

The House Committee on Education offers the following substitute to SB 368:

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 teaching  
 13 certificate;
- 14 ~~(2) Has completed three years of teaching in Georgia public schools prior to applying for~~  
 15 ~~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 Standards 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 felony or of any  
 22 crime involving moral turpitude in the courts of this state or any other state, territory, or  
 23 country or in the courts of the United States. As used in this paragraph, the term  
 24 'convicted' shall include a finding or verdict of guilty or a plea of nolo contendere,  
 25 regardless of whether an appeal of the conviction has been sought; a situation where first  
 26 offender treatment without adjudication of guilt pursuant to the charge was granted; and  
 27 a situation where an adjudication of guilt or sentence was otherwise withheld or not  
 28 entered on the charge or the charge was otherwise disposed of in a similar manner in any  
 29 jurisdiction.

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

1 (c) When an educator admits on a Professional Standards Commission application to  
 2 having resigned or being discharged for committing a felony or misdemeanor involving  
 3 moral turpitude or being under investigation by law enforcement authorities for such  
 4 conduct or for committing a breach of the code of ethics or for a violation of state  
 5 education laws or having a criminal history or having had a surrender, denial, revocation,  
 6 or suspension of a certificate or being the subject of an investigation or adverse action  
 7 regarding a certificate, an investigation will automatically open without notification to the  
 8 commission and with written notification to the educator."

#### 9 SECTION 5.

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

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

20 "(d.1) Upon the educator's receipt of written notification that an educator is the subject of  
 21 such investigation, it shall be the duty of the educator to notify the commission in writing  
 22 of any change in the educator's home or employment address until the commission issues  
 23 a final decision in the matter. During this period, the mailing by certified mail of any  
 24 notice, correspondence, or order regarding an investigation or disciplinary action to the last  
 25 address specified by the educator after receiving written notice of the investigation, or if  
 26 the commission has not received a change of address from the educator, the address at  
 27 which the educator received written notification of an investigation, shall constitute proper  
 28 notice to the educator. If the commission has been notified in writing that the educator is  
 29 represented by legal counsel, the commission shall also send a copy of any notice to the  
 30 educator's legal counsel. Notice by certified mail pursuant to this rule shall be complete  
 31 upon mailing."

#### 32 SECTION 6.

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

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

7       (b) Prior to the expiration of that ~~60-day~~ period referred to in subsection (a) of this Code  
8       section, the commission may extend the review period if unusual and compelling  
9       circumstances render it impracticable for the commission to complete its review within  
10      such period. Any such order shall recite with particularity the circumstances which render  
11      it impracticable for the commission to complete its review within such period. Any such  
12      extension by the commission shall be for a period of time not to exceed 30 days. Prior to  
13      the expiration of the extended review period, the review period may be further extended  
14      by further order of the commission for one additional period not to exceed 30 days if  
15      unusual and compelling circumstances render it impracticable to complete the review  
16      within the extended review period. Such further order further extending the review period  
17      shall likewise recite with particularity the circumstances which render it impracticable for  
18      the commission to complete its review within the review period as previously extended.  
19      Notwithstanding any provision of this subsection to the contrary, in cases where there are  
20      pending criminal charges against an educator, the commission, on its own motion or in  
21      response to a request by an educator, may enter an order extending the review period until  
22      the criminal charges have been fully resolved.

23      (c) If the commission finds that there is probable cause for imposing a sanction against the  
24      educator, it may recommend any combination of the following:

- 25          (1) That the educator be warned, reprimanded, monitored, or any combination thereof;  
26          or  
27          (2) That the certificate of the educator be suspended, ~~or~~ revoked, or denied.

28      The commission shall provide to the educator, at the time of the initial probable cause  
29      finding, a written summary statement of the findings of fact upon which the probable cause  
30      was determined.

31      (d) In a contested case, if the commission determines that probable cause exists to impose  
32      a sanction against an educator; or to deny a certificate to an applicant, an opportunity for  
33      a hearing shall be ~~held~~ provided to the educator or applicant pursuant to Code Section  
34      50-13-41. Based on the findings of fact and conclusions of law of the administrative law  
35      judge as provided in that Code section, the commission may take any combination of the  
36      actions referred to in subsection (c) of this Code section."

**SECTION 7.**

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

"20-2-986.

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

**SECTION 8.**

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