

Senate Bill 368

By: Senators Smith of the 25th, Marable of the 52nd, Jackson of the 50th, Ragan of the 11th
Streat of the 19th and others

AS PASSED

AN ACT

To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to change certain provisions regarding regulation of certificated professional personnel; to change certain provisions regarding certain certification; to change certain provisions regarding composition of the Professional Standards Commission; to change certain provisions regarding investigations of certain violations; to change certain provisions regarding certain preliminary investigations; to change certain provisions regarding expenses; to provide for certain longitudinal studies and reports; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 20 of the Official Code of Georgia Annotated, relating to 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 a certificate or otherwise disciplining the holder of a certificate for good cause after an investigation is held and notice and 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 title 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 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 beginning on the date such certification is received. The 10 percent increase shall be computed based on the state salary for such individual when national certification is received and recomputed each subsequent year based on the individual's state salary for that school year. In the case of a person who has received such national certification prior to July 1, 2000, and is receiving or is eligible to receive a 5 percent rate increase, the 5 percent rate increase shall be changed to a 10 percent rate increase effective with the commencement of the 2000-2001 school year. The increase in state salary provided by this Code section shall be in addition to any other increase for which the person is eligible."

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

- (1) Is currently teaching in a Georgia public school and holds a valid Georgia teaching certificate;
- (2) Has submitted an application and the initial qualifying payment to the National Board for Professional Teaching Standards; and
- (3) Has successfully completed a screening process developed by the Professional Standards Commission."

SECTION 3.

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

"(a) The Professional Standards Commission existing June 30, 1991, is abolished and the term of office of the members of such abolished commission shall expire July 1, 1991. A new Professional Standards Commission is created and attached to the Office of Planning and Budget for administrative purposes only. The commission shall consist of 18 members to be appointed by the Governor, subject to the provisions of subsections (b) and (c) of this Code section. The term of office of members of the commission shall be three years; except the initial appointments shall begin July 1, 1991, and shall be: six for one year, six for two years, and six for three years. Members of the commission may serve until their successors are appointed and qualified. A member may be reappointed to the commission only one time. Vacancies shall be filled for unexpired terms in the same manner as the original appointments. If a member for any reason discontinues employment or service in the category from which he or she was appointed, that person may not be eligible for reappointment to the commission as a representative of that category. If a member elects to take employment outside the State of Georgia, that person is no longer eligible to serve on the commission. The Governor may remove any member from the commission for misconduct or malfeasance in office, incapacity, or neglect of duty. All members of the commission are to be confirmed by the Senate. Any appointment made by the Governor when the Senate is not in session shall be effective until the appointment is acted upon by the Senate."

SECTION 4.

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

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

- (1) Alleged violations by an educator of any law of this state pertaining to educators or the profession of education;
- (2) Alleged violations by an educator of the code of ethics of the commission;
- (3) Alleged violations by an educator of rules, regulations, or policies of the state board or the commission;

- (4) Complaints alleging a failure by an educator to meet or comply with standards of performance of the commission or the state board; or
- (5) Complaints alleging that an educator has been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States. As used in this paragraph, the term 'convicted' shall include a finding or verdict of guilty or a plea of nolo contendere, regardless of whether an appeal of the conviction has been sought; a situation where first offender treatment without adjudication of guilt pursuant to the charge was granted; and a situation where an adjudication of guilt or sentence was otherwise withheld or not entered on the charge or the charge was otherwise disposed of in a similar manner in any jurisdiction.
- (b) The commission shall decide whether to conduct a preliminary investigation pursuant to this Code section within 30 days of the request unless an extension is granted pursuant to the procedure outlined in subsection (b) of Code Section 20-2-984.5. The commission may appoint a committee of its membership with the power to transact and carry out the business and duties of the commission when deciding whether to conduct a preliminary investigation.
- (c) When an educator admits on a Professional Standards Commission application to having resigned or being discharged for committing a felony or misdemeanor involving moral turpitude or being under investigation by law enforcement authorities for such conduct or for committing a breach of the code of ethics or for a violation of state education laws or having a criminal history or having had a surrender, denial, revocation, or suspension of a certificate or being the subject of an investigation or adverse action regarding a certificate, an investigation will automatically open without notification to the commission and with written notification to the educator."

SECTION 5.

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

"(4) Have the power to access criminal histories of educators through the Georgia Crime Information Center and the National Crime Information Center. This access shall include a GCIC terminal. Information provided by GCIC or NCIC shall be used in accordance

with Code Section 35-3-35 and with applicable federal and state laws, rules, or regulations."

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

SECTION 6.

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

"(a) After a preliminary investigation authorized by Code Section 20-2-984.4, the commission shall review the report of the investigator and either determine that no further action need be taken or recommend that a particular disciplinary action be imposed. This determination shall be made no later than the commission's regularly scheduled meeting next occurring after 60 days from receipt of the findings of the preliminary investigation.

(b) Prior to the expiration of that period referred to in subsection (a) of this Code section, the commission may extend the review period if unusual and compelling circumstances render it impracticable for the commission to complete its review within such period. Any such order shall recite with particularity the circumstances which render it impracticable for the commission to complete its review within such period. Any such extension by the commission shall be for a period of time not to exceed 30 days. Prior to the expiration of the extended review period, the review period may be further extended by further order of the commission for one additional period not to exceed 30 days if unusual and compelling circumstances render it impracticable to complete the review within the extended review period. Such further order further extending the review period shall likewise recite with particularity the circumstances which render it impracticable for the commission to

complete its review within the review period as previously extended. Notwithstanding any provision of this subsection to the contrary, in cases where there are pending criminal charges against an educator, the commission, on its own motion or in response to a request by an educator, may enter an order extending the review period until the criminal charges have been fully resolved.

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

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

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

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

SECTION 7.

Said title 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 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.

Said title is further amended by adding a new Code section immediately following Code Section 20-14-27, to be designated Code Section 20-14-28, to read as follows:

"20-14-28.

When the state-wide comprehensive educational information system provided for in Code Section 20-2-320 becomes functional, the office shall conduct a longitudinal study of the effect of nationally certified teachers on student performance in Georgia. Thereafter, the office shall prepare an annual report addressing the question of whether nationally certified and Teacher Alternative Preparation Program teachers have improved student performance in Georgia and submit such report to the members of the General Assembly and the State Board of Education."

SECTION 9.

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