

Senate Bill 386

By: Senators Balfour of the 9th, Moody of the 56th, Weber of the 40th, Heath of the 31st and
Cowsert of the 46th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to elementary and
2 secondary education, so as to establish an alternative performance-based salary schedule; to
3 establish evaluation instruments to determine the effectiveness of teachers and
4 administrators; to phase in use of such evaluation instruments and salary schedule due to the
5 scale of transition; to provide that the effectiveness measurements shall include student
6 achievement; to revise provisions for purposes of conformity; to provide for related matters;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary
11 education, is amended by revising Code Section 20-2-210, relating to annual performance
12 evaluations for certificated professional personnel, as follows:

13 "20-2-210.

14 (a) All personnel employed by local units of administration, including school
15 superintendents, shall have their performance evaluated annually by appropriately trained
16 evaluators. All such performance evaluation records shall be part of the personnel
17 evaluation file and shall be confidential. In the case of local school superintendents, such
18 evaluations shall be performed by the local board of education. Certificated professional
19 personnel who have deficiencies and other needs shall have professional development plans
20 designed to mitigate such deficiencies and other needs as may have been identified during
21 the evaluation process. Progress relative to completing the annual professional
22 development plan shall be assessed during the annual evaluation process.

23 (b)(1)(A) The state board shall develop a model annual evaluation instrument for each
24 classification of professional personnel certificated by the Professional Standards
25 Commission. The local units of administration are authorized to use the models
26 developed by the State Board of Education.

27 ~~(b)~~(B) Annual teacher evaluations shall at a minimum take into consideration the
 28 following:

29 ~~(1)~~(i) The role of the teacher in meeting the school's student achievement goals,
 30 including the academic gains of students assigned to the teacher;

31 ~~(2)~~(ii) Observations of the teacher by the principal and assistant principals during the
 32 delivery of instruction and at other times as appropriate;

33 ~~(3)~~(iii) Participation in professional development opportunities and the application
 34 of concepts learned to classroom and school activities;

35 ~~(4)~~(iv) Communication and interpersonal skills as they relate to interaction with
 36 students, parents, other teachers, administrators, and other school personnel;

37 ~~(5)~~(v) Timeliness and attendance for assigned responsibilities;

38 ~~(6)~~(vi) Adherence to school and local school system procedures and rules; and

39 ~~(7)~~(vii) Personal conduct while in performance of school duties.

40 ~~(c)~~(C) In making a determination of the academic gains of the students assigned to a
 41 teacher, evaluators should make every effort to have available and to utilize the results
 42 of a wide range of student achievement assessments, including those utilized by the
 43 teacher, set by the local board of education, or required under this article. It is
 44 recognized that in some instances a determination of the academic gains of the students
 45 assigned to a teacher is dependent upon student assessments which have not yet been
 46 administered at the time of the annual evaluation or, if they have been administered, the
 47 results are not yet available at the time of the annual evaluation. In such instances, the
 48 annual teacher evaluation shall be performed on the basis of information available at
 49 the time and shall be considered as the annual evaluation for the purposes of this article.
 50 As results of student assessments subsequently become available, an addendum to the
 51 annual evaluation shall be completed and become part of the teacher's cumulative
 52 evaluative record which may be used in a teacher's subsequent annual evaluations.

53 (D) This paragraph shall apply to performance evaluations conducted for teachers,
 54 assistant principals, and principals by a local unit of administration prior to the date
 55 such local unit of administration is required to use the TEM and LEM pursuant to
 56 subparagraph (B) of paragraph (2) of this subsection and to performance evaluations
 57 conducted by a local unit of administration for certificated professional personnel who
 58 are not teachers, assistant principals, or principals.

59 (2)(A) No later than July 1, 2011, the State Board of Education shall establish a
 60 state-wide common evaluation instrument that takes student achievement into account
 61 when assessing teachers, assistant principals, and principals. Such instrument shall be
 62 used to determine the Teacher Effectiveness Measure (TEM) for teachers and the
 63 Leader Effectiveness Measure (LEM) for assistant principals and principals. Fifty

64 percent of the calculation for the TEM and the LEM shall be based on student
 65 achievement, as defined by the State Board of Education. The remaining 50 percent of
 66 the calculation shall be based on one or more factors as determined by the State Board
 67 of Education.

68 (B) The TEM and LEM shall be used by local units of administration for all teachers,
 69 assistant principals, and principals as follows:

70 (i) On and after July 1, 2011, by all local units of administration that signed a
 71 memorandum of understanding with the State prior to January 25, 2010, indicating
 72 participation in the Race to the Top Fund, a competitive grant program authorized
 73 under the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law
 74 111-5; provided, however, that this division shall apply only in the event that such
 75 local units of administration are required to implement portions of the State Race to
 76 the Top plan pursuant to the memoranda of agreement;

77 (ii) On and after July 1, 2012, by such local units of administration as identified by
 78 the State Board of Education based on willingness to participate, stakeholder support,
 79 logistical issues associated with implementation, and such other factors relating to the
 80 scale of transitioning all local units of administration; and

81 (iii) On and after July 1, 2013, by all local units of administration;
 82 provided, however, that for purposes of determining salaries under the salary schedule
 83 provided for in subsection (b) of Code Section 20-2-212, the results of the TEM and
 84 LEM shall only affect teachers, assistant principals, and principals subject to subsection
 85 (b) of Code Section 20-2-212 pursuant to paragraph (4) of such subsection.

86 (C) This paragraph shall only apply to performance evaluations conducted by a local
 87 unit of administration on and after the date such local unit of administration is required
 88 to use the TEM and LEM pursuant to subparagraph (B) of this paragraph.

89 ~~(d)~~(c) The superintendent of each local school system shall identify an appropriately
 90 trained evaluator for each person employed by the local unit of administration for the
 91 purposes of completing an annual evaluation as required in subsections (a) and (b) of this
 92 Code section. ~~The evaluator shall be required to complete such annual evaluation~~ Such
 93 annual evaluations shall be completed for each certificated person prior to ~~April~~ October
 94 1 of each year for the previous school year. For purposes of the TEM, peer evaluations
 95 shall also be required as determined by the State Board of Education. The superintendent
 96 of each local school system shall be responsible for ensuring compliance with this Code
 97 section.

98 ~~(e)~~(d) In addition to the evaluation ~~by a trained evaluator~~ provided for in subsection ~~(a)~~ (c)
 99 of this Code section, the local school system may require each principal and assistant
 100 principal of a school to have his or her performance evaluated annually by the teachers in

101 the school. Such evaluations by teachers shall be confidential, solicited and recorded on an
 102 anonymous basis, and made available only to the local school superintendent and the local
 103 board of education. Such evaluations shall not be subject to Article 4 of Chapter 18 of
 104 Title 50.

105 ~~(f)~~(e) Any teacher who removes more than two students from his or her total class
 106 enrollment in any school year under subsection (b) of Code Section 20-2-738 who are
 107 subsequently returned to the class by a placement review committee because such class is
 108 the best available alternative may be required to complete professional development to
 109 improve classroom management skills, other skills on the identification and remediation
 110 of academic and behavioral student needs, or other instructional skills as identified in a
 111 plan derived by the principal of the school in consultation with the teacher."

112 **SECTION 2.**

113 Said chapter is further amended by revising Code Section 20-2-212, relating to salary
 114 schedules for certificated professional personnel, as follows:

115 "20-2-212.

116 (a)(1) The State Board of Education shall establish a schedule of minimum salaries for
 117 services rendered which shall be on a ten-month basis and which shall be paid by local
 118 units of administration to the various classifications of professional personnel required
 119 to be certificated by the Professional Standards Commission. The minimum salary
 120 schedule shall provide a minimum salary base for each classification of professional
 121 personnel required to be certificated; shall provide for increment increases above the
 122 minimum salary base of each classification based upon individual experience and length
 123 of satisfactory service; and shall include such other uniformly applicable factors as the
 124 state board may find relevant to the establishment of such a schedule. The minimum
 125 salary base for certificated professional personnel with bachelor's degrees and no
 126 experience, when annualized from a ten-month basis to a 12 month basis, shall be
 127 comparable to the beginning salaries of the recent graduates of the University System of
 128 Georgia holding bachelor's degrees and entering positions, excluding professional
 129 educator teaching positions, in Georgia having educational entry requirements
 130 comparable to the requirements for entry into Georgia public school teaching. The
 131 placement of teachers on the salary schedule shall be based on certificate level and years
 132 of creditable experience, except that a teacher shall not receive credit for any year of
 133 experience in which the teacher received an unsatisfactory performance evaluation. The
 134 General Assembly shall annually appropriate funds to implement a salary schedule for
 135 certificated professional personnel. For each state fiscal year, the state board shall adopt
 136 the salary schedule for which funding has been appropriated by the General Assembly.

137 A local unit of administration shall not pay to any full-time certificated professional
 138 employee a salary less than that prescribed by the schedule of minimum salaries, except
 139 as required by this Code section; nor shall a local unit of administration pay to any
 140 part-time certificated professional employee less than a pro rata portion of the respective
 141 salary prescribed by the schedule of minimum salaries, except as required by this Code
 142 section. For purposes of this subsection, an educator's placement on the salary schedule
 143 shall not be based on a leadership degree, which shall mean a degree earned in
 144 conjunction with completion of an educator leadership preparation program approved by
 145 the Professional Standards Commission, if the degree was earned on or after July 1, 2010,
 146 unless the educator is employed in a leadership position as defined by the State Board of
 147 Education, but shall be placed on the salary schedule position attributable to the educator
 148 but for the leadership degree; provided, however, that this shall not apply to an educator
 149 who possessed a leadership degree prior to July 1, 2010, regardless of whether or not he
 150 or she is in a leadership position. For purposes of this subsection, an educator's
 151 placement on the salary schedule shall not be based on an advanced degree, which shall
 152 mean a degree above the level of a bachelor's degree, if the degree was earned after
 153 January 27, 2010; provided, however, that this shall not apply to an educator who
 154 possessed an advanced degree prior to July 1, 2013, as long as he or she was enrolled on
 155 or before January 27, 2010, in a program of study resulting in said advanced degree.

156 ~~(b)(2)~~ Local units of administration may supplement the salaries of personnel subject to
 157 the schedule of minimum salaries under ~~subsection (a) of this Code section~~ paragraph (1)
 158 of this subsection and, in fixing the amount of those supplements, may take into
 159 consideration the nature of duties to be performed, the responsibility of the position held,
 160 the subject matter or grades to be taught, and the experience and performance of the
 161 particular employee whose salary is being supplemented. In any fiscal year in which
 162 such personnel receive an increase under the minimum salary schedule, a local unit of
 163 administration shall not decrease any local salary supplement for such personnel below
 164 the local supplement amount received in the immediately preceding fiscal year by those
 165 personnel of that local unit of administration unless such local unit of administration has
 166 conducted at least two public hearings regarding such decrease, notice of which hearings,
 167 including the time, place, agenda, and specific subject matter of the meeting, the local
 168 unit shall cause to be published in the legal organ of the county which is the legal situs
 169 of such local unit one time at least seven days prior to the date such hearings are to be
 170 held. Written notice shall be provided to each employee subject to the schedule of
 171 minimum salaries under ~~subsection (a) of this Code section~~ paragraph (1) of this
 172 subsection at least seven days prior to the date of the hearings. Each such hearing shall

173 be held and shall commence after school hours to allow certificated and noncertificated
 174 personnel to attend.

175 ~~(c)~~(3) A local unit of administration shall pay beginning classroom teachers the first
 176 salary payment for the number of days worked at the end of the first month of the school
 177 year in which service is rendered. The State Board of Education shall develop rules and
 178 procedures for implementing this subsection paragraph by July 1, 2001.

179 (4) This subsection shall apply to teachers, assistant principals, and principals employed
 180 by a local unit of administration prior to the date subsection (b) of this Code section
 181 becomes applicable to such employing local unit of administration pursuant to paragraph
 182 (4) of such subsection and to certificated professional personnel who are not teachers,
 183 assistant principals, or principals, regardless of when employed.

184 (b)(1) The State Board of Education shall establish a performance-based salary schedule
 185 for services rendered which shall be on a ten-month basis and which shall be paid by
 186 local units of administration to teachers, assistant principals, and principals. The Teacher
 187 Effectiveness Measure for teachers and the Leader Effectiveness Measure for assistant
 188 principals and principals required pursuant to paragraph (2) of subsection (b) of Code
 189 Section 20-2-210 shall be used to determine whether teachers and assistant principals and
 190 principals are eligible for performance-based salary increases pursuant to this subsection.

191 (2) Local units of administration may supplement the salaries of personnel and, in fixing
 192 the amount of those supplements, may take into consideration the nature of duties to be
 193 performed, the responsibility of the position held, the subject matter or grades to be
 194 taught, and the experience and performance of the particular employee whose salary is
 195 being supplemented.

196 (3) The performance-based salary schedule required by this subsection shall be adopted
 197 by the state board no later than January 1, 2013.

198 (4) This subsection shall only apply to teachers newly employed and assistant principals
 199 and principals newly employed or promoted by a local unit of administration on or after:

200 (A) July 1, 2013, for local units of administration included in division (b)(2)(B)(i) of
 201 Code Section 20-2-210 and to teachers, assistant principals, and principals employed
 202 by such local units of administration prior to July 1, 2013, who wish to opt in;

203 (B) July 1, 2014, for local units of administration included in division (b)(2)(B)(ii) of
 204 Code Section 20-2-210 and to teachers, assistant principals, and principals employed
 205 by such local units of administration prior to July 1, 2014, who wish to opt in; and

206 (C) July 1, 2015, for all other local units of administration included in division
 207 (b)(2)(B)(iii) of Code Section 20-2-210 and to teachers, assistant principals, and
 208 principals employed by such local units of administration prior to July 1, 2015, who
 209 wish to opt in.

210 A decision by an individual to opt in to the performance-based salary schedule pursuant
 211 to this paragraph shall not be reversible. An individual who was previously employed
 212 by a local unit of administration but who has a break in service longer than 12 months
 213 and returns to the employment of a local unit of administration on or after the date that
 214 this subsection becomes applicable to such employing local unit of administration
 215 pursuant to this paragraph shall be subject to the provisions of this subsection. An
 216 individual who is offered a contract of employment by a local unit of administration
 217 between January 1 of the year this subsection becomes applicable to the employing local
 218 unit of administration pursuant to this paragraph and July 1 of such year shall be subject
 219 to the provisions of this subsection."

220

SECTION 3.

221 Said chapter is further amended by revising subsection (e) of Code Section 20-2-161, relating
 222 to the Quality Basic Education Formula, as follows:

223 "(e) The State Board of Education shall annually calculate for each instructional program
 224 provided for in subsection (b) of this Code section for each local school system the amount
 225 of additional funds needed beyond the amounts reflected in the base amount and the
 226 program weights, in order to pay the state ~~minimum~~ salaries pursuant to Code Section
 227 20-2-212. The calculation of such additional amount shall be based on all certificated
 228 professional personnel who were employed by the local school system as of the month of
 229 October for the most recent year that these data are available; provided, however, that the
 230 amount needed for training and experience for personnel funded through categorical grants
 231 shall only be included in the appropriate categorical grant. The amount shall be reported
 232 for each program identified in subsection (b) of this Code section for each full-time
 233 equivalent program count date and by segment of the school day and for each categorical
 234 program. Such additional amount shall be known as 'program adjustment amount for
 235 training and experience' and this amount shall be noted in total in the language section of
 236 the General Appropriations Act each year."

237

SECTION 4.

238 Said chapter is further amended by revising subsection (d) of Code Section 20-2-168, relating
 239 to distribution of federal funds, combined purchase of supplies and equipment, minimum
 240 school year, summer school programs, and year-round operation, as follows:

241 "(d) The governing board of any local unit of administration may provide for continued
 242 operation of one or more educational programs of the local unit for a period of time beyond
 243 the normal school year provided for in subsection (c) of this Code section for the purpose
 244 of providing summer school education programs, including: the continuation of one or

245 more instructional programs provided for in Part 3 of this article, enrichment of prescribed
 246 school programs, accelerated school programs, special programs of education enumerated
 247 by or coming within the scope of this article, and such other education programs as may
 248 be approved by the State Board of Education. All summer school programs shall meet and
 249 be offered in accordance with standards, requirements, and criteria prescribed by the state
 250 board. Teachers and other certificated professional personnel employed full time or part
 251 time during such period shall be paid additional salaries based on the applicable state
 252 ~~minimum monthly~~ salary schedule pursuant to Code Section 20-2-212 in proportion to the
 253 time and services rendered by such personnel. No additional state funds shall be allotted
 254 to local units in support of such programs unless the General Assembly authorizes funds
 255 for this purpose. The state board is authorized to allot such state funds to local units in
 256 support of all or any one or more of such summer school education programs. The extent
 257 to which these state funds may be allotted to local units of administration in support of any
 258 one or more of such programs shall be determined by the state board but shall not in any
 259 event exceed the ratio of state funds to local funds made available to the local unit during
 260 the preceding school year in support of the calculated cost of providing the Quality Basic
 261 Education Program in the local unit during that school year. The state board is authorized
 262 to determine the relative need for establishment of any one or more of the various summer
 263 school education programs enumerated in this subsection, to establish priorities for
 264 implementation of such programs, and to allot funds appropriated for this purpose to local
 265 units of administration in support of those programs."

266 **SECTION 5.**

267 Said chapter is further amended by revising subsection (d) of Code Section 20-2-206, relating
 268 to alternative teacher certification program, as follows:

269 "(d) A teacher receiving initial certification pursuant to this Code section shall be treated
 270 in the same manner as certificated professional personnel for purposes of this chapter or
 271 any local board of education policy, including receiving salaries pursuant to the ~~minimum~~
 272 salary schedule provided for in Code Section 20-2-212."

273 **SECTION 6.**

274 Said chapter is further amended by revising subsection (a) of Code Section 20-2-305, relating
 275 to county and regional libraries, as follows:

276 "(a) The board of regents shall annually determine and request of the General Assembly
 277 the amount of funds needed for county and regional public libraries. This request shall
 278 include, but not be limited to, funds to provide library books and materials, salaries and
 279 travel for professional librarians, capital outlay for public library construction, and

280 maintenance and operation. The amount for library books and materials shall be not less
281 than 35¢ per person. Funds for the purpose of paying the salaries of librarians allotted shall
282 be in accordance with regulations established by the state board and the state ~~minimum~~
283 salary schedule for certificated professional personnel pursuant to Code Section 20-2-212.
284 Public library funds shall be apportioned to county and regional public libraries in
285 proportion to the area and population to be served by such libraries in accordance with
286 regulations and minimum public library requirements prescribed by the state board. All
287 such funds shall be distributed directly to the regional or county library boards."

288

SECTION 7.

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