

Senate Resolution 471(Prefiled)

By: Senator Gingrey of the 37th

A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide for the election of members of
 2 the State Board of Education by the electors of the various congressional districts in this state
 3 and for appointment of the State School Superintendent by the State Board of Education and
 4 other matters relative to the foregoing changes; to provide for submission of this amendment
 5 for ratification or rejection; and for other purposes.

6 **BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:**

7 **SECTION 1.**

8 Article II, Section III, Paragraph I of the Constitution is amended by striking subparagraphs
 9 (a) and (b) in their entirety and inserting in lieu thereof the following:

10 "(a) As used in this Paragraph, the term 'public official' means the Governor, the
 11 Lieutenant Governor, the Secretary of State, the Attorney General, ~~the State School~~
 12 ~~Superintendent~~, the Commissioner of Insurance, the Commissioner of Agriculture, the
 13 Commissioner of Labor, any member of the State Board of Education, and any member of
 14 the General Assembly.

15 (b) Upon indictment for a felony by a grand jury of this state or by the United States,
 16 which felony indictment relates to the performance or activities of the office of any public
 17 official, the Attorney General or district attorney shall transmit a certified copy of the
 18 indictment to the Governor or, if the indicted public official is the Governor, to the
 19 Lieutenant Governor who shall, subject to subparagraph (d) of this Paragraph, appoint a
 20 review commission. If the indicted public official is the Governor, the commission shall
 21 be composed of the Attorney General, the Secretary of State, ~~the State School~~
 22 ~~Superintendent~~, the Commissioner of Insurance, the Commissioner of Agriculture, and the
 23 Commissioner of Labor. If the indicted public official is the Attorney General, the
 24 commission shall be composed of three other public officials who are not members of the
 25 General Assembly. If the indicted public official is not the Governor, the Attorney General,
 26 or a member of the General Assembly, the commission shall be composed of the Attorney
 27 General and two other public officials who are not members of the General Assembly. If

1 the indicted public official is a member of the General Assembly, the commission shall be
 2 composed of the Attorney General and one member of the Senate and one member of the
 3 House of Representatives. If the Attorney General brings the indictment against the public
 4 official, the Attorney General shall not serve on the commission. In place of the Attorney
 5 General, the Governor shall appoint a retired Supreme Court Justice or a retired Court of
 6 Appeals Judge. The commission shall provide for a speedy hearing, including notice of the
 7 nature and cause of the hearing, process for obtaining witnesses, and the assistance of
 8 counsel. Unless a longer period of time is granted by the appointing authority, the
 9 commission shall make a written report within 14 days. If the commission determines that
 10 the indictment relates to and adversely affects the administration of the office of the
 11 indicted public official and that the rights and interests of the public are adversely affected
 12 thereby, the Governor or, if the Governor is the indicted public official, the Lieutenant
 13 Governor shall suspend the public official immediately and without further action pending
 14 the final disposition of the case or until the expiration of the officer's term of office,
 15 whichever occurs first. During the term of office to which such officer was elected and in
 16 which the indictment occurred, if a nolle prosequi is entered, if the public official is
 17 acquitted, or if after conviction the conviction is later overturned as a result of any direct
 18 appeal or application for a writ of certiorari, the officer shall be immediately reinstated to
 19 the office from which he was suspended. While a public official is suspended under this
 20 Paragraph and until initial conviction by the trial court, the officer shall continue to receive
 21 the compensation from his office. After initial conviction by the trial court, the officer shall
 22 not be entitled to receive the compensation from his office. If the officer is reinstated to
 23 office, he shall be entitled to receive any compensation withheld under the provisions of
 24 this Paragraph."

25 **SECTION 2.**

26 Article V, Section II, Paragraph VIII of the Constitution is amended by striking subparagraph
 27 (b) and inserting in lieu thereof the following:

28 "(b) In case of the death or withdrawal of a person who received a majority of votes cast
 29 in an election for the office of Secretary of State, Attorney General, ~~State School~~
 30 ~~Superintendent~~, Commissioner of Insurance, Commissioner of Agriculture, or
 31 Commissioner of Labor, the Governor elected at the same election, upon becoming
 32 Governor, shall have the power to fill such office by appointing, subject to the confirmation
 33 of the Senate, an individual to serve until the next general election and until a successor for
 34 the balance of the unexpired term shall have been elected and qualified."

1 to serve for the remainder of the term to which he or she was appointed or until December
 2 31, 2006, whichever first occurs; and any vacancy occurring by reason of expiration of an
 3 appointed member's term prior to December 31, 2006, shall be filled by appointment made
 4 by the Governor and, upon confirmation by the Senate, the person so appointed shall serve
 5 for a term expiring December 31, 2006. The Governor shall not be a member of said board.
 6 ~~The ten members in office on June 30, 1983, shall serve out the remainder of their~~
 7 ~~respective terms. As each term of office expires, the Governor shall appoint a successor as~~
 8 ~~herein provided. The terms of office of all members appointed after the effective date of~~
 9 ~~this Constitution shall be for seven years. Beginning in 2006 and quadrennially thereafter,~~
 10 members shall be elected in the manner prescribed for the election of members of the
 11 General Assembly, and the electors shall be the same. Members of the State Board of
 12 Education shall be elected at the same time and hold their offices for the same term as the
 13 Governor. Members shall serve until their successors are ~~appointed~~ elected and qualified.
 14 At the time of their election, the members of the State Board of Education shall be citizens
 15 of the United States, shall be at least 21 years of age, shall have been citizens of this state
 16 for at least two years, and shall have been legal residents of the territory embraced within
 17 the district from which elected for at least one year. In the event of a vacancy on the board
 18 by death, resignation, removal, or any reason other than expiration of a member's term, the
 19 Governor shall fill such vacancy; and the person so appointed shall serve until confirmed
 20 by the Senate and, upon confirmation, shall serve for the unexpired term of office."

21 SECTION 7.

22 Article VIII, Section II, Paragraph I of the Constitution is amended by striking subparagraph
 23 (d) and inserting in lieu thereof the following:

24 "(d) ~~The qualifications, compensation, and removal from office~~ of the members of the
 25 board of education shall be as provided by law."

26 SECTION 8.

27 Article VIII, Section III of the Constitution is amended by striking Paragraph I and inserting
 28 in lieu thereof the following:

29 "Paragraph I. *State School Superintendent.* There shall be a State School
 30 Superintendent, who shall be the executive officer of the State Board of Education, ~~elected~~
 31 ~~at the same time and in the same manner and for the same term as that of the Governor.~~
 32 The State School Superintendent shall be appointed by the State Board of Education to
 33 serve for such term of office, not exceeding four years, as the State Board of Education
 34 shall determine; provided, however, that the person elected as State School Superintendent
 35 in 2002 shall serve for the term to which such person was elected. The State School

1 Superintendent shall have such qualifications and shall be paid such compensation as may
 2 be fixed by law. No member of the State Board of Education shall be eligible for ~~election~~
 3 appointment as State School Superintendent during the ~~time~~ term for which such member
 4 shall have been ~~appointed~~ elected."

5 **SECTION 9.**

6 The above proposed amendment to the Constitution shall be published and submitted as
 7 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the
 8 above proposed amendment shall have written or printed thereon the following:

9 "() YES Shall the Constitution be amended so as to provide for the election of members
 10 of the State Board of Education by the electors of the various congressional
 11 () NO districts in this state and for appointment of the State School Superintendent
 12 by the State Board of Education?"

13 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."

14 All persons desiring to vote against the proposed amendment shall vote "No." If such
 15 amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
 16 become a part of the Constitution of this state.