

**Recommended Amendments
DeKalb Charter Review Commission
Sections 6 - 12**

Org Act Section	Recommended Amendments	Rationale
Section 6 - Vacancies	Amend Section 6(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 or more remain in the unexpired term of office, the presiding officer shall immediately notify the election director, upon receipt of said vacancy, for the election director of DeKalb County to begin the election process within fifteen (15) days after the vacancy occurs, and shall issue the call for a special election to fill such vacancy for the unexpired term. Upon completion of the election process and the election of a successor, the executive assistant shall assume the interim responsibilities of the chief executive. If less than 180 days remaining on unexpired term the presiding officer shall exercise powers and duties of chief executive.	The O.A. is silent at to who has responsibility to officially notify the election director of a vacancy. The chief executive delegates his powers to the executive assistant who should be able to maintain continuity of operations. Question: can an appointed executive assistant serve as the interim chief executive filling the role of an elected official? This also avoids creating a commission vacancy. Can Section 13(2b-2d) be construed as to allow this?
	Amend Section 6(b)(1) New: Should multiple commission vacancies occur simultaneously, but do not create affect the commissions ability to maintain a quorum of four (4) members, or to conduct votes requiring a supermajority of five (5) votes , the procedures in Section 6(b) shall apply.	Current situation two commissioners have announced intent to qualify for the CEO position. Need language for simultaneous multiple vacancies on the BOC.
	Amend Section 6(b)(2) New: Should multiple commission vacancies occur simultaneously resulting in the commission's ability to maintain four (4) votes for a quorum or to conduct votes requiring a supermajority of five (5) votes, the following will occur: (A legal opinion is needed to address the applicable language for situations of at least 180 days remaining on unexpired term and less than 180 days remaining on unexpired term.)	The O.A. is silent on this scenario.
	Amend Section 6(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 assume the interim position of chief executive and exercise of chief exercise the powers and duties of the chief executive, except as provided in subsection (e) of this section, for the unexpired term.	See rationale to amend Section 6(b) above.

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Amend Section 6(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, with a supermajority vote, 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.

Amend Section 6(f) New - If the presiding officer assumes the position of interim chief executive with at least 180 days remaining on the unexpired term of office, **creating a vacancy on the commission, the commissioners, by supermajority vote, shall select an interim commission replacement until the completion of the presiding officer's unexpired term provided.**

**Section 7 - Oath and
Bond**

Amend Section 7: 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 and shall sign an affidavit attesting to not holding unaccounted public funds prior to the chief executive and members of the commission taking an oath.**

Is a signed affidavit required to provide for the true and faithful performance of their duties and that they are not the holders of any public funds unaccounted for.

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**Section 8 -
Compensation**

Amend Section 8: To reflect changes in HB 694 approved by the General Assembly and effective July 1, 2023. The provisions of any other law to the contrary notwithstanding:

HB 694 approved by House and Senate (sent to Governor)
An Act providing for the compensation of certain county officers and officials of DeKalb County

Amend to Delete Section 8(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.

In addition to any compensation provided for in an Act providing a supplement to the compensation, expenses, and allowances of the judges of the Stone Mountain Judicial Circuit, approved March 21, 1974 (Ga. L. 1974, p391, as amended, beginning July 1, 2023, the salary supplement provided by DeKalb County to the superior court judges of the Stone Mountain Judicial Circuit shall be increased in the amount of
\$21,489.00

Amend to Delete Section 8(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.

Amend Section 8 (a): Replace Section 8(1) and (2) to reflect changes in HB 694 approved by the Georgia General Assembly effective July 1, 2023, as follows:

**In addition to any compensation provided for in an Act providing a supplement to the compensation, expenses, and allowances of the judges of the Stone Mountain Judicial Circuit, approved March 21, 1974 (Ga. L. 1974, p391), as amended, beginning July 1, 2023, the salary supplement provided by DeKalb County to the superior court judges of the Stone Mountain Judicial Circuit shall be increased in the amount of \$6,876
\$21,489.00.**

Section 8 (b) New: the officials of DeKalb County listed below shall be the following percentages of the gross salary as defined in Section 1 of HB 694:

1. Chief Executive Officer - 100% (\$21,489)
2. Members of the Board of Commissioners - 31.9% (\$6,876)

Based on HB 694 - Effective July 1, 2023
With the enactment of HB 694, the commission's salaries have increased as follows:
2018 - from \$40,531 to \$64,742
2023 - from \$64,742 to \$71,618 (43% increase in five years)

Amend Section 8(c) New: The General Assembly has the authority to increase supplemental compensation for judges, and to amend an Act providing for the compensation of certain county officers and officials of DeKalb County, approved March 31, 1976 (Ga. L. 1976, p. 3986), as amended, so as to revise the compensation of certain judges, judicial officers, and county officers; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Need status from County Attorney.
Has case law been settled as to whether the General Assembly delegated the commission to increase its salary.

Amend Section 8(d) New: The Act revising compensation for DeKalb County elected officials links any supplemental compensation for the judges to automatically adjust compensation for chief executive and commission members and commission members shall not independent of the General Assembly increase their salaries.

See Section 8 (c) above

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**Section 9 -Powers and
Duties of the
Commission**

Amend Section 9(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, **implementation, and oversight** 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.

Note: BOC has no checks and balance functions regarding day-to-day operations.

Org Act is silent as how the commission can compel enforcement of its adopted resolutions, ordinances, regulations, or irregularities brought to its attention.

Amend Section 9(b) New: The following powers are hereby vested in the commission:

(1) The chief executive has exclusive powers to supervise and direct staff on the implementation of resolution, or ordinance entered on it minutes, policies, rules, and regulations governing all matters reserved for its jurisdiction. The commission shall have the authority to establish rules to ensure the implementation and enforcement of governing matters of irregularities identified by the Independent Internal auditor and/or the Board of Ethics.

Amend Section 9(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.

No member of the BOC shall directly or indirectly order, instruct or otherwise attempt to control the actions of county personnel subject to administrative and supervisory control of CEO. There is no recourse for the commission to make sure its ordinances, rules, etc. are carried out.

Amend to include provide implementation and enforcement of the commission's policies and governance resulting from the commission's official actions.

Amend Section 9(c): The commission is hereby authorized to adopt ordinances prescribing penalties and punishment for violation, **failure to implement** its 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,...

Need Law Department to determine what options (other than legal action) could be available to the commission should be defined.

Amend to include action commission can take if the chief executive fails to implement adopted, policies, regulations, ordinances.

BOC has policymaking authority, but lacks the ability to enforce implementation notwithstanding the CEO's ability to veto resolutions/ordinances and the BOC's authority to override veto. Operative words are implementation and enforcement.

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Section 10 - Audits

Amend Section 10(b) ...The auditor shall immediately inform the chief executive officer and the commissioners in writing of any irregularities found in the management of county business by an officer or department of the county. **Amend section to define the responsibility and action to be taken by the executive officer and commissioners when irregularities are reported the commission as an audit finding.**

Section 10 re: independent auditor - shall deliver a copy to each commissioner, the CEO, and the Grand Jury of Superior Court. Under recommended amendment to section 10(b). This will require recommendation from the Law Department as to available options.

Specify the oversight responsibilities for implementation of corrective action.

Amend Section 10(c): The outside auditor shall complete the audit in compliance with Article 1 of Chapter 81 of Title 36 of the Official Code of Georgia Annotated each year, and, within ten (10) days after its completion, the auditor shall deliver a copy of the audit to each commissioner, the chief executive, and the grand jury of the DeKalb County superior court then in session. **Amend to reflect who has authority to act upon and to correct any irregularities?**

There is no oversight defined for corrective action. Need to define how oversight occurs.

**Section 10A -
Independent Internal
Audit**

Amend Section 10A: No O.A. mention of action the BOC can exercise to address irregularities. (Recent Oracle audits were prevented from release by CEO).

Amend Section 10A(g)(8) New Non-Audit Contract Reviews: The auditor shall oversight in reviewing contracts and non-audit contract reviews submitted by purchasing and contracts to the OIIA, prior to approval by the commission to ensure the county receives the best value for its funds.

YTD 2023 OIIA reviewed 15 initial solicitations with a value of \$190,923,856 with costs reduced by \$20,639,688 (11%). Adjustments were accepted by the BOC. Recommended to distinguish between contracts review as part of the auditing process.

Amend Section 10A(j)(4): Any agency failing to respond to audit findings within 60 days, shall be deemed non-compliant and the chief executive officer shall be required to provide a written justification for a lack of response and to provide a date on which the response will be provided to the chief audit executive.

Amend Section 10A(n) (1): To ensure independence of the audit function, an audit oversight committee is hereby established. The audit oversight committee shall consist of five (5) voting members. **No member of the audit oversight committee shall be appointed by the chief executive or commission.**

The OIIA is independent of the chief executive and the commission, but each branch appoints the majority number of members to the Audit Oversight Committee (CEO -1, BOC -2). This appears to be in conflict with the legislation's intent for this office to be independent of the governing authority. The AOC can also select a Chief Audit Executive. Recommend using appointing authorities listed in Board of Ethics legislation to be used for this purpose.

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Section 11 - Presiding Officer

Amend Section 11(a): The chief executive shall have no vote at any regular or specially called meeting of the commission. **If the members of the commission are equally divided, the agenda item shall be considered to have failed approval.** Parliamentary procedures

Amend Section 11(b): **Should the commission fail to agree upon a new presiding officer, the deputy presiding officer shall automatically become the presiding officer for one year.** There is historic precedent of this occurring, taking several months to elect a new presiding officer.

Amend Section 11(c)(2): **Delete last sentence referencing rejection of committee appointments by presiding officer.** To appoint the members and chairpersons of such committees of the commission as the commission, by its rules, may establish and fill vacancies therein. This would prevent politics from entering the appointment process.

Section 12 - Meetings

Amend Section 12: All meetings of the commission shall be conducted in accordance with the Georgia Open Meetings Act. 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 **with a published allotted amount of time for public comment.** **The commission shall hold Committee of the Whole meetings on the first and third Tuesday of each month with published time allotted for public comment.** Currently, COTW meetings do not allow for public comment.