

The House Committee on Education offers the following substitute to SB 84:

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 should abide by a code of conduct and conflict of  
33 interest policy modeled for their unique roles and responsibilities. And although there are  
34 many measures of the success of a local board of education, one is clearly essential:  
35 maintaining accreditation and the opportunities it allows the school system's students."

## **SECTION 2.**

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

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

49 (b) Whenever a member of a local board of education moves that person's domicile from  
50 the district which that person represents, such person shall cease to be a member of such  
51 local board of education, and a vacancy shall occur. The member shall provide notice of  
52 such move to the secretary of the local board of education and the election superintendent  
53 within ten days of such move.

54 (c)(1) No person employed by or serving on the governing body of a private elementary  
55 or secondary educational institution shall be eligible to serve as a member of a local  
56 board of education.

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

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

62        (4)(A) No person who has an immediate family member sitting on a local board of  
63        education or serving as the local school superintendent or as a principal, assistant  
64        principal, or system administrative staff in the local school system shall be eligible to  
65        serve as a member of such local board of education. As used in this paragraph, the term  
66        'immediate family member' means a spouse, child, sibling, or parent or the spouse of  
67        a child, sibling, or parent. This paragraph shall not apply to local board of education  
68        members elected or appointed prior to July 1, 2009, if in office on June 30, 2009, even  
69        if reelected or reappointed after July 1, 2009. Nothing in this Code section shall affect  
70        the employment of any person who is employed by a local school system on or before  
71        July 1, 2009, or who is employed by a local school system when an immediate family  
72        member becomes a local board of education member for that school system.

73        (B) Notwithstanding subsection (b) of Code Section 20-2-244, the State Board of  
74        Education shall be authorized to waive this paragraph upon the request of a local board  
75        of education or an individual attempting to qualify to run for local board of education  
76        member and in accordance with the provisions of subsections (d) and (e) of Code  
77        Section 20-2-244. The State Board of Education shall approve or deny a waiver request  
78        no later than 45 days after receipt of such waiver request.

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

80        (d) In all counties of this state having a population of not less than 500,000 or more than  
81        600,000 according to the United States decennial census of 1990 or any future such census,  
82        the members of the county boards of education taking office after December 1, 1975, shall  
83        not hold any other elective governmental office. If any member of any such board should  
84        qualify at any time after December 1, 1975, for nomination or election to any other elective  
85        governmental office other than for membership on such county board, such member's  
86        position on such county board shall thereby become vacant. Such vacancy shall be filled  
87        as provided by the law applicable to any such county board.

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

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

91        (2) Is a registered voter;

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

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

98   Each person offering his or her candidacy for election as a member of a local board of  
99   education shall file an affidavit with the officer before whom such person has qualified for  
100   such election prior to or at the time of qualifying, which affidavit shall affirm that he or she  
101   meets all of the qualifications required pursuant to this subsection. This subsection shall  
102   apply only to local board of education members elected or appointed on or after July 1,  
103   2009.

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

### SECTION 3.

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

111 "20-2-52.

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

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

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

## **SECTION 4.**

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

124       "(a)(1) In any local school system for which no local Act is passed, members of the local  
125       board of education shall, when approved by the local board affected, receive a per diem  
126       of \$50.00 for each day of attendance at meetings of the board and while meeting and  
127       traveling within or outside the state as a member of a committee of the board on official  
128       business first authorized by a majority of the board, plus reimbursement for actual  
129       expenses necessarily incurred in connection therewith; provided, however, that in any  
130       independent school system with a full-time equivalent (FTE) program count of less than  
131       4,000 students for which no local Act is passed, members of the local board of education  
132       may, when approved by the affected local board, receive a per diem of not less than

\$50.00 and not more than \$100.00 for each day of attendance at meetings of the board and while meeting and traveling within or outside the state as a member of a committee of the board, plus reimbursement for actual expenses. The accounts for such service and expenses shall be submitted for approval to the local school superintendent. In all school districts, the compensation of members of local boards shall be paid only from the local tax funds available to local boards for educational purposes. This paragraph shall apply only to local board of education members elected or appointed prior to July 1, 2009.

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

## SECTION 5.

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

"(a) Unless otherwise provided by local law or, in the absence of local law, by local board policy, upon being called together by one of their number, the members of the local board shall organize by selecting one of their number as chairperson to serve as such during the term for which that person was chosen as a member of the local board. The local school superintendent shall act as secretary of the local board, ex officio. A majority of the local board shall constitute a quorum for the transaction of business. The votes of a majority of the members present shall be necessary for the transaction of any business or discharge of any duties of the local board of education, provided there is a quorum present. Any action taken by less than a majority of the board members may be rescinded by a majority of the board members at the next regular meeting or within 30 days of such action, whichever is later. It shall be the duty of the superintendent ~~or the board's nominee~~ as secretary to be

169 present at the meetings of the local board, to keep the minutes of its meetings and make a  
170 permanent record of them, and to do any other clerical work it may direct the  
171 superintendent to do. The superintendent or the board's nominee shall record cause to be  
172 recorded in a book, to be provided for the purpose, all official proceedings of the local  
173 board, which shall be a public record open to the inspection of any person interested  
174 therein; and all such proceedings, when so recorded, shall be signed by the chairperson and  
175 countersigned by the secretary."

## 176 SECTION 6.

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

179 "20-2-61.

180 **Reserved.**

181 (a) The fundamental role of a local board of education shall be to establish policy for the  
182 local school system with the focus on student achievement. The fundamental role of a  
183 local school superintendent shall be to implement the policy established by the local board.  
184 It shall not be the role of the local board of education or individual members of such board  
185 to micromanage the superintendent in executing his or her duties, but it shall be the duty  
186 of the local board to hold the local school superintendent accountable in the performance  
187 of his or her duties. Local board of education members should work together with the  
188 entire local board of education and shall not have authority as independent elected officials  
189 but shall only be authorized to take official action as members of the board as a whole.  
190 Nothing in this subsection shall be construed to alter, limit, expand, or enlarge any powers,  
191 duties, or responsibilities of local boards of education, local board members, or local school  
192 superintendents.

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

## 195 SECTION 7.

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

198 "20-2-63.

199 **Reserved.**

200 (a)(1) No local board of education member or member of his or her immediate family  
201 shall have an interest in a business organization or engage in any business, transaction,  
202 or professional activity which is in substantial conflict with the proper discharge of his

203     or her duties in the public interest. Compliance with Code Section 20-2-505 shall not  
204     constitute a violation of this paragraph.

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

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

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

216     (5) No local board of education member, or member of his or her immediate family, or  
217     business organization in which he or she has an interest shall solicit or accept any gift,  
218     favor, loan, political contribution, service, promise of future employment, or other thing  
219     of value based upon an understanding that the gift, favor, loan, contribution, service,  
220     promise, or other thing of value was given or offered for the purpose of influencing him  
221     or her, directly or indirectly, in the discharge of his or her official duties. This paragraph  
222     shall not apply to the solicitation or acceptance of contributions to the campaign of an  
223     announced candidate for elective public office if the local board of education member has  
224     no knowledge or reason to believe that the campaign contribution, if accepted, was given  
225     with the intent to influence the local board of education member in the discharge of his  
226     or her official duties. For purposes of this paragraph, a gift, favor, loan, contribution,  
227     service, promise, or other thing of value shall not include the items contained in  
228     subparagraphs (a)(2)(A) through (a)(2)(J) of Code Section 16-10-2.

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

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

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

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

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

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

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

275 subsection shall apply only to local board of education members elected or appointed on  
276 or after July 1, 2009.

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

279 **SECTION 8.**

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

282 "20-2-72.

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

287 (b) Within three months of adoption by the State Board of Education of a model code of  
288 ethics pursuant to subsection (a) of this Code section, each local board of education shall  
289 adopt a code of ethics that includes, at a minimum, such model code of ethics. Each local  
290 board of education shall incorporate into its code of ethics any revisions adopted by the  
291 State Board of Education to the model code of ethics pursuant to subsection (a) of this  
292 Code section within three months of adoption of such revisions.

293 20-2-73.

294 (a) Notwithstanding Code Section 20-2-54.1 or any other provisions of law to the contrary,  
295 if a local school system or school is placed on the level of accreditation immediately  
296 preceding loss of accreditation for school board governance related reasons by one or more  
297 accrediting agencies included in subparagraph (6.1)(A) of Code Section 20-3-519, the  
298 Governor may, in his or her sole discretion, suspend all eligible members of the local board  
299 of education with pay and, in consultation with the State Board of Education, appoint  
300 temporary replacement members who shall be otherwise qualified to serve as members of  
301 such board.

302 (b) Any local board of education member suspended under this Code section may petition  
303 the Governor for reinstatement no earlier than 60 days following suspension and no later  
304 than 90 days following suspension. In the event that a suspended member does not petition  
305 for reinstatement within the allotted time period, his or her suspension shall be converted  
306 into permanent removal, and the temporary replacement member shall become a permanent  
307 member and serve out the remainder of the term of the removed member.

308 (c) Upon petition for reinstatement by a suspended local board of education member, the  
309 Governor or his or her designated agent shall conduct a hearing for the purpose of receiving

evidence relative to whether the local board of education member's continued service on the local board of education is more likely than not to improve the ability of the local school system or school to retain its accreditation. The appealing member shall be given at least 30 days notice prior to such hearing. Such hearing shall be held not later than 60 days after the petition is filed and in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that the individual conducting the hearing shall have the power to call witnesses and request documents on his or her own initiative. For purposes of said chapter and any hearing conducted pursuant to this Code section, the Governor shall be considered the 'agency' and the Attorney General or his or her designee shall represent the interests of the Governor in the hearing. If it is determined that it is more likely than not that the local board of education member's continued service on the local board of education improves the ability of the local school system or school to retain its accreditation, the member shall be immediately reinstated; otherwise, the member shall be permanently removed, and the temporary replacement member shall become a permanent member and serve out the remainder of the term of the removed member. Judicial review of any such decision shall be in accordance with Chapter 13 of Title 50.

(d) This Code section shall apply only to a local school system or school which is placed on the level of accreditation immediately preceding loss of accreditation on or after July 1, 2009.

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

## SECTION 9.

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

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

340       (2)(A) No person shall be eligible to be appointed, employed, or to serve as  
341           superintendent of schools of any county or independent school system who has an  
342           immediate family member sitting on the local board of education for such school  
343           system or who has an immediate family member hired as or promoted to a principal,  
344           assistant principal, or system administrative staff on or after July 1, 2009, by that school  
345           system. As used in this subsection, the term 'immediate family member' shall have the

same meaning as in subsection (c) of Code Section 20-2-51. Nothing in this Code section shall affect the employment of any person who is employed by a local school system on or before July 1, 2009, or who is employed by a local school system when an immediate family member becomes the superintendent for that school system; provided, however, that this paragraph shall apply to a superintendent who is employed by a local school system on or before July 1, 2009, when his or her contract comes up for renewal.

(B) Notwithstanding subsection (b) of Code Section 20-2-244, the State Board of Education shall be authorized to waive this paragraph upon the request of a local board of education and in accordance with the provisions of subsections (d) and (e) of Code Section 20-2-244. The State Board of Education shall approve or deny a waiver request no later than 45 days after receipt of such waiver request."

## SECTION 10.

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

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

(2) Within three months of adoption by the State Board of Education of a training program pursuant to paragraph (1) of this subsection, each local board of education and each governing board of other local units of administration shall adopt a training program for members of such boards that includes, at a minimum, such training program and requirements established by the State Board of Education pursuant to paragraph (1) of this subsection. Each local board of education shall incorporate any revisions adopted by the State Board of Education to the training program pursuant to paragraph (1) of this subsection within three months of adoption of such revisions. All new members of governing boards of local units of administration shall, before or within one year after assuming office, receive at least 12 hours of orientation to the educational program objectives of Georgia and instruction in school finance, school law, with special emphasis on the 'Quality Basic Education Act', responsiveness to the community, the ethics, duties, and responsibilities of local governing board members, annual performance evaluation of the school superintendent and the local board of education, and such other topics as the State Board of Education may deem to be necessary; provided, however, that at least six of these 12 hours of training shall be specifically related to education finance, generally accepted accounting principles, and budgeting. The board of education of the Department of Juvenile Justice shall be exempt from the six hours of training in education

382 finance, generally accepted accounting principles, and budgeting. All members of boards  
383 of local units of administration are required to participate in at least one day of training  
384 annually to ensure the effective management and operation of local units of  
385 administration. The Georgia Education Leadership Academy is authorized, in  
386 cooperation with the Georgia School Boards Association or other agencies and  
387 associations, to conduct workshops annually to provide such instruction and to present  
388 to each board member completing such annual workshop for the first time an appropriate  
389 certificate. The Georgia Education Leadership Academy shall adopt such procedures as  
390 may be necessary to verify the attendance at such annual workshops of veteran members  
391 of boards of local units of administration.

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

## 397 SECTION 11.

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

## 406 SECTION 12.

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