

ATTACHMENT C



Chief Executive Officer
Michael L. Thurmond

Board of Commissioners

District 1
Robert Patrick

District 2
Michelle Long Spears

District 3
Vacant

District 4
Steve Bradshaw

District 5
Mereda Davis Johnson

District 6
Edward "Ted" Terry

District 7
Vacant

March 11, 2024

DeKalb County Senate and House Delegations,
Colleagues on the Board of Commissioners, and
Charter Review Commission:

Dear esteemed members:

The DeKalb County Charter Review Commission has finished its work and I want to commend and thank each member of the Charter Review Commission for their tireless efforts and long hours spent on this endeavor.¹ I write to provide you with various documents for your consideration and my thoughts on the proposed changes to the County's Organizational Act, often referred to as the Charter.

Written Review of the Charter Review Commission's Recommended Changes

I asked the County Attorney to carefully consider the Charter Review Commission's Recommended Changes to the County's Organizational Act² ("Charter Review's Recommended Changes") and to provide a written Review which includes

- the current draft ballot language;
- a description of how the Charter Review's Recommended Changes add to, lessen or eliminate the power, duties or authority of the Chief Executive Officer ("CEO"); and
- a description of how the Charter Review's Recommended Changes,³ add to, lessen or eliminate the power, duties or authority of the Board of Commissioners ("BOC");
- *various governance, policy and administrative questions that I, as the current elected CEO of this County, propose for your consideration.*⁴

¹ See Attachment 1 Executive Order 2024-001 thanking the Charter Review Commission and officially recognizing their efforts and the end of their work.

² The Charter Review Commission's Final Report is posted on the County's website at <https://www.dekalbcountyga.gov/sites/default/files/users/user3677/Final%20DeKalb%20Charter%20Review%20Commission%20Report.pdf>.

³ I asked the County Attorney not to list every change suggested by the Charter Review Commission but to focus on those which changed the power or duties of the executive or legislative branch.

⁴ This March 10, 2024 written Review is attached to this letter as Attachment 2.

Unique Position of a term-limited CEO at the end of his second term

I will be leaving office at year's end and any future change to the Organizational Act will have no effect whatsoever on my service and tenure as the CEO of DeKalb County. Thus, I have no political interest in future changes to the Organizational Act other than as an interested DeKalb County voter. You may or may not find my questions in the Review relevant to your further consideration of this vital piece of legislation.

Ensure a thorough review and full understanding by everyone of changes to the Charter when such changes significantly add to the power and authority of the BOC and, in most respects, reduce or lessen the power and authority of the CEO.

Please do not rush to support or oppose substantive amendments to a charter which fundamentally affects how DeKalb County provides governmental services to every single voter, resident, business and place of worship in DeKalb County. I urge each of you to take the time to consider all perspectives⁵ and allow the DeKalb County voters, the members of the Senate and House Delegation, current and incoming commissioners, the future CEO and Legislative Counsel the opportunity to thoroughly study, discuss, vet and review all of the Charter Review Commission's Recommendations.⁶ This Charter and the recommended changes are complex. Every change may have unintended consequences and each proposed change must be evaluated individually and in relation to existing language and other proposed changes.

Agreed-upon Charter Review Recommended Changes to the Organizational Act

Finally, I asked the County Attorney to prepare a list of proposed changes by the Charter Review Commission that include the technical changes that in her opinion, bring the Organizational Act into compliance with existing state law but which do not require voter approval.⁷ I support technical changes listed in Attachment 3 to this letter so long as the change does not require voter approval.

I humbly request that the members of the Senate and House delegations not enact legislation making any "technical change" before this session ends if that change requires a referendum. In my opinion, it would be a waste of resources and energy to hold a referendum in November 2024 solely for technical changes to the Organizational Act.

⁵ The former elected CEO, Burrell Ellis spoke at the Charter Review Commission's October 12, 2023 meeting and recommended that the Charter Review Commission invite all former elected CEOs of DeKalb County to come to a future meeting to share their views as the former CEOs' perspective was "grounded in experience". Unfortunately, that recommendation was not acted upon.

⁶ The County Attorney has asked that legislative counsel carefully consider the legality of the changing the date the BOC members take office from January 1st to the first meeting in January. The terms of office begin on January 1st and there may be a legal issue with waiting until the first BOC meeting in January for new commissioners to "...take office".

⁷ See Attachment 3.

I am convinced that an open transparent process of deliberation and discussion will allow our state and local leaders to enact amendments to the County's Charter which are in the best interest of all voters, residents, businesses, and places of worship in DeKalb County. Should such changes require voter approval accurate and precise ballot language is essential.



Michael L. Thurmond
Chief Executive Officer
DeKalb County, Georgia

cc: Zachary L. Williams, Chief Operating Officer
Viviane H. Ernstes, County Attorney

Attachment #1



Chief Executive Officer
Michael L. Thurmond

Office of the Chief Executive Officer
DeKalb County, Georgia

Michael L. Thurmond
Chief Executive Officer

Executive Order No. 2024-001
Commending the Charter Review Commission for its Work
Examining the DeKalb County Form of Government

WHEREAS, the Chief Executive Officer of DeKalb County (CEO) created the DeKalb County Charter Review Commission to undertake a comprehensive review of the Organizational Act of DeKalb County; and

WHEREAS, the Charter Review Commission hosted 22 meetings and 6 public hearings which all included public comment, spent countless hours discussing and writing its Recommendations and worked tirelessly to achieve consensus on its Recommendations; and

WHEREAS, the Charter Review Commission completed its work by the assigned date of December 31, 2023 and were disbanded as of that date; and

WHEREAS, the recommendations provided by the Charter Review Commission offer valuable citizen insights regarding DeKalb's governance structure; and

WHEREAS, the Charter Review Commission achieved the goals set forth by the CEO to review the Organizational Act of DeKalb County to ensure that the government of DeKalb County remains representative of all citizens of DeKalb County and responsive to the needs and demands of the citizens of DeKalb County.

NOW THEREFORE, the Chief Executive Officer:

1. Commends and thanks each member of the Charter Review Commission for their dedication, expertise, and invaluable contributions to the enhancement of DeKalb County's governance structure; and
2. Accepts the Charter Review Commission Recommendations for review and consideration; and
3. Formally recognizes that the Charter Review Commission completed its work by the deadline of December 31, 2023 and was disbanded as of that date.

This Order is effective immediately and all previous Executive Orders regarding the Charter Review Commission are of no force and effect.

Board of Commissioners

District 1
Robert Patrick

District 2
Michelle Long Spears

District 3
Vacant

District 4
Steve Bradshaw


District 5
Mereda Davis Johnson

District 6
Edward "Ted" Terry

District 7
Vacant

March 10, 2024

So issued this 11 day of March 2024.



Michael L. Thurmond
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

Barbara H. Sanders, CCC
Clerk to the CEO and BOC

This Executive Order shall remain in the custody of the County Clerk. Certified copies are available upon request.

Attachment #2

REVIEW OF DEKALB COUNTY
CHARTER REVIEW COMMISSION RECOMMENDATIONS

Ballot Question

The ballot shall have written or printed thereon the words:

- “() YES Shall the Act be approved which enacts a new organizational Act
() NO establishing the form of government of DeKalb County and fixing
 the powers and duties of the officers constituting the governing
 authority of DeKalb County by maintaining the current
 Commission-Chief Executive Officer form of government?”

QUESTION - Why is the term “fixing” used when the 1978 constitutional amendment¹ creating DeKalb’s form of government requires voter approval for amendments that are “changing the powers and duties” of the executive or legislative branch of DeKalb County government?

QUESTION - Why is the term “maintaining the current...form of government” used? The “current” Organizational Act is considered a strong executive form of government, while the Charter Review Commission recommendations reduce the authority of the CEO in specific ways and adds to the powers and duties of the BOC to create a stronger legislative branch of government.

QUESTION – Would more accurate and precise phrasing allow the voters to better understand the substantial changes being proposed when they vote yes or no for this change in law?

¹ See 1978 Ga. Laws 2370, 1981 Ga. Laws 4304, as amended and codified as Section 23 of the Organizational Act of DeKalb County and 1987 Ga. Laws 4817 (specifically continuing in force and effect the 1978 amendment to the Georgia Constitution creating the executive and legislative form of government in DeKalb County which dictates when changes to that form of government require voter approval.).

Changes to the Duties, Authority, and Powers of the Board of Commissioners (“BOC”)

New Subpoena Authority to BOC

“(e) Following the adoption of an authorizing resolution, the board of commissioners may make inquiries and investigations into the affairs of the county and conduct of any department, office, or agency thereof and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any such subpoena may be enforced through the superior court of the county.”²

QUESTION- What does the phrase “[f]ollowing the adoption of an authorizing resolution” mean?

QUESTION - Could the BOC adopt a single authorizing resolution giving itself unlimited subpoena power as to any matter or is a separate resolution required for each subpoena to be issued?

QUESTION -What do the words “witness” and “any” mean as used here?

QUESTION – Given the BOC authority to “...make inquiries and investigations into the affairs of the county and conduct of any department, office or agency [of the County] ...” does the use of the word “witness” and “any” mean the BOC can subpoena

- the CEO,
- other BOC members,
- Judges,
- the District Attorney,
- the Solicitor General,
- the Tax Commissioner,
- the Sheriff,
- and members of various county boards, including but not limited to the Ethics Board, the Board of Registration and Elections, the Board of Tax Assessors, the Audit Oversight Committee, the Zoning Board of Appeals, or the Planning Commission

to testify under oath before the BOC?

QUESTION – By allowing the BOC to exercise subpoena power, is the BOC required to act in a quasi-judicial capacity when making inquiries and investigations?

² See DeKalb County Charter Review Recommendations, December 2023 (hereinafter “Recommendations”), page 25 (bold emphasis added). All of the items in quotations with black, blue or red colored font throughout this summary are actual quotations from the Recommendations.

QUESTION – Does any other BOC in Georgia have a general subpoena power to make inquires and investigations into the affairs of the county and conduct of any department, office, or agency?

Budget

Requires the Chief Executive Officer (“CEO”) to submit a Budget by October 1st with BOC approval by December 31st.

New Authority to Allow the BOC to specify how the CEO’s budget report is prepared, presented and supported with documentation.

Potentially Removes Authority of Finance Director with approval of the CEO to expend funds to operate the government beyond December 31st if a budget is not adopted by December 31st and replaces it with language saying the CEO’s budget is the budget if the BOC does not adopt one by December 31st.

“(a) The chief executive, or his or her designee, shall serve as the county budget officer.

(b) The chief executive shall submit to the board not later than ~~December 15~~ October 1 of each year ... **The commission may specify the manner in which the budget report to the commission is to be prepared, presented, and supported with documentation.**”³ ... (c) ... In the event the commission fails to approve the budget by December 31, the budget presented by the chief executive shall serve as the budget document for the county until a final budget is approved by the commission. The final budget shall constitute the commission's appropriations of all funds for such year ... (e) ~~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 an[d] 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, or his or her designee, 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, probate judge, and sheriff.”⁴

QUESTION – Why was this language in (e) deleted? What is the effect of this new language?

³ See Recommendations, page 36. (bold emphasis added).

⁴ See Recommendations, page 37. (bold emphasis added).

QUESTION— Why identify the CEO as the “budget officer” in the Org. Act

QUESTION – Should there be time limits or parameters on the BOC’s ability to specify the manner in which the CEO’s budget report to the commission is to be prepared, presented, and supported with documentation?

Vacancies in the BOC

New Authority to Fill Certain Vacancies on the BOC with less than 4 BOC Votes when there are not 7 commissioners in office.

“(d) In the event a vacancy occurs on the commission when less than 180 days remain in the unexpired term of office, **a majority of the remaining members of the commission**⁵ shall appoint a qualified person to fill such vacancy for the unexpired term...

(f)(1) In the event the chief executive is suspended or vacates the office for any reason, a qualified person shall be appointed to fill the temporary vacancy on the commission created by the presiding officer serving as the chief executive.

(2) In the event a commissioner is suspended, a qualified person shall be appointed to fill the temporary vacancy on the commission created by the suspension.

(3) The appointments required by paragraphs (1) and (2) herein shall be for the unexpired term of the official, until the office of a suspended official is vacated by operation of law, or a suspended official is reinstated, whichever occurs first. Such appointment shall be made in the manner specified in paragraph (d) above.”⁶

QUESTION – Does the phrase “a majority of the remaining members of the BOC” reduce the number of commissioners required to vote on various types of vacancies from a minimum of four commissioners to a majority of the remaining members of the commission?

QUESTION - For example, does this phrase mean that if there are only 5 commissioners remaining on the BOC, it would only take the affirmative vote of 3 commissioners to fill BOC vacancies with less than 180 days left on a term as well as other types of vacancies?

QUESTION – Should this law on vacancies include an appointment process to appoint a temporary commissioner when a commission office is vacated by operation of law and more than 180 days is left on the term? That is the current case in district 3 and super district 7 as there may not be a special election to fill those seats until November of 2024.

QUESTION – If so, what should that temporary commissioner appointment process be? If one were to use the current Charter Review suggestion of appointment by a “majority of the remaining

⁵ Bold black emphasis added.

⁶ See Recommendations, page 22 (bold emphasis added).

members of the commission”, the current makeup of the BOC would allow a district 3 and super district 7 temporary commissioner to be appointed by a vote of three of the five remaining current commissioners to serve until the newly elected commissioner takes office.

QUESTION – Should or could this temporary vacancy provision limit who can serve in these temporary roles on the BOC? Can a person running for the vacated office be appointed to serve as the temporary commissioner?

A New Authority for the BOC or Chief Judge of the Superior Court⁷ to appoint a Temporary Commissioner while the Presiding Officer is exercising duties of CEO.

If an elected BOC member is exercising the powers and duties of the CEO while a CEO is under suspension or has vacated the office for any reason, a **majority of the remaining members of the BOC** are given the power to appoint a new temporary commissioner to fill the elected commissioner’s seat, while they are exercising the duties of the CEO. If the appointment does not occur in 30 days, the duty to make such appointment is changed and given to the Chief Judge to appoint within 30 days.⁸

A New Authority for the BOC or the Chief Judge to appoint a Temporary Commissioner - Suspension of a BOC member.

In the event a commissioner is suspended, a **majority of the remaining members of the BOC** are given the power to appoint a new temporary commissioner to fill the elected commissioner’s seat until the suspended commissioner is reinstated or until the office is vacated by operation of law, whichever first occurs. If the appointment does not occur in 30 days, the duty to make such appointment is changed and given to the Chief Judge to appoint within 30 days.⁹

Limits Authority of BOC to fill a Vacancy on BOC with less than 180 days left in a term of office-New Authority to the Chief Judge to appoint a Permanent Commissioner.

Requires the BOC to fill a vacancy on the BOC when less than 180 days remain on the term within 30 days of the occurrence of the vacancy. If the appointment does not occur in 30 days, the duty to make such appointment is changed and given to the chief judge of the superior court to appoint within 30 days.¹⁰

QUESTION- Is it appropriate for the Chief Judge of the Superior Court to appoint members of the BOC as the BOC, individual members of the BOC and the County are almost always parties to lawsuits pending in the Superior Court of DeKalb County?

Purchasing

After initial 2025 adoption of a purchasing ordinance New Authority to the BOC to amend the 2025 purchasing ordinance on its own motion without CEO involvement.

⁷ Hereinafter referred to as “Chief Judge”.

⁸ See Recommendations, page 22.

⁹ See Recommendations, page 22.

¹⁰ See Recommendations, page 22.

“(a) No later than April 1, 2025, the chief executive, subject to the approval of the commission, shall establish rules to regulate purchasing shall submit to the commission a proposed ordinance, subject to approval by the commission, for the purpose of regulating procurement and purchasing...Subsequent amendments to the [2025 purchasing] ordinance may be proposed for commission approval by the chief executive or the commission.”¹¹

13A Appointments¹² Entities like the Development Authority

New Authority to the BOC to make 13A appointments without nomination by the CEO in certain circumstances.

“(F) Notwithstanding the provisions of subparagraph (A) of this paragraph, if the chief executive does not nominate a person to fill a post or vacancy as required by this subsection within 30 days of the date the vacancy occurs, the commission may, within 30 days thereafter, either at a regular or specially called meeting, elect a qualified person to fill the post without the necessity of a nomination by the chief executive.”¹³

Reduces the Authority of the BOC by requiring the BOC to confirm 13A CEO nominees within time 20- or 15-day time limits or the CEO’s nominee stands confirmed without BOC involvement.

The new language states that if the first CEO 13A nominee is not confirmed in 20 days, the CEO’s first nominee stands confirmed with no further action by the BOC.¹⁴ The new language also states that if the CEO’s second 13A nominee is not confirmed within 15 days, the CEO’s nomination stands confirmed with no further action by the BOC.¹⁵

Changes To Specifically Listed Authority, Powers, and Duties of BOC

New Authority to the BOC – Requires a written explanation from the CEO, the COO or their designee if they fail to respond to a commissioner’s request or deny the request in certain circumstances.

“(b) ...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 or legislative action from any person, including any employee of DeKalb County. Such request shall be responded to by the chief

¹¹ See Recommendations, page 37 (bold emphasis added).

¹² The phrase 13A appointments is the how county employees refer to the appointment power in this subsection and relates to appointments to boards created pursuant to specified state laws like the Development Authority.

¹³ See Recommendations, page 34.

¹⁴ See Recommendations, page 33.

¹⁵ See Recommendations, page 34.

executive or chief operating officer, or his or her designee, in a timely fashion. If the chief executive denies or fails to respond to a commissioner’s request, the chief executive shall provide the requesting commissioner with a written explanation for his or her response or lack thereof.”¹⁶

QUESTION – What does the addition of the term “or legislative action” change about the information required to be provided to a commissioner?

QUESTION – To what does the term “such request” refer? As written, it appears that a commissioner may seek information from “any person, including employees.” Does this now mean the CEO or designee is required to respond or explain if a commissioner requests information from a person who is not employee under the control of the CEO?

Potential New BOC General Authority

“(a) ... The commission shall exercise only those powers which are necessarily and properly incident to its function as a **legislative**, policy-making, or rule-making body or which are necessary to compel enforcement, ~~and oversight, and implementation~~ of its adopted resolutions or ordinances, and any power or combination of powers vested in the commission...”¹⁷

QUESTION – What is the impact of replacing the term “oversight” with the term “implementation”?

QUESTION - Does the addition of the word “implementation” change the power of the BOC to now include a general power to compel that its adopted resolutions or ordinances be implemented?

Removes the “for cause” requirement for the BOC to discharge the COO and the County Attorney.¹⁸

Auditor for the County’s Annual Audit

Limits the Authority of the BOC to choose an Auditor for the County’s Annual Financial Statement Audit because BOC is now required to pick one of the firms recommended by an appointed Audit Oversight Committee.

‘(a) ... The recommended independent auditing firm shall be selected from the list of firms recommended by the Audit Oversight Committee pursuant to subparagraph (n)(9)(g) of Section 11 of this Act.’¹⁹

Departments Under CEO control Being Changed, Consolidated, or Abolished

¹⁶ See Recommendations, page 32.

¹⁷ See Recommendations, page 23.

¹⁸ See Recommendations, page 32.

¹⁹ See Recommendations, page 25 and 30.

Potentially Limits Authority to consolidate or abolish departments so as to require BOC approval via separate resolution in addition to budget approval.

“Subject to the approval of the commission **by resolution**, 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 **by resolution**, 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.”²⁰

QUESTION - If a department is changed, consolidated, or abolished and such changes are funded by the commission through adoption of a budget, must there be an additional resolution by the BOC to change, consolidate or abolish a department under the CEO?

Finance Department

New Additional Authority to the BOC to eliminate the Authority of the CEO to change the 11 specified functions of the finance department without a resolution adopted by the BOC.

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 Except as otherwise provided by resolution of the governing authority, the** department of finance shall perform the following functions:...(c) ~~Except as hereinafter provided, the provisions of this section are advisory only, and the~~ **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.²¹

Future Charter Review Commissions

Gives the BOC legal authority to establish charter review commissions by resolution and at the request of the CEO or the BOC the charter review commission can review and make recommendations for revisions to specific chapters of any or all of the ordinances enacted by DeKalb County.

QUESTION - Would future CEOs be prevented from creating a Charter Review Commission?

²⁰ See Recommendations, page 32.

²¹ See Recommendations, page 38 (bold emphasis added).

"For the purpose of undertaking a comprehensive review of this organizational act, an organizational act review commission ... shall be established by resolution of the board of commissioners no later than January 2029 and every eight years thereafter. . . If requested by either the chief executive or by resolution of the board of commissioners, an organizational act review commission may review specific chapters of the Code of DeKalb County, as Revised 1988, and make recommendations for revisions of said chapters."²²

Requires the BOC to establish citizen engagement programs.²³

Increases the Authority of the BOC to impose a penalty for ordinance violations to 60 days in jail and removes reference to a "labor on a work gang".²⁴

Clarifies the BOC Ward Courtesy Rule to require an affirmative vote by either the super district or district commissioner prior to approval of a planning or zoning ordinance.²⁵

Changes to the Duties and Power of the CEO

Subpoenas- New Subpoena Authority given to the BOC potentially means the CEO and all other elected county officials including but not limited to Judges, prosecutors, the Sheriff, and the Tax Commissioner can be subpoenaed to testify under oath before the BOC.²⁶

Budget - Requires the CEO to submit a Budget by October 1st with BOC approval by December 31st.²⁷

New Authority allows the BOC to specify how the CEO's budget report is prepared, presented and supported with documentation.²⁸

Potentially Removes Authority of Finance Director with approval of the CEO to expend funds to operate the government beyond December 31st if a budget is not adopted by December 31st and replaces it with language saying the CEO's budget is the budget if the BOC does not adopt one by December 31st.²⁹

Purchasing – Requires the CEO to submit a purchasing ordinance to the BOC by April 1, 2025, requires BOC approval within 60 days. If no approval, the CEO ordinance becomes the purchasing ordinance.³⁰

After initial 2025 adoption of purchasing ordinance, the BOC can amend purchasing

²² See Recommendations, page 50.

²³ See Recommendations, page 25.

²⁴ See Recommendations, page 25.

²⁵ See Recommendations, page 24.

²⁶ See Recommendations, page 25.

²⁷ See Recommendations, page 36.

²⁸ See Recommendations, page 36.

²⁹ See Recommendations, page 38.

³⁰ See Recommendations, page 37.

ordinance without CEO involvement.³¹

Breaking a Tie Vote

The ability of the CEO to break a tie vote is eliminated entirely.

~~(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.~~³²

Appointments- Eliminates the Authority of the CEO to make 13A nominations if not done within 30 days of the date a vacancy occurs.³³

Written Explanation – Requires a written explanation from the CEO, the COO or their designee if they fail to respond to a commissioner’s request or deny the request in certain circumstances.³⁴

Finance Department -Eliminates the authority of the CEO to change the 11 specified functions of the Finance Department without a resolution adopted by the BOC.³⁵

Charter Review – Gives the BOC the authority to establish charter review commissions by resolution and at the request of the CEO or the BOC the charter review commission can review and make recommendations for revisions to specific chapters of any or all of the ordinances enacted by DeKalb County.³⁶

Departments – Potentially Changes the Authority of the CEO to consolidate or abolish departments so as to require BOC approval via separate resolution in addition to budget approval.³⁷

Restates and potentially expands the CEO’s role to manage internal and external relationships.³⁸ The CEO already has the Authority under the current charter to “...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”.³⁹

³¹ See Recommendations, page 32.

³² See Recommendations, page 31.

³³ See Recommendations, page 34.

³⁴ See Recommendations, page 32.

³⁵ See Recommendations, page 21.

³⁶ See Recommendations, page 50.

³⁷ See Recommendations, page 32.

³⁸ See Recommendations, page 31.

³⁹ See Recommendations, page 31. The new language reads: “(a) The chief executive shall manage all external relationships for the county including, but not limited to, relationships with the United States Congress, the Georgia General Assembly,

The CEO is required to designate an open records officer to be responsible for coordinating and ensuring that all open records requests are handled in a timely and eff

and federal, state, regional, and local government agencies and organizations including DeKalb municipalities and other county governments. The chief executive shall represent the county in all such intergovernmental matters. The chief executive shall also manage all internal relationships including, but not limited to, relationships with the board of commissioners, other elected county officers and officials, and the judiciary, as well as all appointed boards, commissions, authorities and similar organizations of the county. The chief executive 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.”

Attachment #3

**Summary¹ of Sections of the DeKalb County Organizational Act CEO
Thurmond Agrees should be changed in whole or in part based on
Recommendations from the Charter Review Commission**

Section 1.	Governing authority [described]	Agreed
Section 2.	The commission	Agreed but residency and age changes in subsection 2(e) may require voter approval
Section 3.	Establishment of commission	Agreed
Section 4.	Running for other elective offices	Agreed but may require voter approval
Section 5.	Chief executive	Agreed but residency and age changes in subsection 5(a) may require voter approval
Section 9.	Powers and duties of the commission	Agreed to change only in (b)(18), (b)(20), and (c) but changes to (b)(18) (licenses) and (c) (chain gang) require voter approval.
Section 10.	Audits	Agreed to changes in subsections (b) and (c) but change to (b) may require voter approval
Section 10A.	Independent internal audit	Agreed to all changes except changes in subsections j(4), (j)(5), and (l)
Section 12.	Meetings	Agreed
Section 16.	Comprehensive development plan	Agreed to changes in subsection a(1) only but changes may require voter approval
Section 19.	Department of finance	Agreed to change in subsection (b) only
Section 20.	Records; minutes	Agreed as to changes in subsections (c) and (e) but changes to subsection (b) may require voter approval
Section 22.	Officials not to be interested in contracts	Agreed
Section 22A.	Code of ethics	Agreed
Section 28.	Use of voting machines	Agreed

¹ The specific terms of CEO Thurmond's agreement are reflected in the attached document, and this is simply a summary for ease of reference.

Notes:

- The comments embedded in this document¹ were authored by the DeKalb County Attorney, Viviane Ernstes, and reflect either her legal opinion as to the requirement for voter approval or submits a question for legislative counsel about such voter approval. The exact language used in a state law is within the authority of members of the General Assembly and Legislative Counsel, and not subject to unilateral change by a county or its county attorney. Likewise, the decision whether a change in law requires a referendum is also within the discretion of legislators and Legislative Counsel.
- The County Attorney's comments also include identifying the sections or specified subsections of the Organizational Act CEO Thurmond agrees can and should be changed. At this time, CEO Thurmond agrees with revisions to bring the Organizational Act (Org. Act) into compliance with state law but only if such changes do not require voter approval.
- CEO Thurmond believes that an in-depth review of the substantive changes recommended by the Charter Review Commission should occur as outlined in CEO Thurmond's March 11, 2024 letter to the Senate and House Delegations and others.
- CEO Thurmond believes a thorough review of the Charter Review Recommendations must occur before the voters of DeKalb County are asked to vote to fundamentally change the power and duties of the executive and legislative branches of DeKalb County government.
- CEO Thurmond agrees that changing the title from Executive Assistant to Chief Operating Officer throughout the Org. Act is appropriate so long as such title change does not require voter approval.

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.

Sec. 2. - The commission.

- (a) The commission shall consist of seven members.
- (b) For purposes of electing members of the board of commissioners, DeKalb County is divided into seven commissioner districts. One member of the board shall be elected from each such district.

¹ On Friday March 8, 2024 Jim Grubiak, a lawyer and a member of the Charter Review Commission provided the County Attorney with a word document which he represented constituted the final Charter Review Commission's recommended changes to the Org. Act. Mr. Grubiak's document was used to create this document.

- (c) (1) Commissioner Districts 1, 2, 3, 4, and 5 shall be and correspond to those five numbered districts described in [Appendix A](#) and attached to and made a part of this Act and further identified as "[DeKalb CC Plan Name: DeKalbCCr-2022 Plan Type: Local](#)" "[Plan: dekalbcc-import1-02002012 Plan Type: local Administrator: dekalb-cc User: bak](#)".
- (2) When used in such attachment, the term "VTD" (voting tabulation district) 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 ~~2020~~ [2010](#) for the State of Georgia.
- (3) The separate numeric designations in a district description which are underneath a VTD heading shall mean and describe individual Blocks within a VTD as provided in the report of the Bureau of the Census for the United States decennial census of ~~2020~~ [2010](#) for the State of Georgia. Any part of DeKalb County which is not included in any such district described in that attachment shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of ~~2020~~ [2010](#) for the State of Georgia.
- (4) Any part of DeKalb County which is described in that attachment as being in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included within that district contiguous to such part which contains the least population according to the United States decennial census of ~~2020~~ [2010](#) for the State of Georgia.
- (5) Except as otherwise provided in the description of any commissioner district, whenever the description of such 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 ~~2020~~ [2010](#) for the State of Georgia.
- (6) Paragraphs (2) through (5) of this subsection shall only be applicable with respect to Commissioner Districts 1, 2, 3, 4, and 5.
- (d) (1) Commissioner Districts 6 and 7 shall be and correspond to those two numbered districts described in and attached to and made a part of this Act and further identified as "[User: DeKalb Plan Name: DeKalbCC-Super-2022 Plan Type:](#)" "[Plan Name: deksuperdist4 Plan Type: LOCAL User: Gina Administrator: CNTY-DEKALB](#)".
- (2) When used in such attachment, the terms "Tract" and "BG" (Block Group) 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 ~~2020~~ [2000](#) for the State of Georgia. The separate numeric designations in a Tract description which are underneath a BG heading shall mean and describe individual Blocks within a Block Group as provided in the report of the Bureau of the Census for the United States decennial census of ~~2020~~ [2000](#) for the State of Georgia. Any part of DeKalb County which is not included in any such district described in that attachment shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of ~~2020~~ [2000](#) for the State of Georgia. Any part of DeKalb County which is described in that attachment as being in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included within that district contiguous to such part which contains the least population according to the United States decennial census of ~~2020~~ [2000](#) for the State of Georgia. Except as otherwise provided in the description of any commissioner district, whenever the description of such 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 ~~2020~~ [2000](#) for the State of Georgia. This paragraph shall only be applicable with respect to Commissioner Districts 6 and 7.

Commented [VE1]: Jim Grubiak advised the County Attorney on Friday 3.8.24 that Legislative Counsel was ensuring that the language for section 2 conforms to HB 1250, the reapportionment act passed in 2022. CEO Thurmond agrees to the changes in subsections a, b, c, and d if and when revised by Legislative Counsel so long as such changes only reflect the reapportionment from HB1250.

[\[Districts\]](#)

[Plan: dekalbcc-import1-02002012](#)
[Plan Type: local Administrator: dekalb-cc User: bak](#)

[District 004](#)

DeKalb County

~~VTD-089AD-AUSTIN~~

~~VTD-089AG-ASHFORD DUNWOOD~~

~~VTD-089AH-ASHFORD PARKSIDE~~

~~VTD-089BD-BRIARLAKE ELEMENTARY~~

~~VTD-089BF-BROCKETT ELEMENTARY~~

~~VTD-089BH-BROCKETT~~

~~021805:~~

~~1000 1001 1002 1003 1004 1005 1006 1007 1008 1011 1012~~

~~021806:~~

~~1005~~

~~021809:~~

~~2038 2039 2040~~

~~VTD-089CE-CHAMBLEE (CHA)~~

~~VTD-089CH-CHESNUT ELEMENTARY~~

~~VTD-089DA-DORAVILLE NORTH~~

~~VTD-089DB-DORAVILLE SOUTH~~

~~VTD-089DF-DUNWOODY~~

~~VTD-089DG-DUNWOODY HIGH~~

~~SCHOOL VTD-089DI-DUNWOODY~~

~~LIBRARY VTD-089EC-EMBRY-~~

~~HILLS~~

~~VTD-089EF-EVANSDALE ELEM~~

~~VTD-089GD-GEORGETOWN SQ~~

~~VTD-089HC-HENDERSON MILL~~

~~VTD-089HF-HUNTLEY HILLS ELEM~~

~~VTD-089HG-HUGH HOWELL~~

~~VTD-089KB-KINGSLEY ELEM~~

~~VTD-089LV-LAWRENCEVILLE HIGH SCHOOL~~

~~VTD-089MH-MIDVALE ELEM~~

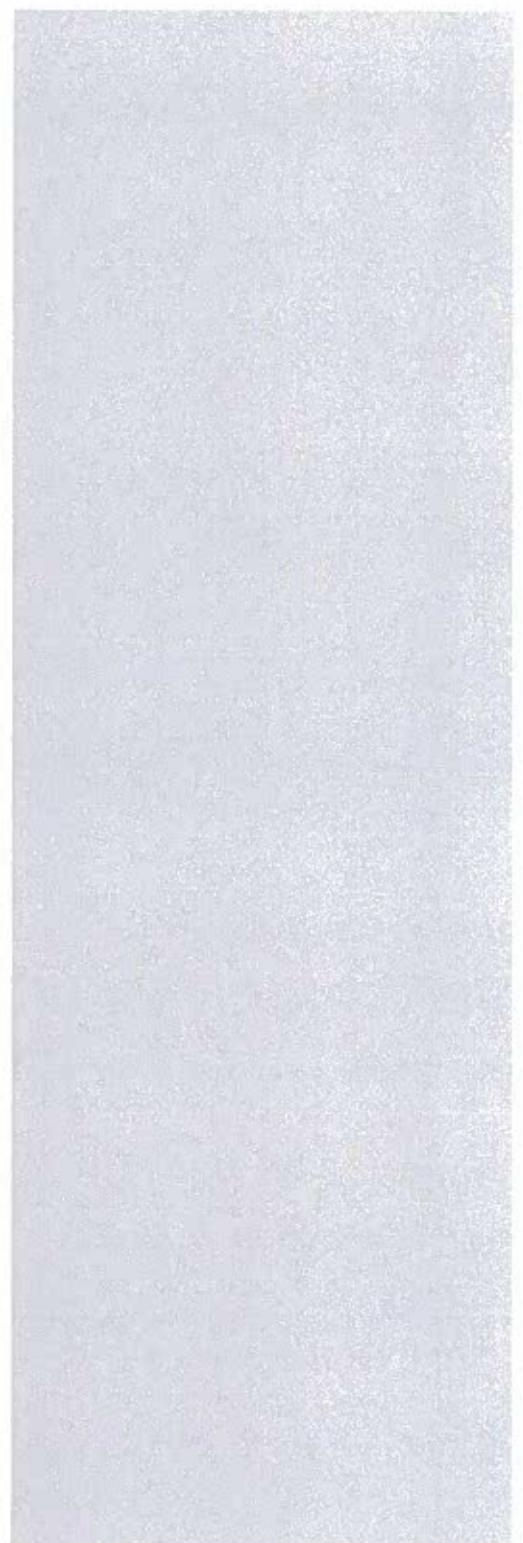
VTD: 089MQ—MOUNT VERNON EAST
VTD: 089MS—MOUNT VERNON WEST
VTD: 089MU—MONTGOMERY ELEM
VTD: 089MW—MIDVALE ROAD
VTD: 089NA—NANCY CREEK ELEM
VTD: 089NF—NORTH PEACH TREE
VTD: 089OB—OAKCLIFF ELEM
VTD: 089PB—PEACHTREE MIDDLE SCHOOL
VTD: 089PF—PLEASANTDALE ELEM
VTD: 089PK—PLEASANTDALE ROAD
VTD: 089SH—SMOKE RISE
VTD: 089TF—TUCKER
VTD: 089TG—TILLY MILL ROAD
VTD: 089TH—TUCKER LIBRARY
VTD: 089WM—WARREN TECH
VTD: 089WL—WINTERS CHAPEL

District 002

DeKalb County

VTD: 089AB—ASHFORD PARK ELEMENTARY
VTD: 089BC—BRIAR VISTA ELEMENTARY
VTD: 089BE—BRIARWOOD

VTD: 089BG—BRIARCLIFF VTD: 089BI—
BROOKHAVEN
VTD: 089CI—CLAIREMONT WEST
VTD: 089CJ—CLAIRMONT HILLS
VTD: 089CO—CROSS KEYS HIGH
VTD: 089CV—CLAIREMONT EAST
VTD: 089CW—CORALWOOD
VTD: 089DC—DRESDEN ELEM
VTD: 089DH—DRUID HILLS HIGH SCHOOL



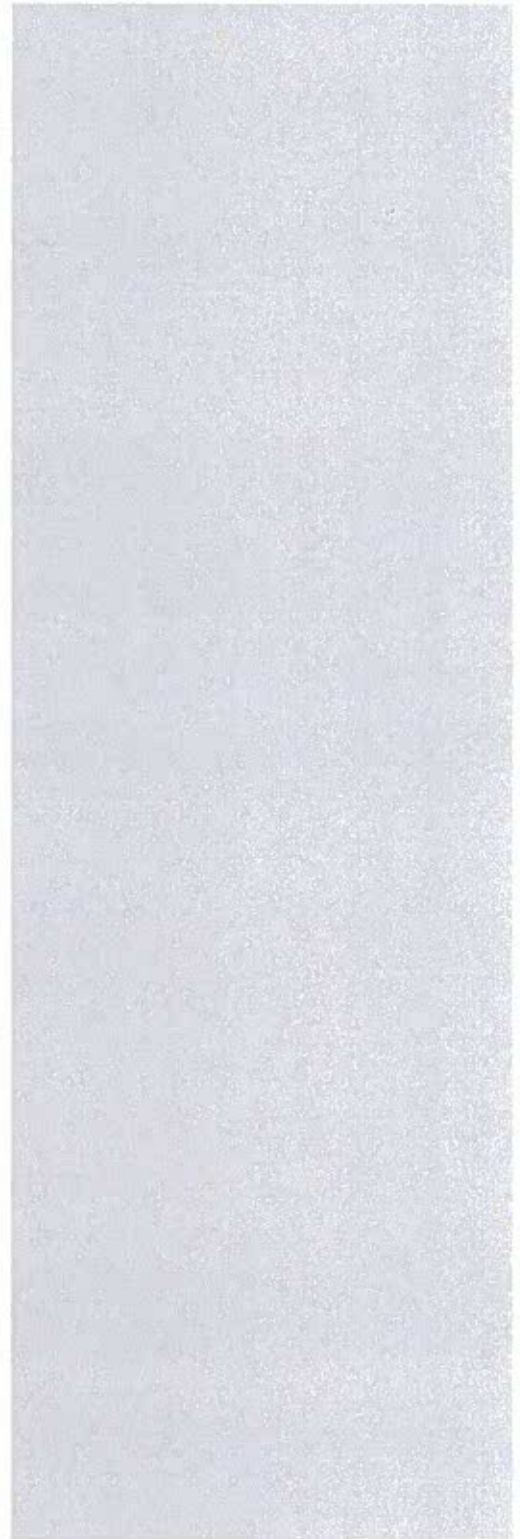
VTD-089EE-EPWORTH (ATL)
VTD-089EG-EMORY SOUTH
VTD-089ER-EMORY ROAD
VTD-089FB-FERNBANK ELEM
VTD-089GA-GLENNWOOD (DEC)
VTD-089HB-HAWTHORNE ELEM
VTD-089HD-HERITAGE ED
VTD-089JA-JOHNSON ESTATES
VTD-089LA-LAKESIDE HIGH
VTD-089LB-LAVISTA ROAD
VTD-089LC-LAVISTA
VTD-089LE-MARYLIN ELEM
VTD-089MG-MEDLOCK ELEM
VTD-089MJ-MONTCLAIR ELEM
VTD-089MP-MARGARET HARRIS
VTD-089ND-NORTH LAKE
VTD-089OA-OAK GROVE ELEM
VTD-089OK-OAKHURST (DEC)
VTD-089PG-PONCE DE LEON
VTD-089RD-REHOBOTH
VTD-089RN-RENFROE MIDDLE
VTD-089SA-SAGAMORE HILLS
VTD-089SB-SCOTT

VTD-089SE-SILVER LAKE
VTD-089SF-SKYLAND
VTD-089WF-WINNONA PARK ELEM
VTD-089WJ-WOODWARD ELEM

District 003

DeKalb County

VTD-089AF-HOOPER ALEXANDER



~~VTD-089BB-BOULEVARD(ATL)~~
~~VTD-089BL-BOULDERCREST RD~~
~~VTD-089BR-BURGESS ELEMENTARY~~
~~VTD-089CA-COLUMBIA DRIVE~~
~~VTD-089CB-CANBY LANE ELEMENTARY~~
~~VTD-089CC-COLUMBIA ELEMENTARY~~
~~VTD-089CD-CEDAR GROVE ELEMENTARY~~
~~VTD-089CG-CHAPEL HILL ELEMENTARY~~

~~023426:~~

~~1000-1001-1002-1003-1004-1005-1006-1010-1013-1017-1018-1019-1020-1021-1022-1023-1026-1031~~

~~VTD-089CL-CLIFTON ELEMENTARY~~
~~VTD-089CM-COLUMBIA MIDDLE~~
~~VTD-089CN-COAN MIDDLE~~
~~VTD-089CQ-CANDLER~~
~~VTD-089CR-CEDAR GROVE MIDDLE~~
~~VTD-089CS-CEDAR GROVE SOUTH~~
~~VTD-089EA-EAST LAKE ELEM~~
~~VTD-089EB-EASTLAND~~
~~VTD-089FC-FLAT SHOALS ELEM~~
~~VTD-089FE-FLAT SHOALS PARKWAY~~
~~VTD-089FJ-FLAT SHOALS~~
~~VTD-089FK-FLAKES MILL FIRE~~
~~VTD-089FL-FLAT SHOALS LIBRARY~~
~~VTD-089GC-GRESHAM PARK ELEM~~
~~VTD-089HH-NARVIE J HARRIS~~
~~VTD-089KA-KELLEY LAKE ELEM~~
~~VTD-089KC-KELLEY CHAPEL~~
~~VTD-089KE-KNOLLWOOD ELEM~~
~~VTD-089ML-MEADOW VIEW ELEM~~
~~VTD-089MO-MIDWAY ELEM~~
~~VTD-089MP-MCNAIR MIDDLE~~
~~VTD-089MR-BOB MATHIS ELEM~~
~~VTD-089MT-METROPOLITAN~~

~~VTD-089OV—OAK-VIEW-ELEM~~
~~VTD-089PA—PEACHCREST-ELEM~~
~~VTD-089PN—PINEY-GROVE~~
~~VTD-089RA—RAINBOW-ELEM~~
~~VTD-089SG—SNAPPFINGER-ELEM~~
~~VTD-089SR—SNAPPFINGER-ROAD~~
~~VTD-089TA—TERRY-MILL-ELEM~~
~~VTD-089TB—TILSON-ELEM~~
~~VTD-089TC—TONEY-ELEM~~
~~VTD-089WA—WADSWORTH-ELEM~~
~~VTD-089WB—WESLEY-CHAPEL-SOUTH~~
~~VTD-089WE—WHITEFOORD-ELEMENTARY~~

District-004

DeKalb-County

~~VTD-089AA—ALLGOOD-ELEMENTARY~~
~~VTD-089AE—AVONDALE-(AVO)~~
~~VTD-089AM—AVONDALE-MIDDLE~~
~~VTD-089BH—BROCKETT~~

~~021805-1015-1018-1019-1020-1021-1022-1023-1024-1025-1026-2000-2001-2002-2003-2004-2006-2006
2007-2008-2009-2010-2011-2012-2013-2014-2015-2016-2017-2018-2019-2020-2021-2022-3019~~

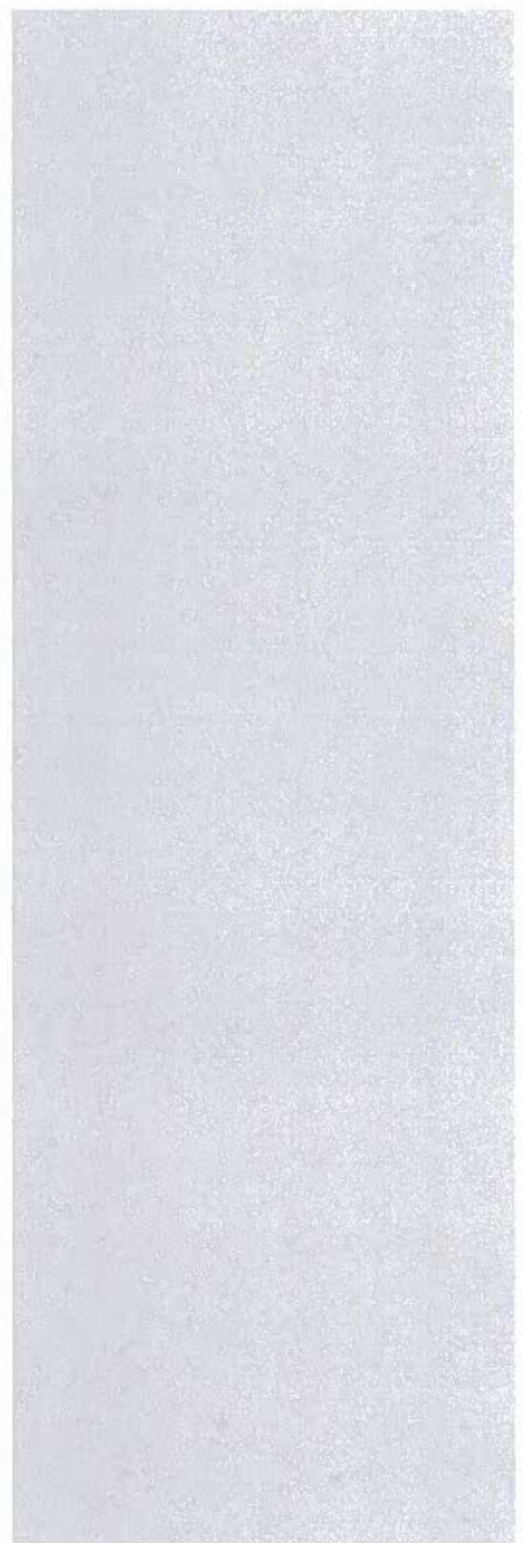
~~021810:~~

~~3023-3030-3031-3034-3036~~

~~022000:~~

~~3007-3008~~

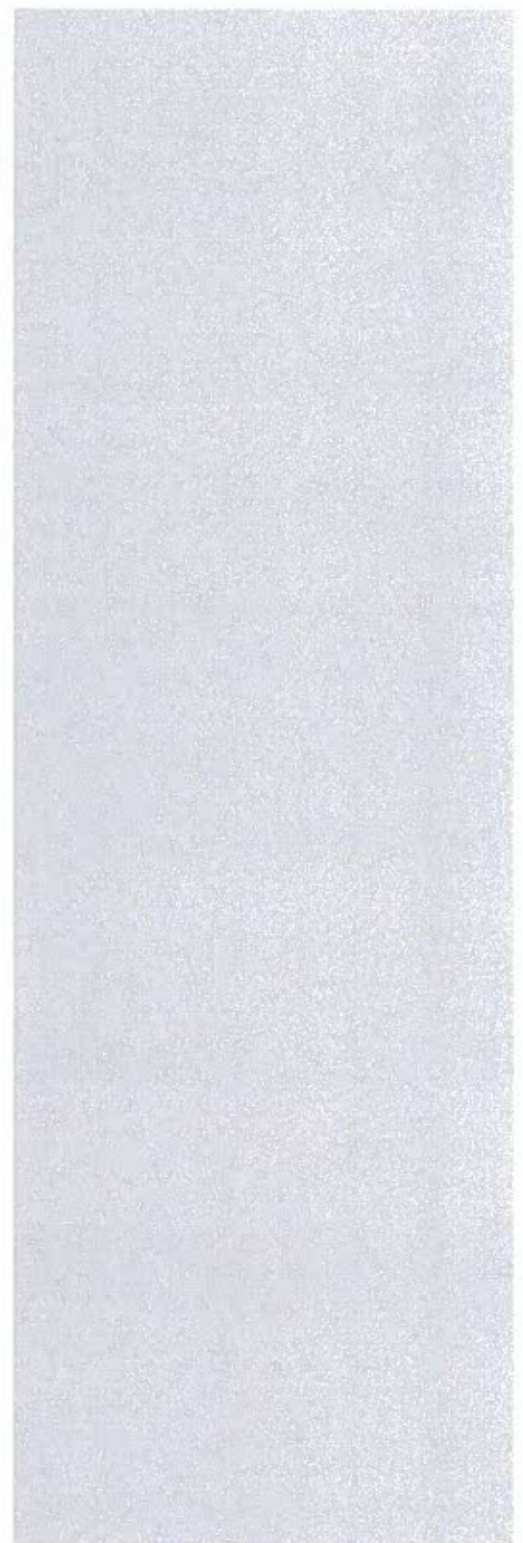
~~VTD-089CK—CLARKSTON-(CLA)~~
~~VTD-089CT—COVINGTON-HWY-L~~
~~VTD-089DE—DUNAIRE-ELEM~~
~~VTD-089FD—FORREST-HILLS-ELEM~~
~~VTD-089FM—FREEDOM-MIDDLE~~
~~VTD-089HA—HAMBRICK-ELEM~~
~~VTD-089IA—IDLEWOOD-ELEM~~



VTD-089IB—INDIAN CREEK ELEM
VTD-089JB—JOLLY ELEM
VTD-089MA—ELDRIDGE L MILL
VTD-089ME—MCLENDON ELEM
VTD-089MK—MONTREAL
VTD-089MM—MEMORIAL NORTH
VTD-089MN—MEMORIAL SOUTH
VTD-089NB—NORTH DECATUR
VTD-089NC—NORTH HAIRSTON
VTD-089PE—PINE LAKE (PIN)
VTD-089RE—ROCKBRIDGE ELEM
VTD-089RI—ROCKBRIDGE ROAD
VTD-089RJ—ROWLAND ROAD
VTD-089SC—SCOTTDALE
VTD-089SD—STN MTN ELEMENTARY
VTD-089SI—STN MTN MIDDLE
VTD-089SJ—STONE MILL ELEM
VTD-089SK—SHADOW ROCK
ELEM VTD-089SN—SHAMROCK
MIDDLE VTD-089SO—SOUTH
DESHON VTD-089SP—STN MTN
CHAMPION VTD-089SQ—STONE
MTN LIBRARY VTD-089ST—
STEPHENSON MIDDLE VTD-089SU—
—SOUTH HAIRSTON VTD-089SV—
STEPHENSON HIGH VTD-089VB—
VALLEY BROOK
VTD-089WN—WYNBROOKE ELEM

District 005

VTD-089AC—ATHERTON ELEMENTARY



VTD: 089BJ - BROWN'S MILL ELEMENTARY

VTD: 089BM - BETHUNE MIDDLE

VTD: 089CF - MURPHEY CANDLER

VTD: 089CG - CHAPEL HILL ELEMENTARY

023426:

1000-1004 1026-1027 2000-2001 2002-2003 2004-2005 2006-2007 2008-2009 2010-2011 2012-
2013 2014-2016 2017-2018 2019-2020 2021-2022 2023-2024 2025-2026 2027-2028 2029

VTD: 089CP - GROSSROADS

VTD: 089FA - FAIRINGTON ELEM

VTD: 089FG - FLAT ROCK ELEM

VTD: 089GB - GLENHAVEN

VTD: 089GE - GLENHAVEN ELEM

VTD: 089KD - M.L. KING JR. HIGH

VTD: 089LD - LITHONIA (LIT)

VTD: 089LH - LITHONIA HIGH SCHOOL

VTD: 089MC - MARBUT ELEM

VTD: 089MF - MCWILLIAMS

VTD: 089MI - MILLER GROVE MIDDLE SCHOOL

VTD: 089MV - MILLER GROVE ROAD

VTD: 089MZ - MILLER GROVE HIGH

VTD: 089PC - PRINCETON ELEM

VTD: 089PH - PANOLA

VTD: 089PI - PANOLA WAY ELEM

VTD: 089PR - PANOLA ROAD

VTD: 089RC - REDAN ELEM

VTD: 089RF - ROCK CHAPEL ELEM

VTD: 089RG - ROWLAND ELEM

VTD: 089RH - REDAN TROTTI

VTD: 089RK - REDAN ROAD

VTD: 089RL - ROCK CHAPEL ROAD

VTD: 089RM - REDAN MIDDLE

VTD: 089SL - STONEVIEW ELEM

~~VTD-089SM—SALEM MIDDLE~~
~~VTD-089SS—SNAPFINGER ROAD~~
~~VTD-089WD—WOODROW ROAD~~
~~VTD-089WG—WOODRIDGE ELEM~~
~~VTD-089WK—WHITE OAK~~
~~VTD-089YA—YOUNG ROAD~~

- (e) ~~No person shall be a member of the board of commissioners if that person is ineligible for such office pursuant to Code Section 45-2-2 of the O.C.G.A., as now or hereafter amended, or any other general law. At the time of qualifying for election as a commissioner, Each commissioner candidate shall be a citizen of this state, at least 21~~26~~ years of age, and shall have been a resident of the geographic area encompassed by the respective commissioner district for at least ~~two-year~~ 12 months 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.~~

Commented [VE2]: CEO Thurmond agrees to the BOC and CEO residency and minimum age requirements changes, but the 21 years of age change requires voter approval. The Charter Review set the minimum age at 21 but state law O.C.G.A. Section 45-2-1 allows a county, by local ordinance, to reduce that age from 21 to 18 years of age. This change to the Charter appears to eliminate the power of the County to use state law to reduce the minimum age to be CEO or a commissioner from 21 to 18; thus it requires voter approval in my opinion.

Sec. 3. - Establishment of commission.

- (a) ~~Commissioner Districts 1, 2, 3, 4, and 5, as they exist on January 1, 2022~~2012~~, shall continue to be designated as Commissioner Districts 1, 2, 3, 4, and 5, respectively, but as newly described under this Act, and such members of the board serving from those former commissioner districts shall be deemed to be serving from and representing their respective districts as newly described under this Act. Commissioner Districts 6 and 7 as they exist on January 1, 2022~~2012~~, shall continue to be designated as Commissioner Districts 6 and 7 as described under this Act and in effect on January 1, 2022~~2012~~.~~

Commented [VE3]: Jim Grubiak advised the County Attorney on Friday 3.8.24 that Legislative Counsel was ensuring that the language in this section 3 conforms to the HB 1250 reapportionment act passed in 2022. CEO Thurmond agrees to the changes if and when revised by Legislative Counsel so long as such changes only reflect the reapportionment from HB1250.

- (b) Those members of the Board of Commissioners of DeKalb County who are serving as such on January 1, ~~2022~~²⁰¹², and any person selected to fill a vacancy in any such office shall continue to serve as such members until the regular expiration of their respective terms of office and until the election and qualification of their respective successors. The successor to each such member shall be elected as provided in this section.
- (c) The first members for new Commissioner Districts 1, 4, and 5 and the member from Commissioner District 6 shall be elected at the general election on the Tuesday next following the first Monday in November, ~~2022~~²⁰¹². Those members of the board elected thereto from new Commissioner Districts 1, 4, and 5 and from Commissioner District 6 in January 1, ~~2022~~²⁰¹², shall take office the first day of January immediately following that election and shall serve for initial terms of office which expire December 31, ~~2026~~²⁰¹⁶, and upon the election and qualification of their respective successors.
- (d) The first members for new Commissioner Districts 2 and 3 and the member from Commissioner District 7 shall be elected at the general election on the Tuesday next following the first Monday in November, ~~2024~~²⁰¹⁴. Those members of the board elected thereto from new Commissioner Districts 2 and 3 and from Commissioner District 7 in ~~2024~~²⁰¹⁴ shall take office the first day of January immediately following that election and shall serve for initial terms of office which expire December 31, ~~2028~~²⁰¹⁸, and upon the election and qualification of their respective successors.
- (e) Those and all future successors to members of the board whose terms of office are to expire shall be elected at the time of the state-wide general election immediately preceding the expiration of such terms, shall take office the ~~first day~~ ^{first meeting} of January immediately following that election, and shall serve for terms of office of four years each. Members of the board shall serve for the terms of office specified therefor in this subsection and until their respective successors are elected and qualified.

Commented [VE4]: See footnote 6 of CEO Thurmond's March 11, 2024 letter.

Sec. 4. - Running for other elective offices.

~~The office of the chief executive or any member of the commission shall be declared vacant upon such elected official qualifying in a general primary or general election, or special primary or special election, for another state, county, or municipal elective office or qualifying for the United States House of Representatives or the United State Senate if the term of the office for which the chief executive or commissioner is qualifying for begins more than 30 days prior to the expiration of such official's present term of office. The vacancy created in any such office shall be filled as provided by Chapter 2 of Title 21 of the Official Code of Georgia Annotated, as now or hereafter amended.~~

Commented [VE5]: CEO Thurmond agrees to this change as it reflects the Georgia constitutional provision on vacancy so long as this change does not require voter approval. Since this is not an exact recitation of the law, does it require voter approval?

- ~~(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."~~

Sec. 5. - Chief executive.

- (a) The chief executive of DeKalb County shall be a citizen of this state, at least ~~thirty (30)~~ **21** years of age and shall have been a resident of DeKalb County for at least ~~five (5) years~~ **12 months** 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 ~~21~~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.

Commented [VE6]: CEO Thurmond agrees to the BOC and CEO residency and minimum age requirements changes, but the 21 years of age change requires voter approval. The Charter Review set the minimum age at 21 but state law O.C.G.A. Section 45-2-1 allows a county, by local ordinance, to reduce that age from 21 to 18 years of age. This change to the Charter appears to eliminate the power of the County to use state law to reduce the minimum age to be CEO or a commissioner from 21 to 18; thus it requires voter approval in my opinion.

Sec. 9. - Powers and duties of the commission.

(b)(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, that no planning or zoning ordinances shall become effective ~~without an affirmative vote from either the district or super district commissioner in whose district the subject property is located, unless approved, prior to consideration and adoption by the governing authority, by the member or members of the commission representing the district or super district in which the subject property is located.~~

Commented [VE7]: CEO Thurmond agrees to the changes in these subsections b(18), b(20), and (c) ONLY of Section 9. But, such changes to the power or duties of the BOC in b(18) and (c) require voter approval in my opinion. CEO Thurmond has no opinion on the ward courtesy changes in Section 9 as he has no role in the zoning ordinance adoption process.

(b)(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 as authorized by law,~~ 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, fine, 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.

(b)(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.

(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), or imprisonment in the county jail for ~~at most 60 days~~ **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.

Sec. 10. - **Annual Financial** Audits.

(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 O.C.G.A. § 36-60-8, ~~as now or hereafter amended~~, **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 ~~and the chief executive~~ 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 in compliance with Article 1 of Chapter 81 of Title 36 of the Official Code of Georgia Annotated each year, and, within ~~ten (10)~~ **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.

Sec. 10A.- Independent internal audit.

(a) (1) It is essential to the proper administration and operation of the DeKalb County government that public officials, government managers, and private citizens know not only whether government funds are handled properly and in compliance with laws and regulations but also whether public programs are achieving the purposes for which they were authorized and funded, and whether they are doing so efficiently, effectively, and equitably. An independent internal audit function can provide objective information on the operations of government programs, assist managers in carrying out their responsibilities, and help ensure full transparency and accountability to the public. Internal auditing is defined as an independent, objective assurance and consulting activity designed to add value and improve an organization's operations by bringing a systematic,

Commented [VE8]: CEO Thurmond does not agree to the change in subsection (a) requiring the BOC to select an annual auditor from the list provided by the Oversight Audit Committee and such change requires voter approval in my opinion.

Commented [VE9]: CEO Thurmond agrees to the change in subsection (b) to come into compliance with state law. Does the other new bolded language in subsection (b) change the power of the CEO to be informed of audit irregularities and thus require voter approval? If not, CEO Thurmond agrees to this change.

disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

- (2) The public interest requires that the general assembly provide for the proper administration and operation of the DeKalb County government by establishing by law an independent internal audit function to assist the governing authority to accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.
- (b) The office of internal audit is hereby established which shall consist of the chief audit executive ("auditor") and those assistants, employees, and personnel as deemed necessary by such auditor for the efficient and effective administration of the affairs of the office, and over whom the auditor shall have the sole authority to appoint, employ, and remove.
- (c) The office of internal audit shall be completely independent and shall not be subject to control or supervision by the chief executive, the commission, or any other official, employee, department, or agency of the county government.
- (d)(1) The auditor shall be appointed by a majority vote of the DeKalb County Board of Commissioners from a list of not fewer than two (2) nor more than three (3) candidates provided to the board by the audit oversight committee. Such appointment shall be made within ~~thirty (30)~~ 30 days of receipt of the list of nominees by the board. In the event that the commission fails to appoint a nominee within ~~thirty (30)~~ 30 days, the auditor shall be appointed by a majority vote of the audit oversight committee.
(2) The term of office of the auditor shall be five ~~(5)~~ years and until his or her successor is qualified and appointed. The auditor shall be limited to a maximum of two (2) terms in office. A vacancy in the position of auditor shall exist by reason of expiration of term, resignation, death, removal from office by the vote of a supermajority of the members of the commission, or if the auditor becomes ineligible to hold civil office within the meaning of O.C.G.A. § 45-2-1, as now or hereafter amended, 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 within ~~sixty (60)~~ 60 days by a majority vote of the audit oversight committee for the remainder of the term of office.
- (e) The auditor must have adequate professional proficiency for the job and shall:
 - (1) Be a certified public accountant or a certified internal auditor;
 - (2) Have a bachelor's degree in public policy, accounting, business administration, economics, or a related field; and
 - (3) Have at least five ~~(5)~~ years of experience in government auditing, evaluation, or analysis.
- (f) The position of the auditor shall be nonpartisan. Qualifying for election to a public office shall constitute a resignation from the position as of the date of qualifying.
- (g) The auditor shall have authority to conduct financial and performance audits of all departments, offices, boards, activities, agencies, and programs of the county in order to independently and objectively determine whether:
 - (1) Activities and programs being implemented have been authorized by this Act, Georgia law, or applicable federal law or regulations and are being conducted and funds expended in compliance with applicable laws;
 - (2) The department, office, board, or agency is acquiring, managing, protecting, and using its resources, including public funds, personnel, property, equipment, and space, economically, efficiently, effectively, and in a manner consistent with the objectives intended by the authorizing entity or enabling legislation;
 - (3) The entity, programs, activities, functions, or policies are effective, including the identification of any causes of inefficiencies or uneconomical practices;
 - (4) The desired results or benefits are being achieved;
 - (5) Financial and other reports are being provided that disclose fairly, accurately, and fully all information required by law, to ascertain the nature and scope of programs and activities, and to

establish a proper basis for evaluating the programs and activities including the collection of, accounting for, and depositing of, revenues and other resources;

- (6) Management has established adequate operating and administrative procedures and practices, systems or accounting internal control systems, and internal management controls; and
 - (7) Indications of fraud, abuse, or illegal acts are valid and need further investigation.
- (h) All officers and employees of DeKalb County shall furnish to the auditor unrestricted access to employees, information, and records including electronic data within their custody regarding powers, duties, activities, organization, property, financial transactions, contracts, and methods of business required to conduct an audit or otherwise perform audit duties. In addition, they shall provide access for the auditor to inspect all property, equipment, and facilities within their custody. If such officers or employees fail to provide or produce such access and information, the auditor may initiate a search to be made and exhibits to be taken from any book, paper, or record of any such official or employee or outside contractor or subcontractor, except as governed by statute. Further, all contracts with outside contractors and subcontractors shall contain a "right-to-audit" clause and provide for auditor access to the contractors' employees and to all financial and performance related records, property, and equipment purchased in whole or in part with governmental funds. For the purpose of this subsection, the auditor shall have the authority to issue subpoenas and may apply to the Superior Court of DeKalb County for the enforcement of any subpoena issued by the auditor.
- (i) The auditor may obtain the services of certified public accountants, qualified management consultants, or other professional experts necessary to perform audit work. An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the governmental entity or its officers. The auditor shall coordinate and monitor auditing performed by certified public accounting firms or other organizations employed under contract by the governing authority to assist with audit related activities. Contracting for the external audit will follow the normal contracting processes of the governing authority of DeKalb County except for the participation and oversight by the audit oversight committee and auditor. The selection of a certified public accounting firm for the annual financial audit must be approved by the commission.
- (j) (1) Audits shall be conducted in accordance with recognized government auditing standards.
- (2) At the beginning of each fiscal year, the auditor shall submit a one- to five-year audit schedule to the audit oversight committee and the commission for review and comment. The schedule shall include the proposed plan, and the rationale for the selections, for auditing departments, offices, boards, activities, programs, policies, contractors, subcontractors, and agencies for the period. This schedule may be amended after review with the audit oversight committee and the commission, but the auditor shall have final authority to select the audits planned.
- (3) In the selection of audit areas and audit objectives, the determination of audit scope and the timing of audit work, the auditor shall consult with federal and state auditors and external auditors so that the desirable audit coverage is provided and audit efforts are properly coordinated....
- (4) A final draft of the audit report shall be forwarded to the audit oversight committee, the chief executive, the commission, and the audited agency for review and comment regarding factual content prior to its release. The agency shall respond in writing, specifying the agreement with audit findings and recommendations or reasons for disagreement with findings and recommendations, plans for implementing solutions to issues identified, and a timetable to complete such activities. The response shall be forwarded to the auditor within ~~sixty (60) days~~ 45 days. The auditor shall review and report on information included in the agency's response. If no response is received, the auditor shall note that fact in the transmittal letter and shall release the audit report.
- (5) Each audit shall result in a final report, in written or some other retrievable form. The report shall contain relevant background information and findings and recommendations and shall communicate results to the audit oversight committee, the audited agency, ~~and~~ the governing authority, ~~and the DeKalb County Legislative Delegation. Within 30 days of this being issued and communicated to the oversight committee, the report shall be posted on the county website.~~
- (6) The auditor shall submit an annual report to the audit oversight committee, chief executive, and

Commented [VE10]: CEO Thurmond agrees to the changes in this section 10 A, except for the changes in subsection j(4), j(5) and (l).

the commission indicating audits completed, major findings, corrective actions taken by administrative managers, and significant issues which have not been fully addressed by management. The annual report, in written or some other retrievable form, shall be made available to the public through the county website within ~~ten (10)~~ 10 days of submission to the commission.

(k) If, during an audit, the auditor becomes aware of abuse or illegal acts or indications of such acts that could affect the governmental entity, the auditor shall report the irregularities to the audit oversight committee, the chief executive, and the commission. If a member of the governing authority is believed to be a party to abuse or illegal acts, the auditor shall report the acts directly to the audit oversight committee, the chief executive, and the commission. If it appears that the irregularity is criminal in nature, the auditor shall notify the district attorney in addition to those officials previously identified in this subsection....

(l) Audited agencies shall respond to requests for status reports within 45 days of the request being submitted to the audited agency.

(m) (1) The audit activities of the office of internal audit shall be subject to a peer review in accordance with applicable government auditing standards by a professional, nonpartisan objective group utilizing guidelines endorsed by the Association of Local Government Auditors (ALGA).

(2) The peer review shall use applicable government auditing standards to evaluate the quality of audit effort and reporting. Specific quality review areas shall include staff qualifications, adequacy of planning and supervision, sufficiency of work paper preparation and evidence, and the adequacy of systems for reviewing internal controls, fraud and abuse, program compliance, and automated systems. The peer review shall also assess the content, presentation, form, timelines, and distribution of audit reports. The commission shall pay for the costs of the peer review.

(3) A copy of the written report of such independent review shall be furnished to each member of the governing authority and to the audit oversight committee.

(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.

(2) All members of the audit oversight committee shall:

a. Be residents of DeKalb County;

b. Have expertise in performance auditing; and

c. Have a minimum of five ~~(5)~~ years' experience as a certified public accountant, a certified internal auditor, a certified performance auditor, a certified management accountant, or ~~ten (10)~~ 10 years of other relevant professional experience.

(3) ~~On or after~~ Not later than October 31, 2015, the members of the audit oversight committee shall be selected as follows:

a. One ~~(1)~~ member shall be appointed by the chairperson of the DeKalb County delegation in the Georgia House of Representatives;

b. One ~~(1)~~ member shall be appointed by the chairperson of the DeKalb County delegation in the Georgia Senate;

c. One ~~(1)~~ member shall be appointed by the Chief Executive of DeKalb County; and

d. Two ~~(2)~~ members shall be appointed by the commission.

(4) The members shall serve for terms of five ~~(5)~~ years; provided, however, that the initial term of the first appointee of the commission shall be one ~~(1)~~ year and until his or her respective successor is appointed and qualified; the initial term of the appointee of the chairperson of the DeKalb County delegation in the Georgia House of Representatives shall be two ~~(2)~~ years and until his or her respective successor is appointed and qualified; the initial term of the appointee of the chief executive shall be three ~~(3)~~ years and until his or her respective successor is appointed and qualified; the initial term of the second appointee of the commission shall be four ~~(4)~~ years and

until his or her respective successor is appointed and qualified; and the initial term of the appointee of the chairperson of the DeKalb County delegation in the Georgia Senate shall be five ~~(5)~~ years and until his or her respective successor is appointed and qualified.

- (5) Successors to all members of the audit oversight committee and future successors shall be appointed by the respective appointing authorities not less than ~~thirty (30)~~ 30 days prior to the expiration of each such member's term of office, and such successors shall take office on January 1 following such appointment and shall serve terms of five ~~(6)~~ years and until their respective successors are appointed and qualified.
- (6) If a member of the audit oversight committee 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 on the audit oversight committee shall exist by reason of death, resignation, incapacity to serve for ~~ninety (90)~~ 90 days or longer, or loss of residency as described in this subsection. A member of the audit oversight committee may also be removed from office during a term if the member becomes ineligible to hold civil office within the meaning of O.C.G.A. § 45-2-1, ~~as now or hereafter amended~~, and that ineligibility is established by decision of a court of competent jurisdiction which declares the office vacant because of such ineligibility or by a vote of two-thirds (2/3) of the members of the legislative delegation. A vacancy shall be filled within ~~sixty (60)~~ 60 days by the original appointing authority for the remainder of the unexpired term.
- (7) The members of the audit oversight committee shall elect from their own membership a chairperson and otherwise provide for their own internal organization.
- (8) The audit oversight committee shall consult with the auditor regarding technical issues and work to assure maximum coordination between the work of the auditor's office and external audit efforts.
- (9) The audit oversight committee shall meet as needed to perform its duties but shall not meet less than once quarterly and shall be responsible for:
 - a. Selecting not fewer than two ~~(2)~~ nor more than three ~~(3)~~ nominees for the position of auditor who meet the requirements outlined in subsection (e) of this section which shall be submitted to the commission for selection and appointment of one ~~(1)~~ of the nominees to the position of auditor;
 - b. Performing regular evaluations of the DeKalb County audit function;
 - c. Providing suggestions and comments for the annual audit plan;
 - d. Ensuring that audit reports are transmitted to the governing authority and to the public;
 - e. Monitoring follow-up on reported findings to assure corrective action is taken by management;
 - f. Reporting to the governing authority on problems or problem areas at such times as deemed appropriate;
 - g. Conducting or overseeing the requests for proposal and selection process for the firm conducting the annual financial statement audits, and ranking and recommending in order of preference no fewer than three ~~(3)~~ firms deemed to be the most highly qualified to perform the required services. If fewer than three ~~(3)~~ firms respond to the request for proposal, the audit oversight committee shall recommend such firms as it deems to be the most highly qualified;
 - h. Evaluating the firm providing annual financial statement auditing services and providing oversight of that audit, including ensuring transmission of reports and follow-up on corrective action by management;
 - i. Evaluating the findings and recommendations of the peer review as required by recognized government auditing standards;
 - j. Consulting with the auditor regarding technical issues with the external audit firm and working to assure maximum coordination between the work of the office of internal audit and

contracted audit efforts and other consulting engagements;

- k. Maintaining the confidentiality of personnel matters while taking responsibility for appropriate disclosure to the governing authority, the legislature, or to the public; and
 - l. Annually meeting with members of the commission to discuss controls, systems and risk, and performance of the audit firm, and to discuss other matters that the audit firm, the auditor, or staff desires or is required to bring to the commission's attention such as fraud, illegal acts, and financial and control weaknesses.
- (10) The audit oversight committee shall have the authority to hire outside experts, including legal counsel, when necessary.
 - (11) The audit oversight committee shall have the authority to propose the budget of the office of internal audit, including the auditor's salary and staffing, and shall then recommend the budget to the commission for approval, who shall fund it as a priority.
 - (12) Sufficient resources as requested by the audit oversight committee shall be provided by the commission to enable the audit oversight committee to carry out its responsibilities.
- (o) 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.

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.

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 present and planned physical,~~ 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.

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.

Sec. 19.-Department of finance.

- (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 and on the county website within ~~thirty (30)~~ 30 days of each date.

Commented [VE11]: CEO Thurmond only agrees to the change in subsection (b) of this section 19 but does not agree to the rest of the changes in this section.

Sec. 20. - Records; minutes.

- (a) 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;
- (b) Copies of contracts, maps or similar material or documents related to actions taken by the governing authority may be included in the minutes or incorporated by reference to an alternate location. Where incorporated by reference, such documents shall be stored in a central location or locations identified by ordinance or resolution of the governing authority as provided by state law.
- (c) 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 as authorized by O.C.G.A. 50-18-71(c), as now or hereafter amended.
- (d) The clerk shall manage the agenda for meetings of the commission and perform such other duties as the commission may direct.
- (e) The governing authority shall establish and maintain a records retention program in compliance with OCGA 50-18-99, as now or hereafter amended.

Commented [VE12]: CEO Thurmond agrees to the changes in this section but it adds a power to the BOC to approve locations by ordinance or resolution which would require voter approval in my opinion.

Sec. 22 - ~~Officials not to be interested in contracts~~ Officials not to have financial interests in county 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 Code Section 36-1-14 of the O.C.G.A., as now or hereafter amended, section 23-17-14 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.

Commented [VE13]: CEO Thurmond agrees to the changes to this section. The changes do not require voter approval, in my opinion.

Sec. 22A - Code of ethics.

- (a) *Purpose.*
 - (1) It is essential to the proper administration and operation of the DeKalb County government that its officials and employees 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

DeKalb County officials and employees. 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 officials and employees, 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 officials and employees of DeKalb County in situations where a conflict may exist.

- (2) The general assembly recognizes that an appropriate and effective code of ethics for appointed officials and employees of DeKalb County is also essential for the proper administration and operation of the DeKalb County government.

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

- (1) *Agency* means any board, bureau, body, commission, committee, department, or office of DeKalb County to which the governing authority has appointment powers.
- (2) *Business* means any corporation, partnership, organization, sole proprietorship, and any other entity operated for economic gain, whether professional, industrial, or commercial, and entities which for purposes of federal income taxation are treated as nonprofit organizations.
- (3) *Confidential information* means information which has been obtained in the course of holding public office, employment, acting as an independent contractor, or otherwise acting as an official or employee and which information is not available to members of the public under state law or other law or regulation and which the official, independent contractor, or employee is not authorized to disclose.
- (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 an official or employee or between DeKalb County and a business in which an official or employee 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 official or employee and his or her spouse, parents, brothers, sisters, and natural or adopted children.
- (7) *Interest* means any direct or indirect pecuniary or material benefit held by or accruing to the official or employee 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. An official or employee shall be deemed to have an interest in transactions involving:
 - a. Any person in the official's or employee's immediate family;
 - b. Any person, business, or entity that the official or employee knows or should know is seeking official action with DeKalb County, is seeking to do or does business with DeKalb County, has interests that may be substantially affected by performance or nonperformance of the official's or employee's official duties, or with whom a contractual relationship exists whereby the official or employee may receive any payment or other benefit;
 - c. Any business in which the official or employee is a director, officer, employee, shareholder, or consultant; or
 - d. Any person of whom the official or employee is a creditor, whether secured or unsecured.
- (8) *Official or employee* means any person elected or appointed to or employed or retained by DeKalb County or any agency, whether paid or unpaid and whether part time or full time. This definition includes retired employees or former county employees during the period of time in which they are later employed or retained by the county or any agency. This definition does not include 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

magistrate 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, percentage, brokerage, or contingent fee.
 - (11) *Participate* means to take part in official acts, actions, or proceedings personally as an official or employee 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 official or employee of DeKalb County.
 - (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 organization;
 - 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 determination 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 an official or employee of DeKalb County.
- (c) *Proscribed conduct.* No official or employee of DeKalb County shall:
- (1) By his or her conduct give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official acts or actions or that he or she 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 herself or another person if:
 - (i) It tends to influence him or her in the discharge of his or her official duties; or
 - (ii) He or she 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 value less than one hundred dollars (\$100.00);
 - (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 or her position for his or her or another person's private gain;
 - (4) Appear on his or her own personal behalf, or represent, advise, or appear on the personal behalf, whether paid or unpaid, of any person before any court or before any legislative, administrative, or quasi-judicial board, agency, commission, or committee of this 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 or her official position to secure unwarranted privileges or exemptions for himself or herself or other persons;
 - (5) Engage in, accept employment with, or render services for any agency, private business, or professional activity when such employment or rendering of services is adverse to and

incompatible with the proper discharge of his or her official duties;

- (6) Acquire an interest in any contract or transaction at a time when he or she believes or has reason to believe that such an interest will be affected directly or indirectly by his or her official act or actions or by the official acts or actions of other officials or employees 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 or her by virtue of his or her being an official or employee of DeKalb County.
- (c.1) No employee of the purchasing and contracting department of DeKalb County shall accept any gift of value from anyone who has had or may reasonably be anticipated to have any business with or before such department. Gifts from persons who do not have or who would not be reasonably anticipated to have any business with or before such department may be accepted by an employee of such department only when such gifts are based solely on a family relationship or personal friendship.
- (d) *Disclosure of interests.* An official or employee who has an interest that he or she has reason to believe may be affected by his or her official acts or actions or by the official acts or actions of another official or employee 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 the board's opinion as to the propriety of such interest. Every official or employee 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 chief executive and the commission and to the ethics officer and 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. In cases where a conflict of interest exists, such official or employee shall recuse himself or herself from participating or taking any official acts or actions in any matter for the county affected by such conflict of interest.
- (e) *Participation in contracts.*
- (1) An official or employee shall disqualify himself or herself from participating in any official act or action of DeKalb County directly affecting a business or activity in which he or she has any interest, whether or not a remote interest.
 - (2) DeKalb County shall not enter into any contract involving services or property with an official or employee of the county or with a business in which an official or employee of the county has an interest. This subsection shall not apply in the case of:
 - a. The designation of a bank or trust company as a depository for county funds;
 - b. The borrowing of funds from any bank or lending institution which offers the lowest available rate of interest for such loans;
 - c. Contracts for services entered into with a business which is the only available source for such goods or services; or
 - d. 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.
 - (3) 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 two-year period an official or employee of DeKalb County.
- (f) *Reporting violations.* Any person who witnesses or becomes aware of a violation of this section may complain of the violation as follows:
- (1) A complaint may be communicated anonymously to the ethics administrator. Such complaint shall be made in good faith and with veracity and sufficient specificity so as to provide the ethics officer with salient and investigable facts. The ethics administrator may require the anonymous complaint to be made in a manner and form that is intended only to obtain relevant facts related to the alleged violation of this section and that is not designed to reveal the identity of the complainant.
 - (2) A sworn written complaint may be filed with the ethics administrator as described in this

paragraph. All written complaints to be considered by the board of ethics and the ethics officer shall contain the following, if applicable:

- a. The name and address of the person or persons filing the complaint;
- b. The sworn verification and signature of the complainant;
- c. The name and address of the party or parties against whom the complaint is filed and, if such party is a candidate, the office being sought;
- d. A clear and concise statement of acts upon which the complaint is based along with an allegation that such facts constitute one or more violations of law under the jurisdiction of the board of ethics;
- e. A general reference to the allegedly violated statutory provision(s) of the code of ethics within the jurisdiction of the board of ethics; and
- f. Any further information which might support the allegations in the complaint including, but not limited to, the following:
 - (i) The names and addresses of all other persons who have first-hand knowledge of the facts alleged in the complaint; and
 - (ii) Any documentary evidence that supports the facts alleged in the complaint.

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

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

(g) *Enactment.*

- (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 officials or employees.
- (2) The propriety of any official act or action taken by or transaction involving any officials or employees 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.

(h) *Board of ethics.*

- (1) a. 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.
- b. 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.
- c. 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 act or action of DeKalb County.
- d. No member of the board of ethics shall be a member of an agency or an official or employee of DeKalb County or shall have served in such a capacity in the two-year period immediately preceding such person's appointment to the board of ethics.
- e. No person shall serve as a member of the board of ethics if the person has been a candidate for, or was elected to, public office in the immediately preceding three-year period. Filing for an elective office shall constitute a resignation from the board of ethics on the date of filing.

- f. Appointees to the board of ethics shall have professional knowledge or expertise in matters of ethics, finance, governance, or the law.
- g. All proposed appointments to the board of ethics shall be subject to an education and employment background check as well as a criminal history check. Persons proposed to be appointed to the board of ethics shall execute all releases necessary for the appointing authority to accomplish such checks. If the nominee is determined to have committed a felony, the nomination shall be withdrawn.
- (2) a. The members of the board of ethics in office on the effective date of this section shall serve until December 31, 2020, and then their terms shall terminate. A new board shall be appointed as provided in this paragraph to take office on January 1, 2021, and to serve for the terms prescribed in this paragraph.
- b. Not later than December 31, 2020, the members of the new board of ethics shall be selected as follows:
- (i) Three ~~(3)~~ members shall be appointed by majority vote of the DeKalb County legislative delegation in the House of Representatives of the Georgia General Assembly;
 - (ii) Three ~~(3)~~ members shall be appointed by majority vote of the DeKalb County legislative delegation in the Senate of the Georgia General Assembly; and
 - (iii) One ~~(1)~~ member shall be appointed by the tax commissioner of DeKalb County.
- c. In addition to the members appointed as provided in subparagraph b. of this paragraph, there shall be two ~~(2)~~ alternate members who shall serve to ensure a quorum when members of the board are absent, have a conflict of interest, or find it necessary to recuse themselves or while a vacancy exists on the board. The alternates shall be selected by the clerk of superior court of DeKalb County.
- d. The members and alternates shall each serve for terms of three ~~(3)~~ years; provided, however, that the terms of the initial appointees of the House legislative delegation shall be specified at the time of their appointments. One ~~(1)~~ shall serve until December 31, 2021, and until the appointment and qualification of his or her successor, whichever occurs later; one ~~(1)~~ shall serve until December 31, 2022, and until the appointment and qualification of his or her successor, whichever occurs later; and one ~~(1)~~ shall serve until December 31, 2023, and until the appointment and qualification of his or her successor, whichever occurs later. The initial member appointed by the tax commissioner of DeKalb County shall serve until December 31, 2022, and until the appointment and qualification of his or her successor, whichever occurs later. The initial alternate members appointed by the clerk of superior court of DeKalb County shall serve the terms specified by the clerk of superior court at the time of the initial appointments. One ~~(1)~~ shall serve until December 31, 2021, and until the appointment and qualification of his or her successor, whichever occurs later, and one ~~(1)~~ shall serve until December 31, 2023, and until the appointment and qualification of his or her successor, whichever occurs later.
- e. Successors to all members and alternates of the board of ethics and future successors shall be appointed by the respective appointing authorities not less than ~~thirty (30)~~ 30 days prior to the expiration of each such member's term of office, and such successors shall take office on January 1 following such appointment and shall serve terms of three years and until their respective successors are appointed and qualified. No individual may be appointed to more than two (2) consecutive terms, provided that the initial terms under this Act shall not be counted in such determination.
- (3) If a member of the board of ethics ceases to be a resident of DeKalb County, that member's position on the board of ethics, by operation of law, shall become vacant upon the establishment of the fact of such non residency, if contested, by a court of competent jurisdiction. A vacancy in the board of ethics shall exist by reason of death, the disability or incapacity of a member for more than ~~ninety (90)~~ 90 days, 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 if the member becomes ineligible to hold civil office within the meaning of Code Section 45-2-1 of the O.C.G.A., now or hereafter amended, and that ineligibility is established by decision of a court of competent jurisdiction which declares the office vacant because of such ineligibility or for good cause by a majority vote of the board of ethics. The ethics administrator shall notify the appointing authority of a vacancy upon its occurrence, and such 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 chairperson and otherwise provide for their own internal organization. The commission shall provide adequate office and meeting space and pay all administrative costs, including those specifically stipulated in this section, pertaining to the operation of the board of ethics. The board of ethics shall be authorized to employ its own staff and clerical personnel and contract for the services of a competent court reporter, an attorney, and a private investigator as it deems necessary. In the event that the board of ethics determines that employment of full-time legal counsel would best facilitate the accomplishment of its purposes under this section, the board of ethics may employ an attorney for such purpose, and the commission shall appropriate reasonably sufficient funds for such position. The members of the board of ethics shall have the authority to propose the budget of the board and shall recommend the budget to the commission, who shall fund it as a priority. In the event that the proposed budget is in excess of three hundred thousand dollars (\$300,000.00), the commission shall have the authority to authorize the additional funds requested in accordance with standard budgetary procedures and requirements. 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 official or employee 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 officials or employees who seek advice 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 official or employee 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; To receive and hear complaints of violations of the standards required by this section over which it has personal and subject matter jurisdiction;
 - d. To make such investigations as it deems necessary to determine whether any official or employee has violated or is about to violate any provisions of this section; and
 - e. To hold such hearings and make such inquiries as it deems necessary for it to carry out properly its functions and powers.

(i) *Ethics officer.*

- (1) There is hereby created as a full-time salaried position an ethics officer for DeKalb County. The ethics officer must be an active member of the Georgia Bar Association in good standing with five (5) years' experience in the practice of law. The ethics officer shall be appointed by a majority of the members of the board of ethics, subject to confirmation by a majority of the commission and approval by the chief executive, for a period not to exceed six (6) years. Removal of the ethics officer before the expiration of the designated term shall be for cause by a majority vote of the members of the board of ethics. The ethics officer need not be a resident of the county at the time of his or her appointment, but he or she shall reside in DeKalb County within six (6) months of such appointment and continue to reside therein throughout such appointment.
- (2) The ethics officer shall not be involved in partisan or nonpartisan political activities or the political

affairs of DeKalb County.

- (3) The duties of the ethics officer shall include, but not be limited to, the following:
- a. Educating and training all city officials and employees to have an awareness and understanding of the mandate for and enforcement of ethical conduct and advising them of the provisions of the code of ethics of DeKalb County;
 - b. Meeting with the board of ethics;
 - c. Advising officials and employees regarding disclosure statements and reviewing the same to ensure full and complete financial reporting;
 - d. Urging compliance with the code of ethics by calling to the attention of the board of ethics any failure to comply or any issues, including the furnishing of false or misleading information, that the ethics officer believes should be investigated by the board of ethics so that the board of ethics may take such action as it deems appropriate;
 - e. Monitoring, evaluating, and acting upon information obtained from an 'ethics hotline' which shall be a city telephone number for the receipt of information about ethical violations. Each complaint, as of the time it is reported, whether by telephone or otherwise, shall be deemed to be a separate pending investigation of a complaint against a public officer or employee as provided by Article 4 of Chapter 18 of Title 50 of the O.C.G.A.;
 - f. Reporting, as appropriate, suspected ethical violations to the board of ethics;
 - g. Reporting, as appropriate, suspected criminal violations to state or federal law enforcement agencies; and
 - h. Filing with the board of ethics, the chief executive, and the commission on the first Tuesday of each February a written report describing the activities of the ethics officer in carrying out the goals of his or her office and the code of ethics and reporting on the ethical health of DeKalb County.

(i.1) *Ethics administrator.*

- (1) There is hereby created as a full-time salaried position an ethics administrator for DeKalb County. The ethics administrator shall be selected by the board of ethics and shall serve at the pleasure of the board.
- (2) The ethics administrator shall not be involved in partisan or nonpartisan political activities or the political affairs of DeKalb County.
- (3) The duties of the ethics administrator shall include, but not be limited to, the following:
 - a. Maintaining the records of the board of ethics as required by Article 4 of Chapter 18 of Title 50 of the O.C.G.A.;
 - b. Notifying the subject of a report of any alleged violation of the ethics code, whether the report is anonymous, made by an identified individual, or is written. Such notice shall be given in writing, by facsimile, or hand delivered to the subject of the complaint at the same time and in the same form that any disclosure of information is required by Article 4 of Chapter 18 of Title 50 of the O.C.G.A.;
 - c. Notifying the board of ethics of any report of an alleged violation of the ethics code received by the ethics administrator; and
 - d. Such other duties as may be assigned by the board of ethics.

(j) *Investigations and hearings.* The board of ethics shall have the authority to conduct investigations into all alleged violations of the code of ethics, hold hearings, and issue decisions as prescribed in this subsection:

- (1) The proceedings and records of the board of ethics shall be open unless otherwise permitted by state law;
- (2) Upon request of the board of ethics, the solicitor of DeKalb County or any attorney representing

the office of the solicitor of DeKalb County shall only advise the board of ethics;

- (3) A complaint may be filed by the ethics officer, any resident, or a group of residents of DeKalb County by submitting to the ethics administrator a written, verified, and sworn complaint under the penalty of perjury or false swearing. The complaint shall specifically identify all provisions of the DeKalb County code of ethics which the subject of the complaint is alleged to have violated, set forth facts as would be admissible in evidence in a court proceeding, and show affirmatively that the complainant or affiant (if in addition to or different from the complainant) is competent to testify to the matter set forth therein. All documents referenced in the complaint as well as supporting affidavits shall be attached to the complaint.
- (4) Upon receipt of the complaint, the ethics administrator shall bring the complaint before the board of ethics which shall cause the ethics officer to conduct a preliminary investigation to determine whether it meets the jurisdictional requirements as set forth in this section. Upon the conclusion of the preliminary investigation, the ethics officer shall report his or her findings to the board. If, in the opinion of the board, the complaint fails to meet the jurisdictional requirements as set forth in this section, the board shall direct the ethics officer to notify the person who filed the complaint and such person shall have ~~ten (10)~~ 10 days from the date of notice to correct and refile the complaint with the board. A complaint which fails to satisfy the jurisdictional requirements as established by this section and by the rules and procedures established by the board of ethics shall be dismissed by the board of ethics no later than ~~thirty (30)~~ 30 days after the complaint is filed with the ethics administrator, unless extended by a majority vote of the board of ethics.
- (5)
 - a. If the board of ethics determines no probable cause for belief that this section has been violated, the ethics administrator shall so notify the complainant and the subject of the investigation, and the complaint shall be dismissed. If the board of ethics determines that there is probable cause for belief that this section has been violated, the ethics administrator shall give notice to the person involved to attend a hearing to determine whether there has been a violation of this section.
 - b. The provisions of Code Section 45-10-3 of the O.C.G.A., as now or hereafter amended, shall apply to members of the board of ethics, and a member shall recuse himself or herself from a hearing held pursuant to this subsection in the event that such member has a conflict of interest pursuant to such Code section.
- (6) For use in proceedings under this section, the board of ethics shall have the power to issue subpoenas to compel any person to appear, give sworn testimony, or produce documentary or other evidence. Any person who fails to respond to such subpoenas may be subjected to the penalties set forth in subsection (k) of this section.
- (7) All hearings of the board of ethics pursuant to this section shall be as follows:
 - a. All testimony shall be under oath, which shall be administered by a member of the board of ethics. Any person who appears before the board of ethics shall have all of the due process rights, privileges, and responsibilities of a witness appearing before the courts of this state. Any person whose name is mentioned during a proceeding of the board of ethics and who may be adversely affected thereby may appear personally before the board of ethics on such person's own behalf or may file a written sworn statement for incorporation into the record to be made part of all proceedings pursuant to this subsection.
 - b. The decision of the board of ethics shall be governed by a preponderance of the evidence standard.
 - c. At the conclusion of proceedings concerning an alleged violation, the board of ethics shall immediately begin deliberations on the evidence and proceed to determine by a majority vote of members present whether there has been a violation of this section. The findings of the board of ethics concerning a violation and the record of the proceedings shall be made public by the ethics officer as soon as practicable after the determination has been made.
- (8)
 - a. The board of ethics shall render no final decision regarding any matter involving any individual who has qualified to run for any DeKalb County elected office during the ~~forty-five (45)~~ 45 days preceding the election for such office.

- b. The board of ethics shall file with the chief executive and the commission on the first Tuesday of each February a written report describing the activities of the ethics administrator in carrying out the goals of his or her office and the code of ethics and reporting on the ethical health of DeKalb County.

(k) *Violations; appeals.*

- (1) Any intentional violation of this section, furnishing of false or misleading information to the board of ethics, failure to follow an opinion rendered by the board of ethics, or failure to comply with a subpoena issued by the board of ethics pursuant to this section shall subject the violator to any one or more of the following:
 - a. Administrative sanction of not more than one thousand dollars (\$1,000.00) assessed by the board of ethics;
 - b. Public reprimand by the board of ethics; and
 - c. Prosecution by the DeKalb County solicitor in magistrate court and, upon conviction, a fine of up to one thousand dollars (\$1,000.00) per violation and up to six (6) months' imprisonment, whether the official or employee is elected or appointed, paid, or unpaid. Nothing in this section shall be interpreted to conflict with state law. An action for violation of this section or the furnishing of false or misleading information or the failure to comply with a subpoena issued by the board of ethics must be brought within two (2) years after the violation is discovered.
- (2) With regard to violations by persons other than officials or employees, in addition to the remedies in paragraph (1) of this subsection, the board of ethics may recommend to the chief executive and the commission any one or more of the following:
 - a. Suspension of a contractor; and
 - b. Disqualification or debarment from contracting or subcontracting with DeKalb County.
- (3) The decision of the board of ethics after a hearing shall be final; provided, however, that such proceeding shall be subject to review by writ of certiorari to the DeKalb County Superior Court. The designee of the board of ethics shall be authorized to acknowledge service of any such writ and shall, within the time provided by law, certify and cause to be filed with the clerk of the superior court a record of the proceedings before the board of ethics, the decision of the board of ethics, and the notice of the final actions of the board of ethics.

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

Pursuant to the authority of an amendment to the Constitution ratified at the 1978 general election as set forth in Georgia Laws 1978, pages 2370—2372, 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, any law adopted pursuant to such authority shall be conditioned on the approval of a majority of the qualified electors of DeKalb County voting at elections held for such purpose when any such law affects the DeKalb County government in any one or more of the following ways:

- (1) Changing the number of members, terms of office, or the manner of electing the members of the governing body of DeKalb County;
- (2) Changing the term of office or the method of electing the chief executive of DeKalb County;
- (3) Establishing the powers and duties of the executive or legislative branch of the DeKalb County government; or
- (4) Changing the powers and duties of the executive or legislative branch of the DeKalb County government when such powers and duties have been established by Acts of the General Assembly, pursuant to the authority of the amendment to the Constitution ratified at the 1978 general election as set forth in Georgia Laws 1978, pages 2370—2372.

~~Secs. 24—27. - Reserved.~~

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.].

Commented [VE14]: CEO Thurmond agrees to this deletion as it was superseded or repealed by state law.

Sec. XX - Pending matters.

~~Except as specifically provided otherwise by this Act, all rights, claims, actions, orders, contracts, and legal or administrative proceedings shall continue and any such ongoing work or cases shall be completed by such county agencies, personnel, or offices as may be provided by the board of commissioners.~~

Commented [VE15]: Is this phrase correct? Should it be "governing authority"? And is this provision needed for technical changes

Sec. XX 3028 - Existing ordinances, resolutions, rules & regulations.

All ordinances, resolutions, rules, and regulations now in force in the county not inconsistent with this Act are declared valid and of full effect and force until amended or repealed by the board of commissioners.

Sec. 31. - Specific repealer.

~~An Act to create establishing the form of government of DeKalb County, approved April 9, 1981 (Ga. L. 1981, p. 4304), is hereby repealed in its entirety and all amendatory acts thereto are likewise repealed in their entirety. All other laws and parts of laws in conflict with this Act are hereby repealed.~~

Commented [VE16]: Is this accurate if only sections are amended at this time? Without a full scale repeal, I am of the opinion the original language in Section 29 remains.

Sec. 3229. - Conflicting laws repealed. General repealer.

~~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. 406) creating the office of commissioner of roads and revenue of DeKalb County which are in conflict with this act, are hereby repealed.~~

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

Sec. 3330. - 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~~.