

Senate Bill 84

By: Senators Heath of the 31st, Williams of the 19th, Cowser of the 46th, Rogers of the 21st, Johnson of the 1st and others

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 revise provisions relating to eligibility for
3 election as a local board of education member; to provide for legislative findings; to limit the
4 size of local boards of education; to revise provisions relating to per diem and expenses of
5 local board of education members; to revise certain provisions relating to the secretary of
6 local boards of education; to provide for the fundamental roles of local boards of education
7 and local school superintendents; to prohibit certain conflicts of interest of board members;
8 to provide for a code of ethics for local board of education members; to provide for removal
9 of board members under certain circumstances; to revise provisions relating to eligibility for
10 appointment as a school superintendent; to revise provisions relating to training of local
11 board of education members; to provide for submission of certain provisions of this Act for
12 preclearance under the federal Voting Rights Act of 1965, as amended; to provide for related
13 matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

16 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
17 secondary education, is amended by adding a new Code section to Article 3, relating to local
18 boards of education, to read as follows:

19 "20-2-49.

20 The General Assembly finds that local boards of education play critical roles in the
21 operation and success of local school systems. School board members hold special roles
22 as trustees of public funds, including local, state, and federal funds, while they focus on the
23 singular objective of ensuring each student in the local school system receives a quality
24 basic education. Board duties require specialized skills and training in the performance of
25 vision setting, policy making, approving multimillion dollar budgets, and hiring a qualified
26 superintendent. The motivation to serve as a member of a local board of education should

27 be the improvement of schools and academic achievement of all students and not
 28 representation of a special interest group. Service on a local board of education is not and
 29 should not be considered a job but instead is citizen service. Given the specialized nature
 30 and unique role of membership on a local board of education, this elected office should be
 31 characterized and treated differently from other elected offices where the primary duty is
 32 independently to represent constituent views. Local board of education members, similar
 33 to judges and district attorneys, should abide by a code of conduct and conflict of interest
 34 policy modeled for their unique roles and responsibilities. And although there are many
 35 measures of the success of a local board of education, one is clearly essential: maintaining
 36 local school system accreditation and the opportunities it allows the school system's
 37 students."

38 SECTION 2.

39 Said chapter is further amended by revising Code Section 20-2-51, relating to election of
 40 county board of education members, persons ineligible to be members or superintendent,
 41 ineligibility for local boards of education, and ineligibility for other offices, as follows:

42 "20-2-51.

43 (a) No person shall be eligible for election as a member of a local board of education who
 44 is not a resident of the school district in which that person seeks election and of the election
 45 district which such person seeks to represent. Whenever there is in a portion of any county
 46 a local school system having a board of education of its own, receiving its pro rata of the
 47 public school fund directly from the State School Superintendent and having no dealings
 48 whatever with the local board, then the members of the board of such county shall be
 49 selected from that portion of the county not embraced within the territory covered by such
 50 local system.

51 (b) Whenever a member of a local board of education moves that person's domicile from
 52 the district which that person represents, such person shall cease to be a member of such
 53 local board of education, and a vacancy shall occur.

54 (c) ~~No person employed by or serving on the governing body of a private educational~~
 55 ~~institution shall be eligible to serve as a member of a local board of education.~~

56 (1) No person employed by a local board of education shall be eligible to serve as a
 57 member of that board of education.

58 (2) No person employed by the Department of Education or serving as a member of the
 59 State Board of Education shall be eligible to serve as a member of a local board of
 60 education.

61 (3) No person who has an immediate family member sitting on a local board of education
 62 or serving as the local school superintendent shall be eligible to serve as a member of

63 such local board of education. As used in this paragraph, the term 'immediate family
 64 member' means a spouse, child, sibling, or parent or the spouse of a child, sibling, or
 65 parent. This paragraph shall only apply to local board of education members elected or
 66 appointed on or after July 1, 2009.

67 ~~This subsection shall not apply to institutions above the high school level.~~

68 (d) In all counties of this state having a population of not less than 500,000 or more than
 69 600,000 according to the United States decennial census of 1990 or any future such census,
 70 the members of the county boards of education taking office after December 1, 1975, shall
 71 not hold any other elective governmental office. If any member of any such board should
 72 qualify at any time after December 1, 1975, for nomination or election to any other elective
 73 governmental office other than for membership on such county board, such member's
 74 position on such county board shall thereby become vacant. Such vacancy shall be filled
 75 as provided by the law applicable to any such county board.

76 (e) No person shall be eligible for election as a member of a local board of education
 77 unless he or she:

78 (1) Is a citizen of the United States;

79 (2) Is a registered voter;

80 (3) Has read and understands the code of ethics and the conflict of interest provisions
 81 applicable to members of local boards of education and has agreed to abide by them; and

82 (4) Has agreed to annually disclose compliance with the State Board of Education's
 83 policy on training for members of local boards of education, the code of ethics of the
 84 local board of education, and the conflict of interest provisions applicable to members of
 85 local boards of education.

86 Each person offering his or her candidacy for election as a member of a local board of
 87 education shall file an affidavit with the officer before whom such person has qualified for
 88 such election prior to or at the time of qualifying, which affidavit shall affirm that he or she
 89 meets all of the qualifications required pursuant to this subsection. This subsection shall
 90 only apply to local board of education members elected or appointed on or after July 1,
 91 2009.

92 (f) No person who has been judicially determined to be mentally incompetent shall be
 93 eligible for election as a member of a local board of education unless the disability
 94 determination has been removed. This subsection shall only apply to local board of
 95 education members elected or appointed on or after July 1, 2009."

96 **SECTION 3.**

97 Said chapter is further amended by revising Code Section 20-2-52, relating to terms of office
 98 of members of local boards of education, as follows:

99 "20-2-52.

100 (a) Members of local boards of education shall be elected for terms of four years unless
 101 their terms are otherwise provided by local Act or constitutional amendment.

102 (b)(1) Each local board of education shall have no more than seven members as provided
 103 by local Act.

104 (2) This subsection shall not apply to a local board of education whose board size
 105 exceeds seven members as provided by local constitutional amendment or federal court
 106 order or pursuant to a local law in effect prior to July 1, 2009; provided, however, that if
 107 the local law of any such local board of education is amended to revise the number of
 108 members on such board, paragraph (1) of this subsection shall apply."

109 **SECTION 4.**

110 Said chapter is further amended by revising subsection (a) of Code Section 20-2-55, relating
 111 to per diem, insurance, and expenses of local board members, as follows:

112 "(a) In any local school system for which no local Act is passed, members of the local
 113 board of education shall, when approved by the local board affected, receive a per diem of
 114 \$50.00 for each day of attendance at ~~meetings~~ a meeting, as defined in paragraph (2) of
 115 subsection (a) of Code Section 50-14-1, of the board ~~and while meeting and traveling~~
 116 ~~within or outside the state as a member of a committee of the board on official business~~
 117 ~~first authorized by a majority of the board~~, plus reimbursement for actual expenses
 118 necessarily incurred in connection therewith; provided, however, that in any independent
 119 school system with a full-time equivalent (FTE) program count of less than 4,000 students
 120 for which no local Act is passed, members of the local board of education may, when
 121 approved by the affected local board, receive a per diem of not less than \$50.00 and not
 122 more than \$100.00 for each day of attendance at ~~meetings~~ a meeting, as defined in
 123 paragraph (2) of subsection (a) of Code Section 50-14-1, of the board ~~and while meeting~~
 124 ~~and traveling within or outside the state as a member of a committee of the board~~, plus
 125 reimbursement for actual expenses. The accounts for such service and expenses shall be
 126 submitted for approval to the local school superintendent. In all school districts, the
 127 compensation of members of local boards shall be paid only from the local tax funds
 128 available to local boards for educational purposes."

129 **SECTION 5.**

130 Said chapter is further amended by revising subsection (a) of Code Section 20-2-57, relating
 131 to organization of county boards of education, as follows:

132 "(a) Unless otherwise provided by local law or, in the absence of local law, by local board
 133 policy, upon being called together by one of their number, the members of the local board

134 shall organize by selecting one of their number as chairperson to serve as such during the
 135 term for which that person was chosen as a member of the local board. The local school
 136 superintendent shall act as secretary of the local board, ex officio. A majority of the local
 137 board shall constitute a quorum for the transaction of business. The votes of a majority of
 138 the members present shall be necessary for the transaction of any business or discharge of
 139 any duties of the local board of education, provided there is a quorum present. Any action
 140 taken by less than a majority of the board members may be rescinded by a majority of the
 141 board members at the next regular meeting or within 30 days of such action, whichever is
 142 later. It shall be the duty of the superintendent ~~or the board's nominee~~ as secretary to be
 143 present at the meetings of the local board, to keep the minutes of its meetings and make a
 144 permanent record of them, and to do any other clerical work it may direct the
 145 superintendent to do. The superintendent ~~or the board's nominee~~ shall ~~record~~ cause to be
 146 recorded in a book, to be provided for the purpose, all official proceedings of the local
 147 board, which shall be a public record open to the inspection of any person interested
 148 therein; and all such proceedings, when so recorded, shall be signed by the chairperson and
 149 countersigned by the secretary."

150

SECTION 6.

151 Said chapter is further amended by revising Code Section 20-2-61, which is reserved, as
 152 follows:

153 "20-2-61.

154 ~~Reserved.~~

155 (a) The fundamental role of a local board of education shall be to establish policy for the
 156 local school system. The fundamental role of a local school superintendent shall be to
 157 implement the policy established by the local board. It shall not be the role of the local
 158 board of education or individual members of such board to micromanage the
 159 superintendent in executing his or her duties, but it shall be the duty of the local board to
 160 hold the local school superintendent accountable in the performance of his or her duties.
 161 Local board of education members shall be required to work together with the entire local
 162 board of education and shall not have authority as independent elected officials but shall
 163 only be authorized to take official action as members of the board as a whole.

164 (b) No local board of education shall delegate or attempt to delegate its policy-making
 165 functions and duties to the local school superintendent through contract or other means.

166 (c) The local board of education shall perform duties and exercise those responsibilities
 167 that are assigned to it by law or by rules of the State Board of Education in carrying out the
 168 purposes and objectives of the Georgia Constitution and applicable law.

169 (d) The local school superintendent shall perform all duties required by Code Section
 170 20-2-109 and any other applicable laws."

171 **SECTION 7.**

172 Said chapter is further amended by revising Code Section 20-2-63, which is reserved, as
 173 follows:

174 "20-2-63.

175 ~~Reserved.~~

176 (a)(1) No local board of education member or member of his or her immediate family
 177 shall have an interest in a business organization or engage in any business, transaction,
 178 or professional activity which is in substantial conflict with the proper discharge of his
 179 or her duties in the public interest.

180 (2) No local board of education member shall use or attempt to use his or her official
 181 position to secure unwarranted privileges, advantages, or employment for himself or
 182 herself, members of his or her immediate family, or others.

183 (3) No local board of education member shall act in his or her official capacity in any
 184 matter where he or she, a member of his or her immediate family, or a business
 185 organization in which he or she has an interest has a direct or indirect financial
 186 involvement that might reasonably be expected to impair his or her objectivity or
 187 independence of judgment.

188 (4) No local board of education member shall undertake any employment or service,
 189 whether compensated or not, which might reasonably be expected to prejudice his or her
 190 independence of judgment in the exercise of his or her official duties.

191 (5) No local board of education member, or member of his or her immediate family, or
 192 business organization in which he or she has an interest shall solicit or accept any gift,
 193 favor, loan, political contribution, service, promise of future employment, or other thing
 194 of value based upon an understanding that the gift, favor, loan, contribution, service,
 195 promise, or other thing of value was given or offered for the purpose of influencing him
 196 or her, directly or indirectly, in the discharge of his or her official duties. This subsection
 197 shall not apply to the solicitation or acceptance of contributions to the campaign of an
 198 announced candidate for elective public office if the local board of education member has
 199 no knowledge or reason to believe that the campaign contribution, if accepted, was given
 200 with the intent to influence the local board of education member in the discharge of his
 201 or her official duties.

202 (6) No local board of education member shall use, or allow to be used, his or her public
 203 office or employment or any information not generally available to the members of the
 204 public which he or she receives or acquires in the course of and by reason of his or her

205 office or employment for the purpose of securing financial gain for himself or herself,
 206 any member of his or her immediate family, or any business organization with which he
 207 or she is associated.

208 (7) No local board of education member or business organization in which he or she has
 209 an interest shall represent any person or party other than the local board of education or
 210 local school system in connection with any cause, proceeding, application, or other matter
 211 pending before the local school system in which he or she serves or in any proceeding
 212 involving the local school system in which he or she serves.

213 (8) No local board of education member shall be prohibited from making an inquiry for
 214 information on behalf of a constituent if no fee, reward, or other thing of value is
 215 promised to, given to, or accepted by the local board of education member or a member
 216 of his or her immediate family, whether directly or indirectly, in return therefor.

217 (b) Upon a motion supported by majority vote, a local board of education may choose to
 218 conduct a hearing concerning the violation by a local board of education member of any
 219 conflict of interest provision in subsection (a) of this Code section. The local board of
 220 education member accused of violating said provision shall have 30 days notice prior to a
 221 hearing on the matter. Said accused member may bring witnesses on his or her behalf, and
 222 the local board of education may call witnesses to inquire into the matter. If it is found by
 223 majority vote that the accused member has violated a conflict of interest provision
 224 contained in subsection (a) of this Code section, the local board shall determine an
 225 appropriate sanction, up to and including removal from office. If the sanctioned member
 226 is removed from office, the resulting vacancy shall be filled in accordance with Code
 227 Section 20-2-54.1. The accused member shall abstain from any vote taken pursuant to this
 228 subsection."

229 **SECTION 8.**

230 Said chapter is further amended by adding new Code sections to Article 3, relating to local
 231 boards of education, to read as follows:

232 "20-2-72.

233 (a) No later than October 1, 2009, the State Board of Education shall adopt a model code
 234 of ethics for members of local boards of education. Such model code of ethics shall also
 235 include appropriate consequences for violation of a provision or provisions of such code.

236 (b) No later than December 31, 2009, each local board of education shall adopt a code of
 237 ethics that includes, at a minimum, the model code of ethics established by the State Board
 238 of Education pursuant to subsection (a) of this Code section.

239 20-2-73.

240 (a) Notwithstanding Code Section 20-2-54.1 or any other provisions of law to the contrary,
241 if a local school system is placed on probation or the equivalent level of accreditation
242 immediately preceding loss of accreditation by one or more accrediting agencies included
243 in subparagraph (6.1)(A) of Code Section 20-3-519, the Governor may, in his or her sole
244 discretion, suspend the members of the local board of education with pay and appoint
245 temporary replacement members who shall be otherwise qualified to serve as members of
246 such board.

247 (b) Any local board of education member suspended under this Code section may petition
248 the Governor for reinstatement no earlier than 90 days following suspension and no later
249 than 120 days following suspension. In the event that a suspended member does not
250 petition for reinstatement within the allotted time period, his or her suspension shall be
251 converted into permanent removal, and the temporary replacement member shall become
252 a permanent member and serve out the remainder of the term of the removed member.

253 (c) Upon petition for reinstatement by a suspended local board of education member, the
254 Governor or his or her designated agent shall conduct a hearing for the purpose of receiving
255 evidence relative to whether the local board of education member's continued service on
256 the local board of education is more likely than not to improve the ability of the local
257 school system to retain its accreditation. The appealing member shall be given at least 30
258 days notice prior to such hearing. Such hearing shall be held in accordance with Chapter
259 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that the individual
260 conducting the hearing shall have the power to call witnesses and request documents on his
261 or her own initiative. For purposes of said chapter and any hearing conducted pursuant to
262 this Code section, the Governor shall be considered the 'agency' and the Attorney General
263 or his or her designee shall represent the interests of the Governor in the hearing. If it is
264 determined that it is more likely than not that the local board of education member's
265 continued service on the local board of education improves the ability of the local school
266 system to retain its accreditation, the member shall be immediately reinstated. If it is
267 determined that it is more likely than not that the local board of education member's
268 continued service on the local board of education does not improve the ability of the local
269 school system to retain its accreditation, the member shall be permanently removed, and
270 the temporary replacement member shall become a permanent member and serve out the
271 remainder of the term of the removed member. Judicial review of any such decision shall
272 be in accordance with Chapter 13 of Title 50.

273 (d) This Code section shall only apply to local board of education members elected or
274 appointed on or after July 1, 2009."

275 **SECTION 9.**

276 Said chapter is further amended by revising subsection (b) of Code Section 20-2-101, relating
 277 to appointment of county school superintendents, as follows:

278 "(b)(1) No person shall be eligible to be appointed or employed as superintendent of
 279 schools of any county or independent school system unless such person is of good moral
 280 character, has never been convicted of any crime involving moral turpitude, and
 281 possesses acceptable business or management experience as specified by the Professional
 282 Standards Commission or the minimum valid certificate or a letter of eligibility for said
 283 certificate required by the Professional Standards Commission.

284 (2) No person shall be eligible to be appointed, employed, or to serve as superintendent
 285 of schools of any county or independent school system who has an immediate family
 286 member hired as or promoted to a principal, assistant principal, or system administrative
 287 staff on and after July 1, 2009, by that school system. As used in this subsection, the term
 288 'immediate family member' shall have the same meaning as in subsection (c) of Code
 289 Section 20-2-51. Nothing in this Code section shall affect the employment of any person
 290 who is employed by a local school system on or before July 1, 2009, or who is employed
 291 by a local school system when an immediate family member becomes the superintendent
 292 for that school system."

293 **SECTION 10.**

294 Said chapter is further amended by revising subsection (b) of Code Section 20-2-230, relating
 295 to staff development programs, as follows:

296 "(b)(1) No later than October 1, 2009, the State Board of Education shall establish a
 297 training program for members of local boards of education.

298 (2) No later than December 31, 2009, each local board of education and each governing
 299 board of other local units of administration shall adopt a training program for members
 300 of such boards that includes, at a minimum, the training program and requirements
 301 established by the State Board of Education pursuant to paragraph (1) of this subsection.
 302 ~~All new members of governing boards of local units of administration shall, before or~~
 303 ~~within one year after assuming office, receive at least 12 hours of orientation to the~~
 304 ~~educational program objectives of Georgia and instruction in school finance; school law;~~
 305 ~~with special emphasis on the 'Quality Basic Education Act'; responsiveness to the~~
 306 ~~community; the ethics, duties, and responsibilities of local governing board members;~~
 307 ~~annual performance evaluation of the school superintendent and the local board of~~
 308 ~~education; and such other topics as the State Board of Education may deem to be~~
 309 ~~necessary; provided, however, that at least six of these 12 hours of training shall be~~
 310 ~~specifically related to education finance, generally accepted accounting principles, and~~

311 ~~budgeting. The board of education of the Department of Juvenile Justice shall be exempt~~
 312 ~~from the six hours of training in education finance, generally accepted accounting~~
 313 ~~principles, and budgeting. All members of boards of local units of administration are~~
 314 ~~required to participate in at least one day of training annually to ensure the effective~~
 315 ~~management and operation of local units of administration. The Georgia Education~~
 316 ~~Leadership Academy is authorized, in cooperation with the Georgia School Boards~~
 317 ~~Association or other agencies and associations, to conduct workshops annually to provide~~
 318 ~~such instruction and to present to each board member completing such annual workshop~~
 319 ~~for the first time an appropriate certificate. The Georgia Education Leadership Academy~~
 320 ~~shall adopt such procedures as may be necessary to verify the attendance at such annual~~
 321 ~~workshops of veteran members of boards of local units of administration.~~
 322 (3) All boards of local units of administration are authorized to pay such board members
 323 for attendance at a required training program the same per diem as authorized by local
 324 or general law for attendance at regular ~~or special~~ meetings, as well as reimbursement of
 325 actual expenses for travel, lodging, meals, and registration fees for such ~~workshops~~
 326 training, either before or after such board members assume office."

327 **SECTION 11.**

328 The Attorney General of Georgia shall cause Sections 2, 3, 7, and 8 of this Act to be
 329 submitted for preclearance under the federal Voting Rights Act of 1965, as amended, and
 330 such submission shall be made to the United States Department of Justice or filed with the
 331 appropriate court no later than 45 days after the date on which this Act is approved by the
 332 Governor or becomes law without such approval. If, as of June 30, 2010, implementation
 333 of any of the submitted sections of this Act are not permissible under the Voting Rights Act
 334 of 1965, as amended, then as of such date, such section or sections of this Act shall be void
 335 and shall stand repealed in their entirety.

336 **SECTION 12.**

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