commissioners who cease to be residents of their respective commissioner districts during their terms of office shall thereby vacate their seats on the commission. All members of the commission shall be nominated and elected pursuant to the provisions of Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

(Acts 1981, p. 4304, § 1; Acts 1982, p. 4235, § 1; Acts 1992, H.B. 1577, § 1; Acts 1992, p. 6566, § 1)

Sec. 3. Establishment of commission.

The commission created by Sections 1 and 2 of this Act shall become effective on January 1, 1993. The initial and subsequent members of said commission shall be as follows:

(1) Effective January 1, 1993, the commissioners representing Commissioner Districts 2 and 3 shall be the former commissioners representing Commissioner Districts 2 and 3, who were elected at the general election of 1990 under previously existing provisions of this Act and any commissioner elected

to fill a vacancy created by any of such commissioners. Said commissioners so elected shall complete the terms of office to which they were elected, which shall expire on December 31, 1994. Their successors shall be elected at the general election of 1994 and shall take office on January 1, 1995, for terms of four years and until their successors are elected and qualified. Thereafter, successors shall be elected at the general election immediately preceding the expiration of the terms of office and shall take office of the first day of January immediately following their election for terms of four years and until their successors are elected and qualified.

(2) Candidates to represent Commissioner Districts 1, 4, and 5 shall be nominated at a special primary to be held on the third Tuesday in September, 1992. Commissioners to represent such commissioner districts shall be elected at a special election to be held on the date of and in conjunction with the general election of 1992 for terms of four years and until their successors are elected and qualified, and shall take office on January 1, 1993. Thereafter, successors shall be elected at the general election immediately preceding the expiration of terms and shall take office on the first day of January immediately following their election for terms of four years and until their successors are elected and qualified.

(3) Effective January 1, 1993, the commissioner representing Commissioner District 7 shall be the person elected as the at-large commissioner at the general election 1990 under previously existing provisions of this Act, or any commissioner elected to fill a vacancy created by said commissioner. Said commissioner so elected shall complete the term for which he or she was elected, which shall expire on December 31, 1994. The successor to said commissioner shall be elected at the general election of 1994 and shall take office on January 1, 1995, and until the successor is elected and qualified. Thereafter, successors shall be elected at the general election immediately preceding the expiration of the term of office and shall take office on the first day of January immediately following election for terms of four years and until their successors are elected and qualified.

(4) Candidates to represent Commissioner District 6 shall be nominated at a special primary to be held on the third Tuesday in September, 1992. A commissioner to represent Commissioner District 6 shall be elected as a special election to be held on the date of and in conjunction with the general election of 1992 for a term of four years and until a successor is elected and qualified and shall take office on January 1, 1993. Thereafter, successors shall be elected at the general election immediately preceding the expiration of the term of office and shall take office on the first day of January immediately following election for terms of four years and until their successors are elected and qualified.

(Acts 1981, p. 4304, § 1; Acts 1992, H.B. 1577, § 1; Acts 1992, p. 6566, § 1)

Sec. 4. Running for other elective offices.

(a) Except as otherwise provided in subsection (b) of this section, no member of the commission or the chief executive shall be qualified to be a candidate for nomination or election to any other elective office, other than to succeed one's self as a member of the commission or as chief executive, unless the

member of the commission or the chief executive shall resign from office as provided in subsection (b) of this section.

(b) If the term of the other office to which the member of the commission or the chief executive seeks to be a candidate for nomination or election expires on the same date the member's or the chief executive's term of office expires, then resignation from office under subsection (a) of this section shall not be required. If resignation is required under subsection (a) of this section, such resignation shall be irrevocable and shall be submitted to the commission by not later than April 1 of the year in which the election for other office to which the member of the commission or the chief executive seeks nomination or election is held and shall be effective on December 31 of that year.

(c) The April 1 date specified in subsection (b) of this section for irrevocable resignation from office shall be deemed to be the date of the creation of a vacancy, notwithstanding the fact that the resignation is not effective until the thirty-first day of December immediately following the date of resignation. Notwithstanding the provisions of section 6 of this act, no special election shall be held to fill such vacancy, and such vacancy shall be filled for the unexpired term by nomination and election at the immediately following general primary and election in the same manner as nomination and election for a full term of office as a member of the commission in accordance with the provisions of Chapter 2 of Title 21 [§ 21-2-1 et seq.] of the O.C.G.A., known as the "Georgia Election Code."

(Acts 1981, p. 4304, § 1; Acts 1984, p. 4916, § 1)

Sec. 5. Chief executive.

(a) The chief executive of DeKalb County shall be a citizen of this state, at least thirty (30) years of age and shall have been a resident of DeKalb County for at least five (5) years immediately prior to taking office. The chief executive shall be elected by a majority of the electors voting from the county at large. The chief executive shall be nominated and elected pursuant to Code Title 34 known as the "Georgia Election Code" [O.C.G.A. § 21-2-1 et seq.], as now or hereafter amended.

(b) The first chief executive shall be elected as provided in subsection (a) hereof at the general election of 1984, and shall take office on the first day of January, 1985, for a term of four (4) years. Future successors shall be elected at the general election immediately preceding the expiration of the term of office and shall take office on the first day of January immediately following the election for a term of four (4) years. Each chief executive shall serve until the successor is elected and qualified.

(c) Any person elected chief executive shall not be eligible to serve more than two (2) consecutive full terms of office. In the event a person fills a vacancy in the office of chief executive as provided in section 6 of this act, such person shall be eligible for election to two (2) full consecutive terms of office as chief executive. When a person has served two (2) full consecutive terms of office as chief executive, such person shall not again be eligible to hold said office until such person has been out of office as chief executive for at least four (4) years.

(Acts 1981, p. 4304, § 1)

Sec. 6. Vacancies.

(a) Vacancies on the commission and in the office of chief executive occurring by reason of death, resignation, removal from the county or from the district from which elected or for any other reason shall be filled as provided in this section.

(b) In the event a vacancy occurs on the commission or in the office of chief executive when at least one hundred eighty (180) days remain in the unexpired term of office, the election superintendent of DeKalb County, within fifteen (15) days after the vacancy occurs, shall issue the call for a special election to fill such vacancy for the unexpired term. Such special election shall be held not less than twenty-nine (29) nor more than forty-five (45) days after the issuance of the call, and shall be held and conducted in accordance with the provisions of Code Title 34, known as the "Georgia Election Code" [O.C.G.A. § 21-2-1 et seq.], as now or hereafter amended. If the vacancy is in the office of the chief executive, the presiding officer of the commission shall exercise the powers and duties of the chief executive, except as provided in subsection (e) of this section, for the period beginning on the date the vacancy occurs and ending when the successor chief executive takes office for the unexpired term following the special election provided for herein.

(c) In the event a vacancy occurs in the office of chief executive when less than one hundred eighty (180) days remain in the unexpired term of office, the presiding officer of the commission shall exercise the powers and duties of the chief executive, except as provided in subsection (e) of this section, for the unexpired term.

(d) In the event a vacancy occurs on the commission when less than one hundred eighty (180) days remain in the unexpired term of office, the remaining members of the commission shall appoint a qualified person to fill such vacancy for the unexpired term. Any person appointed by the commission to fill a vacancy as provided herein shall possess the residency and other qualifications required for the office.

(e) If the presiding officer of the commission exercises the powers of chief executive pursuant to subsections (b) and (c) of this section, the person serving as the chief executive in either case shall not be authorized to discharge the executive assistant. A presiding officer serving as chief executive shall not be authorized to vote as a member of the commission during such service.

(Acts 1981, p. 4304, § 1)

Sec. 7. Oath and bond.

Before entering upon the discharge of their duties, the chief executive and members of the commission shall subscribe to an oath before the judge of the probate court of DeKalb County for the true and faithful performance of their duties and that they are not the holders of any public funds unaccounted

for. In addition the chief executive shall further give a satisfactory surety bond, as determined by the judge of the probate court of DeKalb County, and payable to the judge of the probate court of DeKalb County and filed in the office of the judge of the probate court of DeKalb County, in the sum of fifty thousand dollars (\$50,000.00), conditioned upon the faithful performance of the duties of the office. Each member of the commission shall give like bond in the sum of ten thousand dollars (\$10,000.00). The costs of said bonds shall be paid from county funds.

(Acts 1981, p. 4304, § 1)

Sec. 8. Compensation.

The provisions of any other law to the contrary notwithstanding:

- (1) The chief executive officer of DeKalb County shall be compensated in an amount equal to the compensation which he received in 1991, to be paid in equal monthly installments;
- (2) Each member of the commission shall receive an annual salary equal to nineteen (19) percent of the annual salary of the chief executive officer;
- (3) In addition to the annual salary provided for by paragraph (2) of this section, each member of the commission shall receive an expense allowance of three hundred dollars (\$300.00) per month.

(Acts 1981, p. 4304, § 1; Acts 1987, p. 5013, § 1; Acts 1989, p. 4863, § 1; Acts 1990, p. 4296, § 1; Acts 1989, p. 4863, § 1; Acts 1990, p. 4296, § 1; Acts 1991, p. 4334, § 1)

Sec. 9. Powers and duties of the commission.

(a) The commission shall have the power and authority to fix and establish, by appropriate resolution or ordinance entered on its minutes, policies, rules and regulations governing all matters reserved to its jurisdiction by this act. The commission shall exercise only those powers which are necessarily and properly incident to its function as a policy-making or rule-making body or which are necessary to compel enforcement of its adopted resolutions or ordinances, and any power or combination of powers vested in the commission by this act shall be subject to the limitations provided in section 23 of this act. The following powers are hereby vested in the commission:

- (1) To levy taxes.
- (2) To make appropriations.
- (3) To fix the rates of all other charges.
- (4) To authorize the incurring of indebtedness.
- (5) To authorize work to be done where the cost is to be assessed against the benefited property and to fix the basis for such assessment.

(6) To establish, alter, or abolish public roads, private ways, bridges and ferries, according to law, but the chief executive shall have the authority to accept subdivision plats when the requirements established by the commission for subdivisions have been met.

(7) To establish, abolish, or change election precincts and militia districts according to law.

(8) To allow the insolvent lists for the county.

(9) To authorize the acceptance for the county of the provisions of any optional statute where the statute permits its acceptance by the governing authority of a county.

(10) To regulate land use by the adoption of a comprehensive development plan and by the adoption of other planning and zoning ordinances which relate reasonably to the public health, safety, morality and general welfare of the county and its citizens; provided, however, no planning or zoning ordinance shall become law unless approved by the member of the commission representing the district in which the subject property is located, or by one (1) of the members of the commission elected from the county at large.

(11) To create and change the boundaries of special taxing districts authorized by law.

(12) To fix the bonds of county officers where same are not fixed by statute.

(13) To enact any ordinances or other legislation the county may be given authority to enact.

(14) To determine the priority of capital improvements.

(15) To call elections for the voting of bonds.

(16) Except as modified by the powers vested in the chief executive by other provisions of this act, to exercise the power and authority vested by law in the judge of the probate court when sitting for county purposes.

(17) Except as modified by the powers vested in the chief executive by other provisions of this act, to exercise the powers now or hereafter vested in county governing authorities by the constitution and general laws of this state.

(18) To fix, levy and assess license fees, charges or taxes on all persons, firms and corporations engaging in or offering to engage in any trade, business, calling, avocation or profession in the area of DeKalb County, outside the corporate limits of municipalities situated therein, except businesses which are subject to regulation by the state public service commission, and to classify all such persons, firms and corporations according to the nature, manner and size of business conducted by such persons, firms and corporations and to fix, levy and assess different license fees, charges or taxes against different classes of trades, businesses, callings, avocations or professions. Such licenses shall be issued, annually or otherwise, and may be revoked, canceled or suspended after notice and a hearing, in accordance with rules prescribed by the commission. Said commission shall be further authorized to adopt ordinances and resolutions to govern and regulate all such trades, businesses, callings, avocations or

professions, not contrary to regulations prescribed by general law, for the purpose of protecting and preserving the health, safety, welfare and morals of the citizens of said county, and to prescribe penalties for the violation of any such ordinances and resolutions, including the operation of such businesses without the obtaining of a license or when such license is revoked or suspended. Payment of said license fees, charges or taxes may be enforced by fi. fas. issued by the commission and levied by any officer in said county authorized by law to levy fi. fas. for taxes, assessments, fines, costs or forfeitures due said county. The commission shall be authorized, in its discretion, to require any and all persons, firms or corporations licensed pursuant to the authority herein granted to give a bond payable to DeKalb County, and conditioned to pay said county or anyone else, suing in the name of said county and for their use, for injuries or damages received on account of dishonest, fraudulent, immoral or improper conduct in the administration of the business so licensed, such bond to be fixed and approved by the commission. Such license fees, charges or taxes shall be in addition to all other taxes or assessments heretofore or hereafter levied by said county, and all funds received from same shall be paid into the county depository as general funds of said county.

(19) To adopt rules regulating the operation of the commission.

(20) To prepare an agenda for meetings of the commission. The commission shall accept agenda items by the chief executive officer upon motion by any commissioner to be placed upon the agenda, pursuant to the rules by which an item may be placed on the agenda by a member of the commission.

(b) In addition to the powers enumerated in subsection (a) of this section, the commission may adopt all such ordinances or regulations as it may deem advisable, not in conflict with the general laws of this state and of the United States, for the governing and policing of the county for the purpose of protecting and preserving the health, safety, welfare, and morals of the citizens of the county and for the implementation and enforcement of the powers and duties of the commission.

(c) The commission is hereby authorized to adopt ordinances prescribing penalties and punishment for violation of any and all ordinances adopted by the commission to carry out any of the provisions of this section or other provisions of this Act or of any other law, and to prescribe maximum penalties and punishment for violation of same, except that the same shall in no event exceed a fine of one thousand dollars (\$1,000.00), imprisonment in the county jail for thirty (30) days, or labor on the work gang for any single offense, or any combination thereof; provided, however, that for violations of a pretreatment standard or requirement adopted pursuant to the federal Clean Water Act the maximum fine shall be one thousand dollars (\$1,000.00) per day for each violation by an industrial user.

(Acts 1981, p. 4304, § 1; Acts 1983, p. 4547, § 1; Acts 1986, p. 4107, § 1; Acts 1990, p. 4479, § 1; Acts 1992, p. 5363, § 1; Acts 2008, p. 3897, § 1)

Sec. 10. Audits.

(a) The commission shall choose three (3) of its members to serve as an audit committee. The term of members serving as the audit committee and their manner of selection shall be as determined by the

commission. The audit committee shall screen and recommend to the commission an independent auditing firm to serve as an outside auditor of the county government to make an annual continuous general audit of all county finances and financial records.

(b) The outside auditor shall be employed pursuant to written contract to be entered upon the minutes of the commission, and the contract shall state clearly and concisely the depth and scope of the audit and that it shall be conducted in accordance with the requirements of the act providing uniform standards for audits of municipalities and counties within the State of Georgia, approved April 21, 1967 (Ga. Laws 1967, p. 883), as amended, by an act approved March 28, 1968 (Ga. Laws 1968, p. 464) [O.C.G.A. § 36-60-8]. The auditor shall immediately inform the commission in writing of any irregularities found in the management of county business by an officer or department of the county government.

(c) The outside auditor shall complete the audit within ninety (90) days after December 31 of each year, and, within ten (10) days after its completion, the auditor shall deliver a copy to each commissioner, the chief executive and to the grand jury of the DeKalb County superior court then in session.

(d) The audit committee may also screen and recommend to the commission an internal auditor whose function shall be to audit the various departments, offices, and agencies of the county government on a continuing basis. The internal auditor shall be employed by and serve at the pleasure of the commission.

(Acts 1981, p. 4304, § 1)

Sec. 11. Presiding officer.

(a) The chief executive shall have no vote at any regular or specially called meeting of the commission unless the members of the commission are equally divided. Even when the members of the commission are equally divided, the chief executive may not vote on a matter which is not subject to veto by said officer under the provisions of subsection (d) of section 15 of this Act.

(b) At the first regular meeting in January of each year, the commission shall elect from its membership a presiding officer and a deputy presiding officer. The member serving as presiding officer or deputy presiding officer shall retain all rights, powers and duties as a member of the commission.

(c) The presiding officer shall preside at meetings of the commission and shall have the following additional duties:

(1) To convene such special meetings of the commission as are deemed necessary, but all members shall be notified at least three (3) days in advance of any such special meeting;

(2) To appoint the members and chairpersons of such committees of the commission as the commission, by its rules, may establish and fill vacancies therein, but any such appointments may be rejected by a majority vote of the total membership of the commission;

(3) To compel the attendance of members at meetings of the commission by subpoena, if necessary, subject to the policy of the commission as established by its rules; and

(4) To exercise such other powers and duties as may be assigned to the presiding officer by ordinance or rules and regulations of the commission.

(d) In the event the office of the member serving as presiding officer becomes vacant for any reason, or in the event the presiding officer is absent for any reason, or in the event the presiding officer exercises the powers of the chief executive pursuant to subsections (b) or (c) of section 6 of this act, then the deputy presiding officer shall exercise the powers and duties of the presiding officer during the absence of the presiding officer or until a successor presiding officer is elected by the commission at the first regular meeting held during the next succeeding January.

(Acts 1981, p. 4304, § 1; Acts 1988, p. 4740, § 1; Acts 2008, p. 3897, § 2)

Sec. 12. Meetings.

The commission shall hold regular meetings on the second and fourth Tuesdays of each month at the county seat, which meetings shall be open to the public, and may hold such additional meetings as shall be necessary when called by the chief executive, the presiding officer, or any four (4) members of the commission, but all members shall be notified at least three (3) days in advance of any such additional meeting. No official action shall be taken by the commission except in a meeting which is open to the public. The presiding officer and any three (3) members of the commission, or any four (4) members of the commission exclusive of the presiding officer, shall constitute a quorum, except that a lesser number shall be sufficient to recess or adjourn any meeting; but no official action shall be taken except upon the affirmative vote of at least four (4) members of the commission, or three (3) members and the presiding officer. The presiding officer shall be entitled to the same voting rights as the commission members on questions considered by the commission.

(Acts 1981, p. 4304, § 1)

Sec. 13. Powers and duties of the chief executive.

(a) The chief executive shall have the exclusive power to supervise, direct and control the administration of the county government. The chief executive shall carry out, execute and enforce all ordinances, policies, rules and regulations of the commission when such ordinances, policies, rules and regulations become effective. Members of the commission shall deal solely through the chief executive or his executive assistance [assistant] in all matters concerning the operation, supervision, and administration of the various departments, offices, and agencies of the county government. No member of the commission shall directly or indirectly order, instruct, or otherwise attempt to control the actions of county personnel subject to the administrative and supervisory control of the chief executive.

Nothing herein shall be construed to preclude any commissioner from seeking information necessary to the establishment of policy from any person, including any employee of DeKalb County.

(b) Subject to the approval of the commission, the chief executive shall have the power to change, consolidate, or abolish any departments, agencies, or offices over which the chief executive exercises supervision and control, except that the department of finance shall be maintained at all times as a separate and distinct department and may not be abolished by the chief executive or by the commission. Subject to the approval of the commission, the chief executive may create other departments, agencies, and offices, which departments, agencies, and offices, when created, shall be under the supervision and control of the chief executive.

(c) (1) Subject to confirmation by the commission, the chief executive shall appoint the executive assistant and the county attorney. The executive assistant shall be subject to the requirements of section 14 of this act. No member of the commission or the commission itself shall be authorized to nominate persons for the office of executive assistant or county attorney. Within the budgetary limitations, the chief executive shall fix the compensation of the executive assistant and the county attorney. Both of said officers shall serve at the pleasure of the chief executive. The commission may also discharge either such officer for cause, but the affirmative vote of at least five (5) members of the commission shall be required to discharge either such officer.

(2) Subject to confirmation by the commission, the chief executive shall appoint the planning director, finance director, and merit system director. No member of the commission or the commission itself shall be authorized to nominate persons for any such position. All three (3) of said officers shall be under the DeKalb County Merit System and, subject to the regulations of said merit system and budgetary limitations, the chief executive shall have the authority to fix the compensation of said officials.

(d) Subject to budgetary limitations and DeKalb County Merit System regulations, the chief executive shall have exclusive authority to appoint, remove, and fix the compensation of all employees and officials of the county, except employees of the commission, and except that deputies and employees of the elected county officers of DeKalb County shall be subject to appointment, removal, supervision, and control of the respective elective county officers. The compensation of persons filling offices and positions created by state statutes shall be fixed by the chief executive within budgetary limitations when such state statutes authorize or require such compensation to be fixed by county governments or by county governing authorities.

(e) The chief executive may convene special meetings of the commission when deemed necessary, but all members shall be notified at least three (3) days in advance of any such special meeting.

(f) The chief executive may compel the attendance of members at meetings of the commission by subpoena, when deemed necessary, subject to the policy of the commission as established by its rules.

(g) The chief executive shall have power to investigate the affairs, records and expenditures of the various authorities, boards, councils, commissions, committees, and similar bodies or agencies, whether

created by ordinance of the commission or by acts of the General Assembly, relating to the affairs of the county and to report thereon to the commission.

(h) The chief executive shall represent the county in intergovernmental matters and shall seek to promote and improve the government of the county and encourage the growth of the county and promote and develop the prosperity and well-being of the citizens of the county.

(i) The chief executive, within one hundred twenty (120) days after the close of each fiscal year, shall prepare and submit to the commission a complete annual report on the financial affairs and activities of the county for the immediately preceding fiscal year. The annual report shall show all income from all sources, including state, county, and federal funds, and all expenditures. The chief executive shall cause a summary of said annual report to be published in the official organ of DeKalb County. Said published summary shall state that a copy of the full report is available from the office of the chief executive. The chief executive shall also send copies of the full report to each branch of the county library. The chief executive shall also make financial reports during the year as may be required by the commission.

(j) The chief executive may recommend, at any time, to the commission for its formal consideration, such measures or proposals as are deemed necessary or desirable to improve the administration of the affairs of the county.

(k) The chief executive shall devote full time to the duties of the office and shall have no other source of employment.

(l) Reserved.

(Acts 1981, p. 4304, § 1; Acts 1983, p. 4547, §§ 2, 3; Acts 1986, p. 4107, § 2; Acts 1988, p. 4740, § 2; Acts 2008, p. 3897, § 3)

Sec. 13A. Appointments to public office.

(a) (1) Whenever any other law of this state authorizes or requires a county governing authority, including any such law which refers to a local governing body with the intention of including a county governing authority, to appoint or elect a person to fill a post or vacancy in any public office or as a member of any public authority, board, commission, or other body or agency, such post or vacancy shall be filled as follows:

(A) The chief executive shall nominate a person by sending a written notice to the commission, and such notice shall specify the post or vacancy to be filled, the date such post or vacancy is to be filled, the qualifications, if any, which must be possessed by a person filling the post or vacancy, and the name of the person nominated by the chief executive;

(B) Within twenty (20) days after the date the notice described in subparagraph (A) of this subsection is received, the commission, either at a regular or called meeting, shall confirm or reject the nominee of the chief executive;

(C) If the first nominee of the chief executive is rejected by the commission, the chief executive shall make a second nomination in writing to the commission within ten (10) days after the date of such rejection;

(D) Within fifteen (15) days after the date the second nomination of the chief executive is received, the commission, either at a regular or called meeting, shall confirm or reject the second nominee of the chief executive; and

(E) If the second nominee of the chief executive is rejected by the commission, the commission shall, within fifteen (15) days after the date of such rejection, either at a regular or called meeting, elect a qualified person to fill the post or vacancy without the necessity of a nomination by the chief executive.

(2) When the need to fill a post or vacancy is known by the chief executive at least sixty (60) days in advance of the date on which the post or vacancy should be filled, the chief executive shall initiate the procedures provided by paragraph (1) of this subsection far enough in advance to permit such post or vacancy to be filled at the proper time. In all other cases, the chief executive shall initiate such procedures as soon as practicable after learning of the need to fill the post or vacancy.

(b) When a law described in subsection (a) of this section authorizes a person elected or appointed to fill a post or vacancy to be removed from office by a county governing authority, such power of removal may be exercised by the affirmative vote of at least four (4) members of the commission, exclusive of the presiding officer, or by the affirmative vote of three (3) members of the commission and the presiding officer. Such power of removal may be exercised by the commission without the concurrence of the chief executive, but the chief executive may recommend such removal to the commission.

(c) Whenever any other law of this state authorizes or requires the chairman of the board of commissioners of a county or the elected chief executive officer of a county, by whatever name designated, to hold another office or to serve as a member of any public authority, board, commission, or other body or agency, such law shall be construed to grant such authority or apply such requirement to the chief executive.

(d) Whenever any other law of this state refers, for purposes other than those described in subsection (c) of this section, to the chairman of the board of commissioners of a county or to the elected chief executive officer of a county, by whatever name designated, such law shall be construed to refer to the chief executive.

(Acts 1986, p. 4107, § 3)

Sec. 14. Executive assistant; administrators.

(a) Subject to the qualifications for said office as hereinafter provided in this section, the chief executive shall nominate, and the commission shall confirm, an executive assistant. The executive assistant shall be the chief administrative aide to the chief executive and the commission and shall be responsible to the chief executive and the commission for the proper administration of the affairs of the county.

(b) When directed to do so by the chief executive, the executive assistant may exercise any of the administrative duties and powers vested in the chief executive by law or ordinances, rules, and regulations adopted by the commission.

(c) The executive assistant shall hold a college degree in public administration, political science, urban affairs, business administration, engineering, or a related field and must have at least five (5) years of experience in a supervisory capacity as an employee, director, administrator, or manager of a city or county government or a state or federal agency or equivalent experience in the private sector or any combination thereof.

(d) No person shall be appointed or hold office as executive assistant to the chief executive if such person, within two (2) years immediately preceding appointment, has:

(1) Been a candidate for elective public office;

(2) Been the holder of elective public office; or

(3) Held a management position in the political campaign of any candidate for the office of chief executive, or any member of the board of commissioners of DeKalb County.

(e) After appointment, the executive assistant shall not take part in the management of any political campaign for any elective public office or hold office in any political party or body. If the executive assistant participates in political activities in violation of this subsection, such participation, by operation of law, shall result in the immediate discharge of the executive assistant, and the office of executive assistant shall be vacant.

(f) The chief executive shall also have exclusive power to appoint, remove from office and, within budgetary limitations, fix the compensation of two (2) administrators to assist the executive assistant in such manner as the chief executive shall direct.

(Acts 1981, p. 4304, § 1; Acts 1983, p. 4547, § 4)

Sec. 15. Veto power of chief executive.

(a) Every ordinance or resolution adopted by the commission shall be signed by the presiding officer of the commission or, in the absence of the presiding officer, the deputy presiding officer shall sign the ordinance or resolution. Such ordinance or resolution shall be certified by the clerk of the commission and presented by said clerk to the office of the chief executive within three (3) business days following

its adoption by the commission. The chief executive shall approve or veto the ordinance or resolution within eight (8) business days after its adoption by the commission, and, except as hereinafter provided, no ordinance or resolution shall become effective without the approval of the chief executive.

(b) If the chief executive vetoes an ordinance or resolution, the chief executive shall return it to the commission within two (2) business days after such veto along with a written statement of the reasons for the veto. If, at the meeting of the commission next held after receiving the vetoed ordinance or resolution, the commission shall again pass the ordinance or resolution by a two-thirds vote of its total membership, such ordinance or resolution shall become effective without the approval of the chief executive. If the chief executive does not approve or veto an ordinance or resolution within eight (8) business days after its adoption by the commission, it shall become effective without the chief executive's approval.

(c) The chief executive may veto any item or items of any ordinance or resolution making appropriations, and the part or parts vetoed shall not become effective, except as provided by subsection (b) of this section with respect to other ordinances or resolutions. Any part of an ordinance or resolution making appropriations not vetoed by the chief executive shall become effective.

(d) Nothing in this section shall authorize the chief executive to exercise a veto over any zoning ordinance adopted by the commission pursuant to its authority under paragraph (10) of subsection (a) of section 9 of this act, nor over any rule adopted by the commission pursuant to its authority under paragraph (19) of subsection (a) of section 9 of this act.

(Acts 1981, p. 4304, § 1; Acts 1988, p. 4740, § 3)

Sec. 16. Comprehensive development plan.

(a) The chief executive shall from time to time present to the commission a comprehensive development plan which shall:

(1) Consider the economic and social aspects of the county;

(2) Set forth the comprehensive development goals, policies and objectives of the county, its specific geographic areas, communities and neighborhoods and the citizens thereof; and

(3) In conformity with such development goals, policies and objectives, identify parks, recreation facilities, sites for public buildings and structures, utilities, transportation systems and facilities, housing, community facilities, manufacturing and industrial sites, future land use for all classifications and such other elements, features and policies as will promote the improvement of the county.

(b) In preparing or revising the comprehensive development plan, the chief executive shall seek the views and opinions of citizens of the county and shall establish and publicize formal procedures to obtain such views and opinions.

(Acts 1981, p. 4304, § 1)

Sec. 17. Budgeting; control of expenditures.

The chief executive shall submit to the board not later than December 15 of each year a proposed budget governing the expenditures of all county funds, including capital outlay and public works projects for the following calendar year. In an election year, if the incumbent chief executive is not reelected, this date may be extended to January 15 of the year to which the budget pertains. The proposed budget submitted to the commission shall be accompanied by a report containing information and data relating to the financial affairs of the county pertinent to arriving at and establishing the annual budget.

The chief executive shall cause to be published in the official organ of DeKalb County a copy of the proposed budget along with a notice to the public that a public hearing on the proposed budget shall be held at a time and place certain, which time shall be not less than ten (10) days of [from] the publication. At this public hearing the commission shall review the proposed budget. It may adopt the budget as presented by the chief executive or it may make such amendments thereto as it deems necessary to maintain the county in a sound financial condition. Nothing herein shall prevent the commission from continuing the hearing on the proposed budget from time to time, provided the time and place to which the hearing is continued shall be publicly announced at the previous hearing. However, the final budget shall be approved and adopted before March 1, of the year to which it pertains. The final budget shall constitute the commission's appropriations of all funds for such year. The budget may be amended during the calendar year which it covers upon formal action of the commission in a regular meeting, but no increase in appropriations shall be made therein without provision also being made for financing same.

A copy of the final budget adopted shall be transmitted by the chief executive to the grand jury of DeKalb County Superior Court then in session within ten (10) days of its adoption.

Between January 1 and such time as the budget for the county is adopted by the board of commissioners, the director of finance, with the approval of the chief executive, shall be authorized to make such expenditures of county funds as are deemed necessary and proper for the continuing operation of the county any its various departments at the then-currently approved level of service. These expenditures shall not include disbursements for new personnel, new services, new equipment, or other items which could be interpreted as providing additional level of service not previously authorized.

No expenditure of county funds shall be made except in accordance with the county budget, or amendments thereto, adopted by the Commission. The chief executive shall enforce compliance with this requirement by all departments, offices, or agencies of the county government, including elected county officers, with the exception of the tax commissioner, clerk of the superior court, district attorney, and sheriff.

(Acts 1981, p. 4304, § 1; Ord. No. 85-17, § I, 7-23-85; Acts 2007, p. 4073, § 1)

Sec. 18. Purchases; contracts.

(a) The chief executive shall establish rules to regulate purchasing for all county departments, offices, and agencies of the county government, with exception of the tax commissioner, clerk of the superior court, district attorney, and sheriff. Except as hereinafter provided, formal sealed bids, after notice of same has been published one (1) time in the official organ of DeKalb County, must be obtained on all purchases exceeding fifty thousand dollars (\$50,000.00). Purchases exceeding fifty thousand dollars (\$50,000.00) may be made without formal sealed bids from any vendor who, at the time of the purchase, has an existing contract or schedule with the State of Georgia or the federal government if the purchase is made pursuant to the price, terms, and conditions of said contract and if the county receives all the benefits of such contract.

(b) Except for contracts of employment, the commission shall authorize all contracts involving the expenditure of county funds in excess of one hundred thousand dollars (\$100,000.00).

(c) The dollar limitations specified in subsections (a) and (b) above may be increased by ordinance of the commission, but except for increasing such limitations, the provisions of said subsections shall not be changed by the commission.

(Acts 1981, p. 4304, § 1; Ord. No. 01-02, 4-10-01; Ord. No. 12-03, 6-10-03; Acts 2007, p. 4073, § 2)

Sec. 19. Department of finance.

(a) The department of finance is hereby established as a permanent administrative unit of the county government. The department shall be under the control and supervision of the director of finance. The department of finance shall perform the following functions:

(1) Keep and maintain accurate records reflecting the financial affairs of the county.

(2) Compile the annual budget covering all county funds.

(3) Make quarterly allotments of monies appropriated and budget to each department, office or agency of the county entitled to receive same.

(4) Maintain current control accounts over the collection and deposit of monies due the county from taxes and other sources.

(5) Examine all claims against the county and make recommendation as to payment.

(6) Maintain budgetary control accounts showing encumbrances for obligations entered into, liquidation of such encumbrances, unencumbered balances of allotments, unexpended balances of appropriations.

(7) Maintain proprietary accounts of the current assets and of the liabilities of all county funds.

(8) Prepare and issue quarterly financial reports of the operations of all county funds.

(9) Maintain property control records of all county property, including equipment and stores, and supervise stores.

(10) Plan and prepare for meeting the financial needs of the county, project financial requirements, recommend means of financing those requirements and advise the chief executive and the commission on financial matters.

(11) Perform such other duties as may be assigned by the chief executive.

(b) The director of finance shall certify to the chief executive and to the commission on March 31, June 30, September 30 and December 31 of each year a statement of county finances which shall reflect the overall county financial position by individual funds as well as a comparison of cash revenue collections by source with the budget estimates of cash revenues by source and also a comparison of departmental expenditures with budget appropriations. The chief executive shall cause the June 30 and December 31 statements to be published in the official organ of DeKalb County one (1) time and a copy posted on the county courthouse bulletin board within thirty (30) days of each date.

(c) Except as hereinafter provided, the provisions of this section are advisory only, and the chief executive, subject to the approval of the commission, may provide for the organization or reorganization of the department of finance and may specify and provide for the powers and duties of the director of finance and other personnel of the department of finance in such manner as may be necessary or desirable for the efficient and effective operation of the department of finance. The department of finance and the office of director of finance shall not be abolished by the chief executive or the commission.

(Acts 1981, p. 4304, § 1)

Sec. 20. Records; minutes.

The commission shall appoint a clerk who shall be the clerk of the chief executive and the commission and shall keep a proper and accurate book of minutes wherein shall appear all the acts, orders, and proceedings of the commission, in chronological order, and a similar book of minutes wherein shall appear, in chronological order, all acts, orders, and proceedings of the chief executive. The minute books of the chief executive and the commission shall be open to public inspection at all times during the regular office hours, and certified copies of any entries therein shall be furnished by the said clerk to any person requesting same upon payment of a reasonable fee, to be paid into the county treasury as other funds, to be assessed by the commission in an amount sufficient to defray the cost of preparing same. In addition, the clerk shall manage the agenda for meetings of the commission and perform such other duties as the commission may direct.

(Acts 1981, p. 4304, § 1; Acts 2008, p. 3897, § 4)

Sec. 21. Agreements of candidates.

It shall be unlawful for any candidate, either for the office of chief executive or for membership on the commission, or for nomination to either of such offices, to enter into any agreement or understanding with any person as to the disposal of any work or appointment which is or shall be under the control of the chief executive or the commission, and any person so offending shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor.

(Acts 1981, p. 4304, § 1)

Sec. 22. Officials not to be interested in contracts.

Neither the chief executive nor any member of the commission or other county officer empowered to use public or county funds for the purchase of goods, property, or services of any kind for public or county purposes shall be financially interested, directly or indirectly, in any contract to which the county is a party, either as principal, surety or otherwise; nor shall such officer, his partner, agent, servant, or employee of a firm of which he is a member or by whom he is employed purchase from or sell to the county any real or personal property, goods or services. Any contract made in violation of any of the foregoing provisions shall be void, and the officer so offending shall be removed from office upon proper proceedings instituted by any taxpayer in said county in accordance with the provisions of section 23-1714 of the Code of Georgia of 1933 [O.C.G.A. § 36-1-14]. Provided, however, that the provisions of this section shall not be applicable to any contract which has been approved, prior to execution, performance and payment thereon, by a majority of the commission by a proper entry on the minutes of the commission.

Sec. 22A. Code of ethics.

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

(2) The General Assembly recognizes that an appropriate and effective code of ethics for appointive officials and employees of DeKalb County is also essential for the proper administration and operation of the DeKalb County government. The General Assembly, therefore, urges and expects the commission to provide by ordinance for a code of ethics substantially the same as the one provided by this section for such appointive officials and employees.

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

(1) *Business* means a corporation, a partnership, a sole proprietor, or any other person or organization carrying on an enterprise for profit.

(2) *Confidential information* means any information which by law or practice is not available to the public.

(3) *Consultant* means any person not a member of the governing authority who is retained, designated, or specially employed to render personal services of a technical or professional nature, whether paid or unpaid, and who has other personal or private employment. The term "consultant" includes, but is not limited to, attorneys, architects, engineers, surveyors, accountants, brokers, financial advisers, and title abstractors.

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

(5) *Emergency situation* means any circumstance or condition giving rise to an immediate necessity for the execution of a contract by and between DeKalb County and a member of the governing authority or between DeKalb County and a business in which a member of the governing authority has an interest and where, to the satisfaction of the chief executive, it is shown that there is no one other than such persons with whom the contract could have been made and that the necessity was not brought about by such persons' own fault or neglect.

(6) *Immediate family* means an individual and the individual's spouse and their parents, children, brothers, and sisters.

(7) *Interest* means any direct or indirect pecuniary or material benefit held by or accruing to a member of the governing authority or to a member of the board of ethics as a result of a contract or transaction which is or may be the subject of an official act or action by or with DeKalb County. Unless otherwise provided in this section, the term "interest" does not include any remote interest. A member of the governing authority or a member of the board of ethics shall be deemed to have an interest in transactions involving:

- a. Any person in the member's immediate family;
- b. Any person with whom a contractual relationship exists whereby, the member may receive any payment or other benefit;
- c. Any business in which the member is a director, officer, employee, prospective employee, or shareholder; or
- d. Any person of whom the member is a creditor, whether secured or unsecured.

(8) *Member of the governing authority or member* means the chief executive or any commissioner of DeKalb County, any member of a board appointed by the governing authority, or any elected or appointed officer or employee of DeKalb County who is not covered by the current or any future merit

system of DeKalb County, except Superior and State Court Judges and their immediate staffs, the District Attorney, the solicitor of the State Court, the Clerks of the Superior and State Courts, Magistrates, Judges of the Recorders Court, the Judge of the Probate Court, and their respective staffs.

(9) *Official act or action* means any legislative, administrative, appointive, or discretionary act of the commission, the chief executive, or a commissioner.

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

(11) *Participate* means to take part in official acts, actions, or proceedings personally as a member of the governing authority through approval, disapproval, decision, recommendation, investigation, the rendering of advice, or the failure to act or perform a duty.

(12) *Person* means any individual, business, labor organization, representative, fiduciary, trust, or association, whether paid or unpaid, and includes any member of the governing authority.

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

(14) *Remote interest* means the interest of:

- a. A nonsalaried director, officer, or employee of a nonprofit corporation;
- b. A holder of less than five (5) percent of the legal or beneficial ownership of the total shares of a business;
- c. Any person in a representative capacity, such as a receiver, trustee, or administrator; or
- d. Any person who, by determinations of the board of ethics, is deemed to have such an interest.

(15) *Transaction* means the conduct of any activity that results in or may result in an official act or action of the governing authority of DeKalb County.

(c) No member of the governing authority shall:

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

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

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

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

- b. Subparagraph a. of this paragraph shall not apply in the case of:
- (i) An occasional nonpecuniary gift of insignificant value;
 - (ii) An award publicly presented in recognition of public service; or
 - (iii) A commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of Georgia to engage in the making of such a loan;
- (3) Disclose or otherwise use confidential information acquired by virtue of his position for his or another person's private gain;
- (4) Appear on his own personal behalf, or represent, advise, or appear on the personal behalf of, whether paid or unpaid, any person before any court or before any legislative, administrative, or quasi-judicial board, agency, commission, or committee of the state or of any county or municipality concerning any contract or transaction which is or may be the subject of an official act or action of DeKalb County or otherwise use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or other persons;
- (5) Engage in, accept employment with, or render services for any private business or professional activity when such employment or rendering of services is adverse to and incompatible with the proper discharge of his official duties. For the purposes of this paragraph, the employment of a consultant by any business involving matters unrelated to any contract or transaction by or with DeKalb County shall not be deemed incompatible with such consultant's official duties;
- (6) Acquire an interest in any contract or transaction at a time when he believes or has reason to believe that such an interest will be affected directly or indirectly by his official act or actions or by the official acts or actions of the governing authority of DeKalb County; or
- (7) Engage in any activity or transaction that is prohibited by law now existing or hereafter enacted which is applicable to him by virtue of his being a member of the governing authority.
- (d) A member of the governing authority who has an interest that he has reason to believe may be affected by his official acts or actions or by the official acts or actions of the governing authority of DeKalb County shall disclose the precise nature and value of such interest by sworn written statement to the board of ethics and ask for its opinion as to the propriety of said interest. Every member of the governing authority who knowingly has any interest, direct or indirect, in any contract to which DeKalb County is or is about to become a party, or in any other business with DeKalb County, shall make full disclosure of such interest to the governing authority of DeKalb County and to the board of ethics. The information disclosed by such sworn statements, except for the valuation attributed to the disclosed interest, shall be made a matter of public record by the board of ethics.
- (e) A member of the governing authority shall disqualify himself from participating in any official act or action of DeKalb County directly affecting a business or activity in which he has any interest, whether or not a remote interest.

(f) DeKalb County shall not enter into any contract involving services or property with a member of the governing authority or with a business in which a member of the governing authority has an interest. This section shall not apply in the case of:

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

(2) The borrowing of funds from any bank or lending institution which offers the lowest available rate of interest for such loan;

(3) Contracts entered into with a business which employs a consultant, provided that the consultant's employment with the business is not incompatible with the consultant's official duties under paragraph (3) of subsection (b) of this section;

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

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

(g) DeKalb County shall not enter into any contract with, or take any official act or action favorably affecting, any person, or business represented by such person, who has been within the preceding twelve-month period a member of the governing authority.

(h) (1) This section shall be construed liberally to effectuate its purpose and policies and to supplement such existing laws as may relate to the conduct of members of the governing authority.

(2) The propriety of any official act or action taken by or transaction involving any member of the governing authority immediately prior to the time this section shall take effect shall not be affected by the enactment of this section.

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

(i) (1) There is created the board of ethics of DeKalb County to be composed of seven (7) citizens of DeKalb County to be appointed as provided in paragraph (2) of this subsection. Each member of the board of ethics shall have been a resident of DeKalb County for at least one (1) year immediately preceding the date of taking office and shall remain a resident of the county while serving as a member of the board of ethics. No person shall serve as a member of the board of ethics if the person has, or has had within the immediately preceding two-year period, any interest in any contract, transaction, or official action of DeKalb County.

(2) Two (2) members of the board of ethics shall be appointed by the chief executive and five (5) members shall be appointed by a majority vote of the full membership of the commission. One (1)

member appointed by the chief executive shall be appointed for an initial term of one (1) year and the other shall be appointed for an initial term of five (5) years. The five (5) members appointed by the commission shall each be appointed for respective initial terms of two (2), three (3), four (4), six (6), and seven (7) years. The appointing authorities shall designate the initial terms of their respective appointees. Successors to the first members of the board of ethics and future successors shall be appointed by the respective appointing authorities for terms of seven (7) years upon the expiration of the respective terms of office. All members of the board of ethics shall serve until their successors are appointed and qualified. The first members of the board of ethics shall be appointed to take office on January 1, 1991.

(3) If a member of the board of ethics ceases to be a resident of DeKalb County, that member's position on the board, by operation of law, shall become vacant upon the establishment of the fact of such nonresidency, if contested, by a court of competent jurisdiction. A vacancy in the board of ethics shall exist by reason of death, resignation, or loss of residency as described in this paragraph. A member of the board of ethics may be removed from office during a term only if the member becomes ineligible to hold civil office within the meaning of Code section 45-2-1 of the O.C.G.A. and that ineligibility is established by decision of a court of competent jurisdiction which declares the office vacant because of such ineligibility. A vacancy shall be filled for the unexpired term by the respective appointing authority.

(4) The members of the board of ethics shall serve without compensation and shall elect from their own membership a chairman and otherwise provide for their own internal organization. The governing authority of DeKalb County shall provide adequate office and meeting space for the board of ethics. Subject to budgetary procedures and requirements and DeKalb County merit system regulations, the board of ethics shall be authorized to employ its own staff and clerical personnel. The governing authority of DeKalb County shall also provide the board of ethics with such supplies and equipment as may be reasonably necessary for it to carry out its duties and responsibilities. The board of ethics shall be a department of the county government and shall be subject to budgetary procedures and requirements in the same manner as are other departments of the county government; provided, however, in exercising its powers and duties under this section, the board of ethics shall be completely independent and shall not be subject to control or supervision by the chief executive, the commission, or any other officer, department, or agency of the county government.

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

a. To establish procedures, rules, and regulations governing its internal organization and the conduct of its affairs;

b. To render advisory opinions with respect to the interpretation and application of this section to all persons who seek as to whether a particular course of conduct would constitute a violation of the standards imposed in this section or other applicable ethical standards. Such opinions shall be binding on the board of ethics in any subsequent complaint concerning the person who sought the opinion and acted in good faith, unless material facts were omitted or misstated in the request for the advisory opinion.

- c. To prescribe forms for the disclosures required in this section and to make available to the public the information disclosed as provided in this section;
- d. To receive and hear complaints of violations of the standards required by this section;
- e. To make such investigations as it deems necessary to determine whether any person has violated or is about to violate any provisions of this section; and
- f. To hold such hearings and make such inquiries as it deems necessary for it to carry out properly its functions and powers.

(6) a. Any member of the governing authority who knowingly violates any provision of the code of ethics provided for in this section shall be subject to reprimand, suspension from office for up to thirty (30) days, or removal from office, after notice and hearing, by the affirmative vote of five (5) members of the board of ethics. The board of ethics by its own motion or as a result of a complaint filed with the board of ethics by any citizen or by a group of citizens of DeKalb County may make such investigation as it deems proper to carry out its duties under this paragraph. For the purpose of this paragraph, the board of ethics may hold and conduct hearings, issue subpoenas, examine witnesses, and administer oaths. The board of ethics shall apply to the Superior Court of DeKalb County for the enforcement of any subpoena issued by the board.

b. At any hearing held under subparagraph a. of this paragraph, the member of the governing authority who is adversely affected shall have the right to be represented by counsel, to hear and examine the evidence and witnesses against the member of the governing authority, and to present evidence and witnesses in opposition or in extenuation.

(7) a. Any member of the governing authority adversely affected by any final decision of the board of ethics under paragraph (6) of this subsection may obtain judicial review of such decision as provided in this paragraph.

b. An action for judicial review may be commenced in the Superior Court of DeKalb County within thirty (30) days after the decision of the board of ethics becomes final.

c. The effective date of the final decision of the board of ethics shall be postponed pending judicial review provided for in this paragraph.

d. The record on review, unless otherwise stipulated by the parties, shall include the original or certified copies of all pleadings, testimony, evidence, exhibits, and other papers presented to or considered by the board of ethics and the findings and decision of the board of ethics. As to alleged procedural irregularities, evidence may be taken independently by the court.

e. If the court finds no error, it shall affirm the decision of the board of ethics. If it finds that such action was:

(i) Arbitrary or capricious;

- (ii) A denial of a statutory right;
 - (iii) Contrary to constitutional right, power, privilege, or immunity;
 - (iv) In excess of statutory jurisdiction, authority, purposes, or limitation;
 - (v) Not in accord with the procedures or procedural limitations of this section or otherwise required by law;
 - (vi) An abuse or clearly unwarranted exercise of discretion, unsupported by substantial evidence when the record is considered as a whole; or
 - (vii) Otherwise contrary to law, then the court shall hold unlawful and set aside the decision of the board of ethics removing the member of the governing authority from office.
- f. The decision of the trial court shall be subject to appellate review in the same manner and with the same effect as in appeals from a final judgment or decree in any other civil action.

(Acts 1990, p. 3900, § 1; Acts 1992, p. 6137, §§ 1--3)

Sec. 23. How sections amended, limitations on powers.

(a) Pursuant to the authority of an amendment to the constitution ratified at the 1978 general elections as set forth in Georgia Laws 1978, pages 2370--2372 [App. B, § 2], which amendment authorized the General Assembly to provide by law for the form of government of DeKalb County and to provide for the various officers, bodies, branches, or agencies by or through which the county's governmental powers shall be exercised, it is the purpose of this section to specify the exclusive method by which the various provisions of this act may hereafter be amended and to limit the powers of the commission in connection therewith. The exclusive method of amendment of the various provisions of this act shall be as follows:

(1) Sections 1, 3, 5, 11, 13, 13A, 14, 15, 16, 22A and 23 of this act and subsections (a) and (c) of section 2 of this act and subsection (a) of section 9 of this act may be amended only by acts of the General Assembly, and any such act shall be conditioned for its effectiveness on the approval of a majority of the qualified electors of DeKalb County voting at an election held for such purpose.

(2) Section 19 of this act may be amended only by acts of the General Assembly, except as otherwise provided by said section 19 and any such act shall be conditioned for its effectiveness on the approval of a majority of the qualified electors of DeKalb County voting at an election held for such purpose.

(3) Subsection (b) of section 2 of this act, sections 4, 6, 7, 8, 21 and 22 of this act, and subsection (c) of section 9 of this act may be amended only by acts of the General Assembly.

(4) Section 18 of this act may be amended only by acts of the General Assembly, except as otherwise provided by said section 18.

(5) Subsection (b) of section 9 of this act and sections 10, 12, 17 and 20 of this act may be amended only by the commission pursuant to the authority and requirements of article IX, section II, of the Constitution of Georgia of 1976 [now Art. IX, § II].

(b) No power or combination of powers vested in the commission by section 9 or any other provision of this act may be exercised in any manner to amend, change, supersede, or repeal, directly or indirectly, any powers vested in the chief executive by this act.

(Acts 1981, p. 4304, § 1; Acts 1984, p. 4916, §§ 2, 3; Acts 1986, p. 4107, § 4; Acts 1990, p. 3900, § 2)

Secs. 24--27. Reserved.

Editor's note: Sections 24--27 were repealed by Acts 1981, p. 4304.

Sec. 28. Use of voting machines.

If, in the opinion of the ordinary of DeKalb County [now board of commissioners. See O.C.G.A. § 21-2-320] it is practicable to hold any election, whether the same be a referendum, special or general election, provided for by this act by use of voting machines, the ordinary is authorized to hold such election or all or any such election by means of voting machines in accordance with the provisions of the act of the General Assembly approved March 28, 1947 (Ga. L. 1947, p 1203) [now repealed. See O.C.G.A. § 21-2-310 et seq.].

Sec. 29. Conflicting laws repealed.

All laws and parts of laws in conflict with this act, and all provisions of the act approved August 21, 1906 (Ga. L. 1906, p. 405) creating the office of commissioner of roads and revenues of DeKalb County which are in conflict with this act, are hereby repealed.

Sec. 30. Separability clause.

Should any court of this state declare any section, part, paragraph or clause of this act unconstitutional or invalid for any cause or reason, then such decision shall affect only that section, part, paragraph or clause so declared to be unconstitutional and invalid, and shall not affect any other section, part, paragraph or clause of this act.