

Senate Bill 193

By: Senators Moody of the 27th, Brush of the 24th, Clay of the 37th, Tate of the 38th and Unterman of the 45th

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 schools, so as to revise provisions relating to procedures for
3 terminating or suspending contracts for teachers and for nonrenewal of contracts for certain
4 teachers; to provide for a pool of impartial persons who have expertise in education but are
5 not employees of the local board or the state board; to provide for selection of three tribunal
6 members from such pool; to provide for hearing before a tribunal; to remove a provision for
7 appeal to the state board; to provide for review on the record by the superior court; to provide
8 that persons who first became teachers on or after July 1, 2000, shall acquire rights to
9 continued employment under Code Section 20-2-942; to provide for related matters; to
10 provide an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
14 secondary schools, is amended in Code Section 20-2-940, relating to the grounds and
15 procedure for terminating or suspending contracts of employment, by striking subsections
16 (e), (f), and (g) and inserting in lieu thereof the following:

17 "*(e) Hearing.*

18 (1) The local board shall select a pool of impartial, disinterested persons who have
19 expertise in education but are not employees of the local board or the State Board of
20 Education. The teacher shall select one person from the pool; the local board shall select
21 one person from the pool; the two persons thus selected shall select a third person from
22 the pool, and the three persons thus selected shall constitute the panel for a hearing
23 conducted in accordance with this Code section. The third person selected shall serve as
24 presiding officer of the tribunal. ~~The hearing shall be conducted before the local board,~~
25 ~~or the local board may designate a tribunal to consist of not less than three nor more than~~

1 ~~five impartial persons possessing academic expertise to conduct the hearing and submit~~
 2 ~~its findings and recommendations to the local board for its decision thereon.~~

3 (2) The hearing shall be reported at the local board's expense. ~~If the matter is heard by~~
 4 ~~a tribunal, the~~ The transcript shall be prepared at the expense of the local board and an
 5 original and two copies shall be filed in the office of the superintendent. ~~If the hearing is~~
 6 ~~before the local board, the transcript need not be typed unless an appeal is taken to the~~
 7 ~~State Board of Education, in which event typing of the transcript shall be paid for by the~~
 8 ~~appellant. In the event of an appeal to the state board, the original shall be transmitted to~~
 9 ~~the state board as required by its rules.~~

10 (3) Oath or affirmation shall be administered to all witnesses by the ~~chairman, any~~
 11 ~~member of the local board,~~ presiding officer or by the local board attorney. Such oath
 12 shall be as follows:

13 'You do solemnly swear (or affirm) that the evidence shall be the truth, the whole truth,
 14 and nothing but the truth. So help you God.'

15 (4) All questions relating to admissibility of evidence or other legal matters shall be
 16 decided by the ~~chairman or presiding officer,~~ subject to the right of either party to appeal
 17 to the full ~~local board or hearing tribunal,~~ as the case may be; provided, however, the
 18 parties by agreement may stipulate that some disinterested member of the State Bar of
 19 Georgia shall decide all questions of evidence and other legal issues arising before the
 20 ~~local board or tribunal.~~ In all hearings, the burden of proof shall be on the school system,
 21 and it shall have the right to open and to conclude. Except as otherwise provided in this
 22 subsection, the same rules governing nonjury trials in the superior court shall prevail.
 23 Notwithstanding any other provision of law, the provisions of Code Section 20-2-1160
 24 shall not apply to procedures for the purposes of this Code section and Code Section
 25 20-2-942.

26 (f) *Decision; appeals.* ~~The local board shall render its decision at the hearing or within~~
 27 ~~five days thereafter. Where the hearing is before a tribunal, the~~ The tribunal shall file its
 28 findings and recommendations with the local board within five days of the conclusion of
 29 the hearing, and the local board shall render its decision thereon within ten days after the
 30 receipt of the transcript. ~~Appeals may be taken to the state board in accordance with Code~~
 31 ~~Section 20-2-1160, as now or hereafter amended, and the rules and regulations of the state~~
 32 ~~board governing appeals.~~ There shall be no appeal to the State Board of Education. Any
 33 party may appeal to the superior court of the county where the local board is situated. Such
 34 appeal shall be filed in writing within 30 days after the decision of the local board. Within
 35 ten days after such an appeal is filed, it shall be the duty of the superintendent of the local
 36 school system to transmit to the superior court a copy of the record and transcript of the
 37 hearing before the tribunal as well as the decision of the tribunal and the local board,

1 certified as true and correct. The review by the superior court shall be confined to the
 2 record, and the appeal shall be determined by the judge sitting without a jury.

3 (g) *Superintendent's power to relieve from duty temporarily.* The superintendent of a local
 4 school system may temporarily relieve from duty any teacher, principal, or other employee
 5 having a contract for a definite term for any reason specified in subsection (a) of this Code
 6 section, pending hearing by the local ~~board~~ tribunal in those cases where the charges are
 7 of such seriousness or other circumstances exist which indicate that such teacher or
 8 employee could not be permitted to continue to perform his or her duties pending hearing
 9 without danger of disruption or other serious harm to the school, its mission, pupils, or
 10 personnel. In any such case, the superintendent shall notify the teacher or employee in
 11 writing of such action, which notice shall state the grounds thereof and shall otherwise
 12 comply with the requirements of the notice set forth in subsection (b) of this Code section.
 13 Such action by the superintendent shall not extend for a period in excess of ten working
 14 days, and during such period it shall be the duty of the local board to ~~conduct~~ provide for
 15 a hearing by a tribunal on the charges in the same manner provided for in subsections (e)
 16 and (f) of this Code section, except that notice of the time and place of hearing shall be
 17 given at least three days prior to the hearing. During the period that the teacher or other
 18 employee is relieved from duty prior to the decision of the local board, the teacher or
 19 employee shall be paid all sums to which he or she is otherwise entitled. If the hearing is
 20 delayed after the ten-day period as set out in this subsection at the request of the teacher
 21 or employee, then the teacher or employee shall not be paid beyond the ten-day period
 22 unless he or she is reinstated by the local board, in which case he or she shall receive all
 23 compensation to which he or she is otherwise entitled."

24 SECTION 2.

25 Said chapter is further amended in Code Section 20-2-942, relating to the procedure for
 26 nonrenewal after acceptance by a teacher of a school year contract for the fourth consecutive
 27 school year, by striking subsection (d) and inserting in lieu thereof the following:

28 "(d) A person who first ~~becomes~~ became a teacher on or after July 1, 2000, shall ~~not~~
 29 acquire ~~any~~ rights under this Code section to continued employment ~~with respect to any~~
 30 ~~position~~ as a teacher. A teacher who had acquired any rights to continued employment
 31 under this Code section prior to July 1, 2000, shall retain such rights."

32 SECTION 3.

33 This Act shall become effective on July 1, 2004.

- 1 **SECTION 4.**
- 2 All laws and parts of laws in conflict with this Act are repealed.