

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

AS PASSED SENATE

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

27 of a local board of education should be the improvement of schools and academic
 28 achievement of all students. Service on a local board of education is important citizen
 29 service. Given the specialized nature and unique role of membership on a local board of
 30 education, this elected office should be characterized and treated differently from other
 31 elected offices where the primary duty is independently to represent constituent views.
 32 Local board of education members, similar to judges and district attorneys, should abide
 33 by a code of conduct and conflict of interest policy modeled for their unique roles and
 34 responsibilities. And although there are many measures of the success of a local board of
 35 education, one is clearly essential: maintaining accreditation and the opportunities it allows
 36 the school system's students."

37

SECTION 2.

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

41 "20-2-51.

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

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

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

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

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

60 (3) No person who has an immediate family member sitting on a local board of education
 61 or serving as the local school superintendent or as a principal, assistant principal, or
 62 system administrative staff in the local school system shall be eligible to serve as a

63 member of such local board of education. As used in this paragraph, the term 'immediate
 64 family member' means a spouse, child, sibling, or parent or the spouse of a child, sibling,
 65 or parent. This paragraph shall apply only to local board of education members elected
 66 or appointed on or after July 1, 2009. Nothing in this Code section shall affect the
 67 employment of any person who is employed by a local school system on or before July
 68 1, 2009, or who is employed by a local school system when an immediate family member
 69 becomes a local board of education member for that school system.

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

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

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

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

82 (2) Is a registered voter;

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

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

89 Each person offering his or her candidacy for election as a member of a local board of
 90 education shall file an affidavit with the officer before whom such person has qualified for
 91 such election prior to or at the time of qualifying, which affidavit shall affirm that he or she
 92 meets all of the qualifications required pursuant to this subsection. This subsection shall
 93 apply only to local board of education members elected or appointed on or after July 1,
 94 2009.

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

99

SECTION 3.

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

102 "20-2-52.

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

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

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

112

SECTION 4.

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

115 "(a)(1) In any local school system for which no local Act is passed, members of the local
 116 board of education shall, when approved by the local board affected, receive a per diem
 117 of \$50.00 for each day of attendance at meetings of the board and while meeting and
 118 traveling within or outside the state as a member of a committee of the board on official
 119 business first authorized by a majority of the board, plus reimbursement for actual
 120 expenses necessarily incurred in connection therewith; provided, however, that in any
 121 independent school system with a full-time equivalent (FTE) program count of less than
 122 4,000 students for which no local Act is passed, members of the local board of education
 123 may, when approved by the affected local board, receive a per diem of not less than
 124 \$50.00 and not more than \$100.00 for each day of attendance at meetings of the board
 125 and while meeting and traveling within or outside the state as a member of a committee
 126 of the board, plus reimbursement for actual expenses. The accounts for such service and
 127 expenses shall be submitted for approval to the local school superintendent. In all school
 128 districts, the compensation of members of local boards shall be paid only from the local
 129 tax funds available to local boards for educational purposes. This paragraph shall apply
 130 only to local board of education members elected or appointed prior to July 1, 2009.

131 (2) In any local school system for which no local Act is passed, members of the local
 132 board of education shall, when approved by the local board affected, receive a per diem
 133 of \$50.00 for each day of attendance at a meeting, as defined in paragraph (2) of
 134 subsection (a) of Code Section 50-14-1, of the board, plus reimbursement for actual

135 expenses necessarily incurred in connection therewith; provided, however, that in any
 136 independent school system with a full-time equivalent (FTE) program count of less than
 137 4,000 students for which no local Act is passed, members of the local board of education
 138 may, when approved by the affected local board, receive a per diem of not less than
 139 \$50.00 and not more than \$100.00 for each day of attendance at a meeting, as defined in
 140 paragraph (2) of subsection (a) of Code Section 50-14-1, of the board, plus
 141 reimbursement for actual expenses. The accounts for such service and expenses shall be
 142 submitted for approval to the local school superintendent. In all school districts, the
 143 compensation of members of local boards shall be paid only from the local tax funds
 144 available to local boards for educational purposes. This paragraph shall apply only to
 145 local board of education members elected or appointed on or after July 1, 2009."

146

SECTION 5.

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

149 "(a) Unless otherwise provided by local law or, in the absence of local law, by local board
 150 policy, upon being called together by one of their number, the members of the local board
 151 shall organize by selecting one of their number as chairperson to serve as such during the
 152 term for which that person was chosen as a member of the local board. The local school
 153 superintendent shall act as secretary of the local board, ex officio. A majority of the local
 154 board shall constitute a quorum for the transaction of business. The votes of a majority of
 155 the members present shall be necessary for the transaction of any business or discharge of
 156 any duties of the local board of education, provided there is a quorum present. Any action
 157 taken by less than a majority of the board members may be rescinded by a majority of the
 158 board members at the next regular meeting or within 30 days of such action, whichever is
 159 later. It shall be the duty of the superintendent ~~or the board's nominee~~ as secretary to be
 160 present at the meetings of the local board, to keep the minutes of its meetings and make a
 161 permanent record of them, and to do any other clerical work it may direct the
 162 superintendent to do. The superintendent ~~or the board's nominee~~ shall ~~record~~ cause to be
 163 recorded in a book, to be provided for the purpose, all official proceedings of the local
 164 board, which shall be a public record open to the inspection of any person interested
 165 therein; and all such proceedings, when so recorded, shall be signed by the chairperson and
 166 countersigned by the secretary."

167

SECTION 6.

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

170 "20-2-61.

171 ~~Reserved.~~

172 (a) The fundamental role of a local board of education shall be to establish policy for the
 173 local school system. The fundamental role of a local school superintendent shall be to
 174 implement the policy established by the local board. It shall not be the role of the local
 175 board of education or individual members of such board to micromanage the
 176 superintendent in executing his or her duties, but it shall be the duty of the local board to
 177 hold the local school superintendent accountable in the performance of his or her duties.
 178 Local board of education members shall be required to work together with the entire local
 179 board of education and shall not have authority as independent elected officials but shall
 180 only be authorized to take official action as members of the board as a whole. Nothing in
 181 this subsection shall be construed to alter, limit, expand, or enlarge any powers, duties, or
 182 responsibilities of local boards of education, local board members, or local school
 183 superintendents.

184 (b) Except as may be allowed by law, no local board of education shall delegate or attempt
 185 to delegate its policy-making functions."

186 **SECTION 7.**

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

189 "20-2-63.

190 ~~Reserved.~~

191 (a)(1) No local board of education member or member of his or her immediate family
 192 shall have an interest in a business organization or engage in any business, transaction,
 193 or professional activity which is in substantial conflict with the proper discharge of his
 194 or her duties in the public interest. Compliance with Code Section 20-2-505 shall not
 195 constitute a violation of this paragraph.

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

199 (3) No local board of education member shall act in his or her official capacity in any
 200 matter where he or she, a member of his or her immediate family, or a business
 201 organization in which he or she has an interest has a direct or material indirect financial
 202 interest that might reasonably be expected to impair his or her objectivity or
 203 independence of judgment.

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

207 (5) No local board of education member, or member of his or her immediate family, or
208 business organization in which he or she has an interest shall solicit or accept any gift,
209 favor, loan, political contribution, service, promise of future employment, or other thing
210 of value based upon an understanding that the gift, favor, loan, contribution, service,
211 promise, or other thing of value was given or offered for the purpose of influencing him
212 or her, directly or indirectly, in the discharge of his or her official duties. This paragraph
213 shall not apply to the solicitation or acceptance of contributions to the campaign of an
214 announced candidate for elective public office if the local board of education member has
215 no knowledge or reason to believe that the campaign contribution, if accepted, was given
216 with the intent to influence the local board of education member in the discharge of his
217 or her official duties.

218 (6) No local board of education member shall use, or allow to be used, his or her official
219 position or any information not generally available to the members of the public which
220 he or she receives or acquires in the course of and by reason of his or her official position
221 for the purpose of securing financial gain for himself or herself, any member of his or her
222 immediate family, or any business organization with which he or she is associated.

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

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

232 (9) No local board of education member shall disclose or discuss any information which
233 is subject to attorney-client privilege belonging to the local board of education to any
234 person other than other board members, the board attorney, the local school
235 superintendent, or persons designated by the local school superintendent for such
236 purposes unless such privilege has been waived by a majority vote of the whole board.

237 (10) No member of a local board of education may jointly serve as an officer of that local
238 board and, at the same time, be an officer of any organization that sells goods or services
239 to that local school system, except as provided in Code Section 20-2-505 and excluding
240 non-profit membership organizations.

241 (11) No local board of education member shall be deemed in conflict with this
 242 subsection if, by reason of his or her participation in any matter required to be voted
 243 upon, no material or monetary gain accrues to him or her as a member of any profession,
 244 occupation, or group to any greater extent than any gain could reasonably be expected to
 245 accrue to any other member of that profession, occupation, or group.

246 (b) Upon a motion supported by majority vote, a local board of education may choose to
 247 conduct a hearing concerning the violation by a local board of education member of any
 248 conflict of interest provision in subsection (a) of this Code section. The local board of
 249 education member accused of violating said provision shall have 30 days notice prior to a
 250 hearing on the matter. Said accused member may bring witnesses on his or her behalf, and
 251 the local board of education may call witnesses to inquire into the matter. If it is found by
 252 a vote of two-thirds of all the members of the board that the accused member has violated
 253 a conflict of interest provision contained in subsection (a) of this Code section, the local
 254 board shall determine an appropriate sanction, up to and including removal from office.
 255 A board member removed from office pursuant to this Code section may, within 30 days
 256 of such removal vote, appeal such decision to the State Board of Education, which shall be
 257 empowered to affirm or reverse the decision to remove such board member. The State
 258 Board of Education shall promulgate rules governing such appeal process. If a sanctioned
 259 member appeals his or her removal to the State Board of Education, that member shall
 260 remain a board member with full voting rights unless and until the State Board of
 261 Education upholds his or her removal. If the sanctioned member is removed from office,
 262 the resulting vacancy shall be filled in accordance with Code Section 20-2-54.1. The
 263 accused member shall abstain from any vote taken pursuant to this subsection. This
 264 subsection shall apply only to local board of education members elected or appointed on
 265 or after July 1, 2009.

266 (c) As used in this Code section, the term 'immediate family member' means a spouse,
 267 child, sibling, or parent or the spouse of a child, sibling, or parent."

268 **SECTION 8.**

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

271 "20-2-72.

272 (a) The State Board of Education shall adopt a model code of ethics for members of local
 273 boards of education. Such model code of ethics shall also include appropriate
 274 consequences for violation of a provision or provisions of such code. The State Board of
 275 Education may periodically adopt revisions to such model code as it deems necessary.

276 (b) Within three months of adoption by the State Board of Education of a model code of
277 ethics pursuant to subsection (a) of this Code section, each local board of education shall
278 adopt a code of ethics that includes, at a minimum, such model code of ethics. Each local
279 board of education shall incorporate into its code of ethics any revisions adopted by the
280 State Board of Education to the model code of ethics pursuant to subsection (a) of this
281 Code section within three months of adoption of such revisions.

282 20-2-73.

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

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

296 (c) Upon petition for reinstatement by a suspended local board of education member, the
297 Governor or his or her designated agent shall conduct a hearing for the purpose of receiving
298 evidence relative to whether the local board of education member's continued service on
299 the local board of education is more likely than not to improve the ability of the local
300 school system or school to retain its accreditation. The appealing member shall be given
301 at least 30 days notice prior to such hearing. Such hearing shall be held in accordance with
302 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that the
303 individual conducting the hearing shall have the power to call witnesses and request
304 documents on his or her own initiative. For purposes of said chapter and any hearing
305 conducted pursuant to this Code section, the Governor shall be considered the 'agency' and
306 the Attorney General or his or her designee shall represent the interests of the Governor in
307 the hearing. If it is determined that it is more likely than not that the local board of
308 education member's continued service on the local board of education improves the ability
309 of the local school system or school to retain its accreditation, the member shall be
310 immediately reinstated; otherwise, the member shall be permanently removed, and the
311 temporary replacement member shall become a permanent member and serve out the

312 remainder of the term of the removed member. Judicial review of any such decision shall
 313 be in accordance with Chapter 13 of Title 50.
 314 (d) This Code section shall apply only to local board of education members elected or
 315 appointed on or after July 1, 2009."

316 **SECTION 9.**

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

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

325 (2) No person shall be eligible to be appointed, employed, or to serve as superintendent
 326 of schools of any county or independent school system who has an immediate family
 327 member sitting on the local board of education for such school system or who has an
 328 immediate family member hired as or promoted to a principal, assistant principal, or
 329 system administrative staff on or after July 1, 2009, by that school system. As used in
 330 this subsection, the term 'immediate family member' shall have the same meaning as in
 331 subsection (c) of Code Section 20-2-51. Nothing in this Code section shall affect the
 332 employment of any person who is employed by a local school system on or before July
 333 1, 2009, or who is employed by a local school system when an immediate family member
 334 becomes the superintendent for that school system."

335 **SECTION 10.**

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

338 "(b)(1) The State Board of Education shall adopt a training program for members of local
 339 boards of education. The State Board of Education may periodically adopt revisions to
 340 such training program as it deems necessary.

341 (2) Within three months of adoption by the State Board of Education of a training
 342 program pursuant to paragraph (1) of this subsection, each local board of education and
 343 each governing board of other local units of administration shall adopt a training program
 344 for members of such boards that includes, at a minimum, such training program and
 345 requirements established by the State Board of Education pursuant to paragraph (1) of
 346 this subsection. Each local board of education shall incorporate any revisions adopted

347 by the State Board of Education to the training program pursuant to paragraph (1) of this
 348 subsection within three months of adoption of such revisions. ~~All new members of~~
 349 ~~governing boards of local units of administration shall, before or within one year after~~
 350 ~~assuming office, receive at least 12 hours of orientation to the educational program~~
 351 ~~objectives of Georgia and instruction in school finance; school law, with special emphasis~~
 352 ~~on the 'Quality Basic Education Act'; responsiveness to the community; the ethics, duties,~~
 353 ~~and responsibilities of local governing board members; annual performance evaluation~~
 354 ~~of the school superintendent and the local board of education; and such other topics as~~
 355 ~~the State Board of Education may deem to be necessary; provided, however, that at least~~
 356 ~~six of these 12 hours of training shall be specifically related to education finance,~~
 357 ~~generally accepted accounting principles, and budgeting.~~ The board of education of the
 358 Department of Juvenile Justice shall be exempt from the six hours of training in education
 359 finance, generally accepted accounting principles, and budgeting. All members of boards
 360 of local units of administration are required to participate in at least one day of training
 361 annually to ensure the effective management and operation of local units of
 362 administration. The Georgia Education Leadership Academy is authorized, in
 363 cooperation with the Georgia School Boards Association or other agencies and
 364 associations, to conduct workshops annually to provide such instruction and to present
 365 to each board member completing such annual workshop for the first time an appropriate
 366 certificate. The Georgia Education Leadership Academy shall adopt such procedures as
 367 may be necessary to verify the attendance at such annual workshops of veteran members
 368 of boards of local units of administration.

369 (3) All boards of local units of administration are authorized to pay such board members
 370 for attendance at a required training program the same per diem as authorized by local
 371 or general law for attendance at regular ~~or special~~ meetings, as well as reimbursement of
 372 actual expenses for travel, lodging, meals, and registration fees for such ~~workshops~~
 373 training, either before or after such board members assume office."

374 SECTION 11.

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

383

SECTION 12.

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