

House Bill 1477

By: Representatives Ashe of the 46th, Smith of the 175th, Turnquest of the 73rd and Dukes of the 161st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to delete a requirement for completion of three
3 years of teaching in Georgia public schools as a prerequisite for an increase in state salary
4 for achieving national certification and state payment of a portion of the national certification
5 program participation fee; to change provisions relating to computation of the increase in
6 state salary; to provide that the Professional Standards Commission is authorized to deny a
7 certificate to an applicant, revoke or suspend a certificate, or otherwise discipline the holder
8 of a certificate; to provide for an opportunity for hearing; to provide that members of the
9 Professional Standards Commission may serve until their successors are appointed and
10 qualified; to remove authority of the commission to investigate alleged violations of rules,
11 regulations, policies, or standards of local boards of education; to provide authority to
12 investigate allegations that an educator has been convicted of a crime; to provide for opening
13 an investigation based upon certain admissions of an educator on an application for a
14 certificate; to provide for action by committees in determining whether to carry out a
15 preliminary investigation; to provide for access to records of the Georgia Crime Information
16 Center and the National Crime Information Center; to provide for notice by certified mail;
17 to provide for the duty of an education under investigation to notify the commission of any
18 change in address; to change the time period for action by the commission after the
19 preliminary investigation; to provide for extending the review period if criminal charges are
20 pending; to change the number of days per year for which a member of the commission may
21 receive expenses; to provide for related matters; to repeal conflicting laws; and for other
22 purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended in Code Section 20-2-200, relating to regulation of certificated professional personnel by the Professional Standards Commission, by striking subsection (a) and inserting in lieu thereof the following:

“(a) The Professional Standards Commission shall provide, by regulation, for certifying and classifying all certificated professional personnel employed in the public schools of this state. No such personnel shall be employed in the public schools of this state unless they hold certificates issued by the commission certifying their qualifications and classification in accordance with such regulations. The commission shall establish such number of classifications of other certificated professional personnel as it may find reasonably necessary or desirable for the operation of the public schools; provided, however, that such classifications shall be based only upon academic, technical, and professional training, experience, and competency of such personnel. The commission is authorized to provide for denying a certificate to an applicant, suspending or revoking or denying a certificate or otherwise disciplining the holder of a certificate for good cause after an investigation is held and notice and ~~hearings~~ an opportunity for a hearing are provided the certificate holder or applicant in accordance with subsection (d) of Code Section 20-2-984.5. The commission shall designate and define the various classifications of professional personnel employed in the public schools of this state that shall be required to be certificated under this Code section. Without limiting the generality of the foregoing, the term 'certificated professional personnel' is defined as all professional personnel certificated by the commission and county or regional librarians.”

SECTION 2.

Said chapter is further amended in Code Section 20-2-212.2, relating to persons receiving certification from the National Board for Professional Teaching Standards, by striking subsections (b) and (d) and inserting in lieu thereof the following:

“(b) Any person who:

(1) Is currently teaching in a Georgia public school and holds a valid Georgia teaching certificate; and

~~(2) Has completed three years of teaching in Georgia public schools prior to receiving national certification; and~~

~~(3)~~(2) Has successfully completed the prerequisite portfolio of student work and examination and has received national certification

shall receive not less than a 10 percent rate increase in state salary for each year he or she holds national certification. Such increase shall be awarded ~~on the commencement of the~~

1 ~~school year following such national certification; provided, however, that, in beginning on~~
 2 ~~the date such certification is received. The 10 percent increase shall be computed based~~
 3 ~~on the state salary for such individual when national certification is received and~~
 4 ~~recomputed each subsequent year based on the individual's state salary for that school year.~~
 5 In the case of a person who has received such national certification prior to July 1, 2000,
 6 and is receiving or is eligible to receive a 5 percent rate increase, the 5 percent rate increase
 7 shall be changed to a 10 percent rate increase effective with the commencement of the
 8 2000-2001 school year. The increase in state salary provided by this Code section shall be
 9 in addition to any other increase for which the person is eligible."

10 "(d) A portion of the national certification program participation fee may be paid by the
 11 state prior to certification for any person who:

12 (1) Is currently teaching in a Georgia public school and holds a valid Georgia
 13 teaching certificate;

14 ~~(2) Has completed three years of teaching in Georgia public schools prior to applying~~
 15 ~~for national certification;~~

16 ~~(3)~~(2) Has submitted an application and the initial qualifying payment to the National
 17 Board for Professional Teaching Standards; and

18 ~~(4)~~(3) Has successfully completed a screening process developed by the Professional
 19 Standards Commission."

20 SECTION 3.

21 Said chapter is further amended in Code Section 20-2-983, relating to creation and
 22 composition of the Professional Practices Commission; the terms, qualifications,
 23 appointment, and removal of members; and filling of vacancies, by striking subsection (a)
 24 and inserting in lieu thereof the following:

25 "(a) The Professional Standards Commission existing June 30, 1991, is abolished and the
 26 term of office of the members of such abolished commission shall expire July 1, 1991. A
 27 new Professional Standards Commission is created and attached to the Office of Planning
 28 and Budget for administrative purposes only. The commission shall consist of 18 members
 29 to be appointed by the Governor, subject to the provisions of subsections (b) and (c) of this
 30 Code section. The term of office of members of the commission shall be three years;
 31 except the initial appointments shall begin July 1, 1991, and shall be: six for one year, six
 32 for two years, and six for three years. Members of the commission may serve until their
 33 successors are appointed and qualified. A member may be reappointed to the commission
 34 only one time. Vacancies shall be filled for unexpired terms in the same manner as the
 35 original appointments. If a member for any reason discontinues employment or service in
 36 the category from which he or she was appointed, that person may not be eligible for

1 reappointment to the commission as a representative of that category. If a member elects
 2 to take employment outside the State of Georgia, that person is no longer eligible to serve
 3 on the commission. The Governor may remove any member from the commission for
 4 misconduct or malfeasance in office, incapacity, or neglect of duty. All members of the
 5 commission are to be confirmed by the Senate. Any appointment made by the Governor
 6 when the Senate is not in session shall be effective until the appointment is acted upon by
 7 the Senate."

8 SECTION 4.

9 Said chapter is further amended by striking Code Section 20-2-984.3, relating to preliminary
 10 investigations of violations by the Professional Standards Commission, and inserting in lieu
 11 thereof the following:

12 "(a) Upon receipt of a written request from a local board, the state board, or one or more
 13 individual residents of this state, the commission shall be authorized to investigate:

14 (1) Alleged violations by an educator of any law of this state pertaining to educators or
 15 the profession of education;

16 (2) Alleged violations by an educator of the code of ethics of the commission;

17 (3) Alleged violations by an educator of rules, regulations, or policies of the state board;
 18 or the commission; or a local board; or;

19 (4) Complaints alleging a failure by an educator to meet or comply with standards of
 20 performance of the commission; or the state board; or a local board; or

21 (5) Complaints alleging that an educator has been convicted of any crime, whether a
 22 felony or a misdemeanor. As used in this paragraph, the term 'convicted' shall include
 23 a finding or verdict of guilty or a plea of nolo contendere, regardless of whether an appeal
 24 of the conviction has been sought; a situation where first offender treatment without
 25 adjudication of guilt pursuant to the charge was granted; and a situation where an
 26 adjudication of guilt or sentence was otherwise withheld or not entered on the charge.

27 (b) The commission shall decide whether to conduct a preliminary investigation pursuant
 28 to this Code section within 30 days of the request unless an extension is granted pursuant
 29 to the procedure outlined in subsection (b) of Code Section 20-2-984.5. The commission
 30 may appoint a committee of its membership with the power to transact and carry out the
 31 business and duties of the commission when deciding whether to conduct a preliminary
 32 investigation.

33 (c) When an educator admits on a Professional Standards Commission application to
 34 having resigned or being discharged while under suspicion of immoral, criminal or
 35 unprofessional conduct, or being under investigation for such conduct, or having a criminal
 36 history, or having had a surrender, denial, revocation or suspension of a certificate or being

1 the subject of an investigation or adverse action regarding a certificate, an investigation
 2 will automatically open without notification to the commission or the educator."

3 SECTION 5.

4 Said chapter is further amended in Code Section 20-2-984.4, relating to preliminary
 5 investigations, notice to local boards, and the powers and limitations of the Professional
 6 Standards Commission relating to such investigations, by inserting a new paragraph of
 7 subsection (b) to be designated paragraph (4) and a new subsection to be designated
 8 subsection (d.1) to read as follows:

9 "(4) Have the power to access criminal histories of educators through the Georgia Crime
 10 Information Center and the National Crime Information Center. This access shall include
 11 a GCIC terminal. Information provided by GCIC or NCIC shall be used in accordance
 12 with Code Section 35-3-35 and with applicable federal and state laws, rules, or
 13 regulations."

14 "(d.1) Upon receipt of written notification that an educator is the subject of an
 15 investigation, it shall be the duty of the educator to notify the commission in writing of
 16 any change in the educator's home or employment address until the commission issues
 17 a final decision in the matter. During this period, the mailing by certified mail of any
 18 notice, correspondence, or order regarding an investigation or disciplinary action to the
 19 last address specified by the educator after receiving written notice of the investigation,
 20 or if the commission has not received a change of address from the educator, the address
 21 at which the educator received written notification of an investigation, shall constitute
 22 proper notice to the educator. Notice by certified mail pursuant to this rule shall be
 23 complete upon mailing."

24 SECTION 6.

25 Said chapter is further amended in Code Section 20-2-984.5, relating to preliminary
 26 investigations, disciplinary actions, and hearings, by striking subsections (a), (b), and (d) and
 27 inserting in lieu thereof the following:

28 "(a) After a preliminary investigation authorized by Code Section 20-2-984.4, the
 29 commission shall review the report of the investigator and either determine that no further
 30 action need be taken or recommend that a particular disciplinary action be imposed. This
 31 determination shall ~~not take longer than~~ be made no later than the commission's regularly
 32 scheduled meeting next occurring after 60 days from receipt of the findings of the
 33 preliminary investigation.

34 (b) Prior to the expiration of that ~~60-day~~ period referred to in subsection (a) of this Code
 35 section, the commission may extend the review period if unusual and compelling

1 circumstances render it impracticable for the commission to complete its review within
 2 such period. Any such order shall recite with particularity the circumstances which render
 3 it impracticable for the commission to complete its review within such period. Any such
 4 extension by the commission shall be for a period of time not to exceed 30 days. Prior to
 5 the expiration of the extended review period, the review period may be further extended
 6 by further order of the commission for one additional period not to exceed 30 days if
 7 unusual and compelling circumstances render it impracticable to complete the review
 8 within the extended review period. Such further order further extending the review period
 9 shall likewise recite with particularity the circumstances which render it impracticable for
 10 the commission to complete its review within the review period as previously extended.
 11 Notwithstanding any provision of this subsection to the contrary, in cases where there are
 12 pending criminal charges against an educator, the commission, on its own motion or in
 13 response to a request by an educator, may enter an order extending the review period until
 14 the criminal charges have been fully resolved."

15 "(d) In a contested case, if the commission determines that probable cause exists to impose
 16 a sanction against an educator, an opportunity for a hearing shall be held provided to the
 17 educator pursuant to Code Section 50-13-41. Based on the findings of fact and conclusions
 18 of law of the administrative law judge as provided in that Code section, the commission
 19 may take any combination of the actions referred to in subsection (c) of this Code section."

20 SECTION 7.

21 Said chapter is further amended by striking Code Section 20-2-986, relating to expenses of
 22 members of the Professional Standards Commission, income and benefit rights for members
 23 employed by a state agency or subdivision, and reimbursement for expenses of members'
 24 employers, and inserting in lieu thereof the following:

25 "Members of the commission shall receive no compensation for their services but shall,
 26 upon approval by the chairman, be reimbursed for their actual and necessary expenses
 27 incurred in the performance of official commission business as provided by Code Section
 28 45-7-20. No member of the commission, with the exception of members of the executive
 29 committee of the commission, shall be reimbursed from any public funds for such expenses
 30 for more than ~~20~~ 30 days during each calendar year, except that there shall be no limitation
 31 on the number of meeting days for one year after July 1, 1991. A member of the
 32 commission who is an employee of an agency of the state, or any of its political
 33 subdivisions, including school systems, shall be permitted to attend commission meetings
 34 and perform other commission duties without loss of income or other benefits. An agency
 35 of Georgia, or any of its political subdivisions, including school systems, which employs
 36 a member of the commission and employs a person to replace such member during the

1 member's performance of commission duties or incurs other additional expenses as a result
2 of such performance shall be reimbursed for the actual amount of any costs so incurred."

3 **SECTION 8.**

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