

Senate Bill 79

By: Senators Carter of the 1st, Ligon, Jr. of the 3rd and Stone of the 23rd

**AS PASSED**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,  
2 relating to local boards of education, so as to provide that members of local boards of  
3 education shall serve terms of no less than four years in length; to provide for a phase-in  
4 period; to provide for exceptions; to provide for certain requirements as to the composition  
5 and election of county boards of education in counties in which there is a homestead option  
6 sales and use tax and a county sales and use tax for educational purposes; to authorize the  
7 Governor to remove members of a local board of education if the local school system has not  
8 reattained full accreditation status within a certain amount of time; to provide for  
9 applicability; to provide for submission of certain provisions of this Act for preclearance  
10 under the federal Voting Rights Act of 1965, as amended; to provide for related matters; to  
11 provide for an effective date; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

13  
14 Article 3 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to local  
15 boards of education, is amended by revising Code Section 20-2-52, relating to terms of office  
16 of members of local boards of education, as follows:

17 "20-2-52.

18 (a) ~~Members~~ Effective January 1, 2012, members of local boards of education shall be  
19 elected for terms of not less than four years, provided that longer terms of office may be  
20 ~~unless their terms are otherwise~~ provided by local Act or constitutional amendment.

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

23 (2) This subsection shall not apply to a local board of education whose board size  
24 exceeds seven members as provided by local constitutional amendment or federal court  
25 order or pursuant to a local law in effect prior to July 1, 2010; provided, however, that if

26 the local law of any such local board of education is amended to revise the number of  
 27 members on such board, paragraph (1) of this subsection shall apply.

28 (c) Members of local boards of education in office on July 1, 2011, who are serving terms  
 29 of office of less than four years shall serve until December 31, 2012, and until their  
 30 respective successors are elected and qualified. Members elected in 2011 shall serve until  
 31 December 31, 2014, and until their respective successors are elected and qualified.  
 32 Successors to all such members shall be elected to serve four-year terms of office and until  
 33 their respective successors are elected and qualified.

34 (d) The General Assembly, by local law, may provide for staggered terms of office and  
 35 term limits for such offices. On and after January 1, 2015, the General Assembly by local  
 36 law may provide for terms of less than four years for members of local boards of  
 37 education."

### 38 SECTION 2.

39 Said article is further amended by adding a new Code section to read as follows:

40 "20-2-52.1.

41 (a) On and after January 1, 2013, in counties in which there is being collected a homestead  
 42 option sales and use tax pursuant to Article 2A of Chapter 8 of Title 48 and a county sales  
 43 and use tax for educational purposes pursuant to Part 2 of Article 3 of Chapter 8 of Title 48  
 44 and the county board of education consists of more than seven members, such county  
 45 boards of education shall comply with this Code section. Such county boards of education  
 46 shall consist of seven members elected from single-member districts of approximately  
 47 equal population. The number of members may be reduced to less than seven members by  
 48 local legislation, but such members shall be elected from single-member districts of  
 49 approximately equal population.

50 (b) Unless otherwise provided by local law, such county boards of education shall select  
 51 from among their membership a chairperson and vice chairperson at the first meeting of  
 52 each odd-numbered year.

53 (c) Unless otherwise provided by local law, such county boards of education shall serve  
 54 staggered, four-year terms of office."

### 55 SECTION 3.

56 Said article is further amended by revising Code Section 20-2-73, relating to removal of local  
 57 board members under certain circumstances, as follows:

58 "20-2-73.

59 (a)(1) Notwithstanding Code Section 20-2-54.1 or any other provisions of law to the  
 60 contrary, if a local school system or school is placed on the level of accreditation  
 61 immediately preceding loss of accreditation for school board governance related reasons  
 62 by one or more accrediting agencies included in subparagraph ~~(6.1)~~(A) of paragraph (6.1)  
 63 of Code Section 20-3-519, the State Board of Education shall conduct a hearing in not  
 64 less than ten days nor more than 30 days and recommend to the Governor whether to  
 65 suspend all eligible members of the local board of education with pay. If the State Board  
 66 of Education makes such recommendation, the Governor may, in his or her discretion,  
 67 suspend all eligible members of the local board of education with pay and, in consultation  
 68 with the State Board of Education, appoint temporary replacement members who shall  
 69 be otherwise qualified to serve as members of such board.

70 (2) Notwithstanding Code Section 20-2-54.1 or any other provisions of law to the  
 71 contrary, if a local school system or school has been placed on, as of the effective date  
 72 of this paragraph, the level of accreditation immediately preceding loss of accreditation  
 73 for school board governance related reasons by one or more accrediting agencies included  
 74 in subparagraph (A) of paragraph (6.1) of Code Section 20-3-519 and does not regain  
 75 full accreditation status by July 1, 2011, the State Board of Education shall conduct a  
 76 hearing in not less than ten days nor more than 30 days and recommend to the Governor  
 77 whether to suspend all members of the local board of education with pay. If the State  
 78 Board of Education makes such recommendation, the Governor may, in his or her  
 79 discretion, suspend all members of the local board of education with pay and, in  
 80 consultation with the State Board of Education, appoint temporary replacement members  
 81 who shall be otherwise qualified to serve as members of such board.

82 (b) Any local board of education member suspended under this Code section may petition  
 83 the Governor for reinstatement no earlier than 30 days following suspension and no later  
 84 than 60 days following suspension. In the event that a suspended member does not petition  
 85 for reinstatement within the allotted time period, his or her suspension shall be converted  
 86 into permanent removal, and the temporary replacement member shall become a permanent  
 87 member and serve out the remainder of the term of the removed member.

88 (c) Upon petition for reinstatement by a suspended local board of education member, the  
 89 Governor or his or her designated agent shall conduct a hearing for the purpose of receiving  
 90 evidence relative to whether the local board of education member's continued service on  
 91 the local board of education is more likely than not to improve the ability of the local  
 92 school system or school to retain or regain its accreditation. The appealing member shall  
 93 be given at least 30 days' notice prior to such hearing. Such hearing shall be held not later  
 94 than 90 days after the petition is filed and in accordance with Chapter 13 of Title 50, the

95 'Georgia Administrative Procedure Act,' except that the individual conducting the hearing  
 96 shall have the power to call witnesses and request documents on his or her own initiative.  
 97 For purposes of said chapter and any hearing conducted pursuant to this Code section, the  
 98 Governor shall be considered the ~~'agency'~~ agency, and the Attorney General or his or her  
 99 designee shall represent the interests of the Governor in the hearing. If it is determined that  
 100 it is more likely than not that the local board of education member's continued service on  
 101 the local board of education improves the ability of the local school system or school to  
 102 retain or reattain its accreditation, the member shall be immediately reinstated; otherwise,  
 103 the member shall be permanently removed, and the temporary replacement member shall  
 104 become a permanent member and serve out the remainder of the term of the removed  
 105 member or until the next general election which is at least six months after the member was  
 106 permanently removed, whichever is sooner. Judicial review of any such decision shall be  
 107 in accordance with Chapter 13 of Title 50.

108 (d) Paragraph (1) of subsection (a) of this ~~This~~ Code section shall apply ~~only~~ to a local  
 109 school system or school which is placed on the level of accreditation immediately  
 110 preceding loss of accreditation on or after ~~July 1, 2010~~ the effective date of this subsection.

111 (e) This Code section shall apply ~~only~~ to all local board of education members, regardless  
 112 of when they were elected or appointed ~~on or after July 1, 2010.~~"

#### 113 SECTION 4.

114 If a local school system or school is placed on the level of accreditation immediately  
 115 preceding loss of accreditation on or after July 1, 2010, but prior to the effective date of this  
 116 Act, local board of education members elected or appointed on or after July 1, 2010, but prior  
 117 to the effective date of this Act shall be subject to the provisions of Code Section 20-2-73 as  
 118 they existed on the day prior to the effective date of this Act.

#### 119 SECTION 5.

120 The Attorney General of Georgia shall cause Section 3 of this Act to be submitted for  
 121 preclearance under the federal Voting Rights Act of 1965, as amended, and such submission  
 122 shall be made to the United States Department of Justice or filed with the appropriate court  
 123 no later than 45 days after the date on which this Act is approved by the Governor or  
 124 becomes law without such approval.

#### 125 SECTION 6.

126 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 127 without such approval.

128

**SECTION 7.**

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