

## SENATE SUBSTITUTE TO HB 278

**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 provide for nepotism restrictions for eligibility  
 3 for members of local boards of education and for local school superintendents; to amend  
 4 Article 3 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to local  
 5 boards of education, so as to require the annual disclosure of expenditures by local boards  
 6 of education; to provide for withholding of funds; to amend Article 5 of Chapter 2 of Title  
 7 20 of the Official Code of Georgia Annotated, relating to local school superintendents, so as  
 8 to prohibit certain actions by local school superintendents; to amend Article 6 of Chapter 2  
 9 of Title 20 of the Official Code of Georgia Annotated, relating to the "Quality Basic  
 10 Education Act," so as to provide for enrollment counts for students in certain dual enrollment  
 11 programs; to provide for requirements for weighting of students in certain dual enrollment  
 12 courses under the Quality Basic Education Formula; to temporarily waive certain expenditure  
 13 controls relating to funds earned for direct instructional costs, media center costs, staff and  
 14 professional development costs, and additional days of instruction; to amend Part 10 of  
 15 Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to  
 16 capital outlay funds under the "Quality Basic Education Act," so as to embed and extend a  
 17 sunset date of June 30, 2011, for provisions relating to advance funding, exceptional growth,  
 18 and low-wealth capital outlay grants; to amend an Act approved May 6, 2008 (Ga. L. 2008,  
 19 p. 288), an Act approved April 9, 2001 (Ga. L. 2001, p. 148), and an Act approved April 22,  
 20 1999 (Ga. L. 1999, p. 400), relating to the automatic repeal of provisions relating to advance  
 21 funding, exceptional growth, and low-wealth capital outlay grants; to provide for related  
 22 matters; to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 0.1**

24 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
 25 secondary education, is amended by revising subsection (c) of Code Section 20-2-51, relating  
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27 to election of county board of education members, persons ineligible to be members or  
 28 superintendent, ineligibility for local boards of education, and ineligibility for other offices,  
 29 as follows:

30 "(c)(1) No person employed by or serving on the governing body of a private educational  
 31 institution shall be eligible to serve as a member of a local board of education. No person  
 32 employed by a local board of education shall be eligible to serve as a member of that  
 33 board of education. No person employed by the Department of Education or serving as  
 34 a member of the State Board of Education shall be eligible to serve as a member of a  
 35 local board of education. This subsection paragraph shall not apply to institutions above  
 36 the high school level.

37 (2) No person who has an immediate family member sitting on a local board of education  
 38 or serving as the local school superintendent or as a principal, assistant principal, or  
 39 system administrative staff in the local school system shall be eligible to serve as a  
 40 member of such local board of education. As used in this paragraph, the term 'immediate  
 41 family member' means a spouse, child, sibling, or parent or the spouse of a child, sibling,  
 42 or parent. This paragraph shall apply only to local board of education members elected  
 43 or appointed on or after July 1, 2009. Nothing in this Code section shall affect the  
 44 employment of any person who is employed by a local school system on or before July  
 45 1, 2009, or who is employed by a local school system when an immediate family member  
 46 becomes a local board of education member for that school system."

## 47 SECTION 0.2

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

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

56 (2) No person shall be eligible to be appointed, employed, or to serve as superintendent  
 57 of schools of any county or independent school system who has an immediate family  
 58 member sitting on the local board of education for such school system or who has an  
 59 immediate family member hired as or promoted to a principal, assistant principal, or  
 60 system administrative staff on or after July 1, 2009, by that school system. As used in  
 61 this subsection, the term 'immediate family member' shall have the same meaning as in  
 62 subsection (c) of Code Section 20-2-51. Nothing in this Code section shall affect the

63 employment of any person who is employed by a local school system on or before July  
 64 1, 2009, or who is employed by a local school system when an immediate family member  
 65 becomes the superintendent for that school system."

### 66 SECTION 0.3

67 Article 3 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to local  
 68 boards of education, is amended by adding a new Code section to read as follows:

69 "20-2-72.

70 (a) Each local board of education shall annually disclose all expenditures, including, but  
 71 not limited to, expenditures for association dues, advertising and public relations  
 72 campaigns, mailing, research, analysis, and the compilation and dissemination of  
 73 information, as well as salaries, administrative expenses, litigation expenses, website  
 74 operation costs, meetings, conferences, recruitment activities, and media releases. Such  
 75 disclosure may be accomplished by posting the school system's ledger in electronic form  
 76 on the school system website. Such disclosure shall be made no later than July 31 of each  
 77 year for the immediately previous fiscal year.

78 (b) The State Board of Education shall be authorized to initiate the provisions of Code  
 79 Section 20-2-243, relating to withholding of funds, including specifically administrative  
 80 funds for salaries pursuant to Code Section 20-2-186, if a local board of education does not  
 81 comply with the requirements of this Code section."

### 82 SECTION 0.4

83 Article 5 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to local  
 84 school superintendents, is amended by adding a new Code section to read as follows:

85 "20-2-101.1.

86 (a) A local school superintendent shall not be eligible to be employed by or be under  
 87 contract for any education association, regional educational service agency, or the  
 88 Department of Education or any other entity which represents or does business with the  
 89 local school system which employed the superintendent until one year after the termination  
 90 date of the superintendent's employment or leaving such office.

91 (b) A superintendent employed by or under contract with a local board of education shall  
 92 be prohibited from registering as a lobbyist or engaging in lobbying under this article for  
 93 a period of one year after terminating such employment or leaving such office."

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**SECTION 1.**

Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the "Quality Basic Education Act," is amended by revising subsection (a) of Code Section 20-2-160, relating to determination of enrollment by institutional program, as follows:

"(a) The State Board of Education shall designate the specific dates upon which two counts of students enrolled in each instructional program authorized under this article shall be made each school year and by which the counts shall be reported to the Department of Education. The initial enrollment count shall be made after October 1 but prior to November 17 and the final enrollment count after March 1 but prior to May 1. The report shall indicate the student's specific assigned program for each one-sixth segment of the school day on the designated reporting date. No program shall be indicated for a student for any one-sixth segment of the school day that the student is assigned to a study hall; a noncredit course; a course recognized under this article or by state board policy as an enrichment course, except a driver education course; a course which requires participation in an extracurricular activity for which enrollment is on a competitive basis; a course in which the student serves as a student assistant to a teacher, in a school office, or in the media center, except when such placement is an approved work site of a recognized career or vocational program; an individual study course for which no outline of course objectives is prepared in writing prior to the beginning of the course; a course taken through the Georgia Virtual School pursuant to Code Section 20-2-319.1; or any other course or activity so designated by the state board. For the purpose of this Code section, the term 'enrichment course' means a course which does not dedicate a major portion of the class time toward the development and enhancement of one or more student competencies as adopted by the state board under Code Section 20-2-140. A program shall not be indicated for a student for any one-sixth segment of the school day for which the student is not enrolled in an instructional program or has not attended a class or classes within the preceding ten days; nor shall a program be indicated for a student for any one-sixth segment of the school day for which the student is charged tuition or fees or is required to provide materials or equipment beyond those authorized pursuant to Code Section 20-2-133. A student who is enrolled in an eligible institution under the program established in Code Section 20-2-161.1 may be counted for the high school program for only that portion of the day that the student is attending the high school for those segments that are eligible to be counted under this subsection. A student who is enrolled in a dual enrollment program other than as established in Code Section 20-2-161.1 shall be counted for the high school program or other appropriate program for each segment in which the student is attending the high school or attending a postsecondary course conducted at the high school, as long as the dual enrollment program is provided (1) at a charter school or

131 (2) at a high school pursuant to an agreement between the local school system and a  
 132 postsecondary institution if such agreement has been approved by the State Board of  
 133 Education. The state board shall adopt such regulations and criteria as necessary to ensure  
 134 objective and true counts of students in state approved instructional programs. The state  
 135 board shall also establish criteria by which students shall be counted as resident or  
 136 nonresident students, including specific circumstances which may include, but not be  
 137 limited to, students attending another local school system under court order or under the  
 138 terms of a contract between two local school systems. If a local school system has a  
 139 justifiable reason, it may seek authority from the state board to shift full-time equivalent  
 140 program counts from the designated date to a requested alternate date."

141 **SECTION 2.**

142 Said article is further amended in Code Section 20-2-161, relating to the Quality Basic  
 143 Education Formula, by adding a new subsection to read as follows:

144 "(c.1) For purposes of calculating the annual allotment of funds to each local school  
 145 system, a student who is enrolled in a dual enrollment program other than as established  
 146 in Code Section 20-2-161.1 shall be counted for the high school program or other  
 147 appropriate program for each segment in which the student is attending the high school  
 148 or attending a postsecondary course conducted at the high school, as long as the dual  
 149 enrollment program is provided (1) at a charter school or (2) at a high school pursuant to  
 150 an agreement between the local school system and a postsecondary institution if such  
 151 agreement has been approved by the State Board of Education."

152 **SECTION 3.**

153 Said article is further amended in Code Section 20-2-167, relating to funding for direct  
 154 instructional, media center, and staff development costs, by adding a new subsection to read  
 155 as follows:

156 "(f)(1) For school years 2008-2009 and 2009-2010 only, the expenditure controls  
 157 contained in subsection (a) of this Code section relating to direct instructional costs,  
 158 media center costs, and staff and professional development costs shall be waived and  
 159 shall not apply to nor be enforceable against a local school system.

160 (2) Each local school system shall report to the Department of Education its budgets and  
 161 expenditures of the funds received pursuant to this Code section as a part of its report in  
 162 October for the FTE count and on March 15.

163 (3) No penalty shall be applied to a local school system for failure to comply with  
 164 expenditure controls set out in subsection (a) of this Code section that are contrary to this

165 subsection, notwithstanding any law to the contrary, as long as such local school system  
 166 complies with this subsection.

167 (4) Nothing in this Code section shall be construed to repeal any other provision of this  
 168 Code section or this chapter.

169 (5) This subsection shall be automatically repealed on July 1, 2010."

170 **SECTION 4.**

171 Said article is further amended by revising Code Section 20-2-184.1, relating to funding for  
 172 additional days of instruction, as follows:

173 "20-2-184.1.

174 (a) The program weights for the kindergarten, kindergarten early intervention, primary,  
 175 primary grades early intervention, upper elementary, upper elementary grades early  
 176 intervention, middle grades, middle school, and remedial programs and the program  
 177 weights for the high school programs authorized pursuant to paragraph (4) of subsection (b)  
 178 of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient  
 179 funds to pay the beginning salaries for instructors needed to provide 20 additional days of  
 180 instruction for 10 percent of the full-time equivalent count of the respective program. Such  
 181 funds shall be used for addressing the academic needs of low-performing students with  
 182 programs including, but not limited to, instructional opportunities for students beyond the  
 183 regular school day, Saturday classes, intersession classes, and summer school classes.  
 184 Following the midterm adjustment, the state board shall issue allotment sheets for each  
 185 local school system. Each local school system shall spend 100 percent of the funds  
 186 designated for additional days of instruction for such costs at the system level. Up to 15  
 187 percent of funds designated for additional days of instruction may be spent for  
 188 transportation costs incurred for transporting students who are attending the additional  
 189 classes funded by these designated funds.

190 (b)(1) For school years 2008-2009 and 2009-2010 only, the expenditure controls  
 191 contained in subsection (a) of this Code section relating to additional days of instruction  
 192 shall be waived and shall not apply to nor be enforceable against a local school system.

193 (2) Each local school system shall report to the Department of Education its budgets and  
 194 expenditures of the funds received pursuant to this Code section as a part of its report in  
 195 October for the FTE count and on March 15.

196 (3) No penalty shall be applied to a local school system for failure to comply with  
 197 expenditure controls set out in subsection (a) of this Code section that are contrary to this  
 198 subsection, notwithstanding any law to the contrary, as long as such local school system  
 199 complies with this subsection.

200 (4) Nothing in this Code section shall be construed to repeal any other provision of this  
 201 Code section or this chapter.

202 (5) This subsection shall be automatically repealed on July 1, 2010."  
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204 **SECTION 5.**

205 Part 10 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,  
 206 relating to capital outlay funds under the "Quality Basic Education Act," is amended by  
 207 revising subsection (h) of Code Section 20-2-260, relating to capital outlay funds generally,  
 208 as follows:

209 "(h) A local school system may receive state capital outlay funds for one construction  
 210 project under the advance funding category to meet educational facilities needs due to the  
 211 following:

212 (1) Extraordinary growth of student population in excess of the capacity of existing  
 213 facilities;

214 (2) Destruction of or damage to educational facilities by fire or natural disaster, limited  
 215 by the provisions of paragraph (2) of subsection (f) of this Code section;

216 (3) Replacement of educational facilities which have been certified as hazards to health  
 217 or safety;

218 (4) Projects, in priority order, which would otherwise require more than three years of  
 219 the combined annual entitlement and required local participation amounts, estimated in  
 220 accordance with the total entitlement intended for authorization by the State Board of  
 221 Education; and

222 (5) Projects for consolidation of schools across local school system lines which have  
 223 costs that exceed the combined annual entitlements of the participating local school  
 224 systems. Such projects shall meet, with the exception of paragraph (2) of this subsection,  
 225 the following conditions to qualify for advanced funding:

226 (A) The local school systems have specifically requested funding under this subsection  
 227 prior to submission of the annual budget request for the state board to the General  
 228 Assembly;

229 (B) Annual entitlements accrued under subsection (g) of this Code section have offset  
 230 any advanced funding previously granted, except that no more than three years of  
 231 combined entitlements of the participating local school systems shall be required to  
 232 offset advance funding for consolidation projects pursuant to paragraph (5) of  
 233 subsection (e) of this Code section;

234 (C) The projects to be funded are not in addition to projects funded for local school  
 235 systems under the provisions of subsection (g) of this Code section in a given year; and

236 (D) The required local participation and all other procedural requirements of this Code  
 237 section are met.

238 This subsection shall be automatically repealed on June 30, 2011."

239 **SECTION 5A.**

240 Said part is further amended in Code Section 20-2-260, relating to capital outlay funds  
 241 generally, by adding a new paragraph to subsection (j) to read as follows:

242 "(7) This subsection shall be automatically repealed on June 30, 2011."

243 **SECTION 5B.**

244 Said part is further amended in Code Section 20-2-262, relating to low-wealth capital outlay  
 245 grants to local school systems, by adding a new subsection to read as follows:

246 "(e) This Code section shall be automatically repealed on June 30, 2011."

247 **SECTION 5C.**

248 (1) An Act approved May 6, 2008 (Ga. L. 2008, p. 288), is amended by repealing Section  
 249 1 of such Act in its entirety.

250 (2) An Act approved April 9, 2001 (Ga. L. 2001, p. 148), is amended by repealing Section  
 251 21 of such Act in its entirety.

252 **SECTION 5D.**

253 (1) An Act approved May 6, 2008 (Ga. L. 2008, p. 288), is amended by repealing Section  
 254 2 of such Act in its entirety.

255 (2) An Act approved April 9, 2001 (Ga. L. 2001, p. 148), is amended by repealing Section  
 256 23 of such Act in its entirety.

257 (3) An Act approved April 22, 1999 (Ga. L. 1999, p. 400), is amended by striking in its  
 258 entirety Section 2 and inserting in lieu thereof a new Section 2 to read as follows:

259 "SECTION 2.

260 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 261 without such approval ~~and shall be automatically repealed on June 30, 2002."~~

262 **SECTION 6.**

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