

The Senate Education and Youth Committee offered the following substitute to SB 153:

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 certain provisions relating to termination  
3 or suspension of a contract of employment; to provide for related matters; to repeal  
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
8 secondary education, is amended by revising Code Section 20-2-940, relating to grounds and  
9 procedure for terminating or suspending contract of employment, as follows:

10 "20-2-940.

11 (a) **Grounds for termination or suspension.** Except as otherwise provided in this  
12 subsection, the contract of employment of a teacher, ~~principal~~ administrator, or other  
13 employee having a contract for a definite term may be terminated or suspended for the  
14 following reasons:

15 (1) Incompetency;

16 (2) Insubordination;

17 (3) Willful neglect of duties;

18 (4) Immorality;

19 (5) Inciting, encouraging, or counseling students to violate any valid state law, municipal  
20 ordinance, or policy or rule of the local board of education;

21 (6) To reduce staff due to loss of students or cancellation of programs and due to no fault  
22 or performance issue of the teacher, administrator, or other employee. In the event that  
23 a teacher, administrator, or other employee is terminated or suspended pursuant to this  
24 paragraph, the local unit of administration shall specify in writing to such teacher,  
25 administrator, or other employee that the termination or suspension is due to no fault or  
26 performance issues of such teacher, administrator, or other employee;

27 (7) Failure to secure and maintain necessary educational training; or

28 (8) Any other good and sufficient cause.

29 A teacher, principal administrator, or other employee having a contract of employment for  
30 a definite term shall not have such contract terminated or suspended for refusal to alter a  
31 grade or grade report if the request to alter a grade or grade report was made without good  
32 and sufficient cause.

33 (b) **Notice.** Before the discharge or suspension of a teacher, principal administrator, or  
34 other employee having a contract of employment for a definite term, written notice of the  
35 charges shall be given at least ten days before the date set for hearing and shall state:

36 (1) The cause or causes for his or her discharge, suspension, or demotion in sufficient  
37 detail to enable him or her fairly to show any error that may exist therein;

38 (2) The names of the known witnesses and a concise summary of the evidence to be used  
39 against him or her. The names of new witnesses shall be given as soon as practicable;

40 (3) The time and place where the hearing thereon will be held; and

41 (4) That the charged teacher or other person, upon request, shall be furnished with  
42 compulsory process or subpoena legally requiring the attendance of witnesses and the  
43 production of documents and other papers as provided by law.

44 (c) **Service.** All notices required by this part relating to suspension from duty shall be  
45 served either personally or by certified mail or statutory overnight delivery. All notices  
46 required by this part relating to demotion, termination, nonrenewal of contract, or  
47 reprimand shall be served by certified mail or statutory overnight delivery. Service shall  
48 be deemed to be perfected when the notice is deposited in the United States mail addressed  
49 to the last known address of the addressee with sufficient postage affixed to the envelope.

50 (d) **Counsel; testimony.** Any teacher, principal administrator, or other person against  
51 whom such charges listed in subsection (a) of this Code section have been brought shall  
52 be entitled to be represented by counsel and, upon request, shall be entitled to have  
53 subpoenas or other compulsory process issued for attendance of witnesses and the  
54 production of documents and other evidence. Such subpoenas and compulsory process  
55 shall be issued in the name of the local board and shall be signed by the ~~chairman~~  
56 chairperson or ~~vice-chairman~~ vice chairperson of the local board. In all other respects, such  
57 subpoenas and other compulsory process shall be subject to Part 1 of Article 2 of Chapter  
58 10 of Title 24, as now or hereafter amended.

59 (e) **Hearing.**

60 (1) The hearing shall be conducted before the local board, or the local board may  
61 designate a tribunal to consist of not less than three nor more than five impartial persons  
62 possessing academic expertise to conduct the hearing and submit its findings and  
63 recommendations to the local board for its decision thereon.

64 (2) The hearing shall be reported at the local board's expense. If the matter is heard by  
65 a tribunal, the transcript shall be prepared at the expense of the local board and an  
66 original and two copies shall be filed in the office of the superintendent. If the hearing is  
67 before the local board, the transcript need not be typed unless an appeal is taken to the  
68 State Board of Education, in which event typing of the transcript shall be paid for by the  
69 appellant. In the event of an appeal to the state board, the original shall be transmitted to  
70 the state board as required by its rules.

71 (3) Oath or affirmation shall be administered to all witnesses by the ~~chairman~~  
72 chairperson, any member of the local board, or by the local board attorney. Such oath  
73 shall be as follows:

74 'You do solemnly swear (or affirm) that the evidence shall be the truth, the whole truth,  
75 and nothing but the truth. So help you God.'

76 (4) All questions relating to admissibility of evidence or other legal matters shall be  
77 decided by the ~~chairman~~ chairperson or presiding officer, subject to the right of either  
78 party to appeal to the full local board or hearing tribunal, as the case may be; provided,  
79 however, that the parties by agreement may stipulate that some disinterested member of  
80 the State Bar of Georgia shall decide all questions of evidence and other legal issues  
81 arising before the local board or tribunal. In all hearings, the burden of proof shall be on  
82 the school system, and it shall have the right to open and to conclude. Except as otherwise  
83 provided in this subsection, the same rules governing nonjury trials in the superior court  
84 shall prevail.

85 (f) **Decision; appeals.** The local board shall render its decision at the hearing or within  
86 five days thereafter. Where the hearing is before a tribunal, the tribunal shall file its  
87 findings and recommendations with the local board within five days of the conclusion of  
88 the hearing, and the local board shall render its decision thereon within ten days after the  
89 receipt of the transcript. Appeals may be taken to the state board in accordance with Code  
90 Section 20-2-1160, as now or hereafter amended, and the rules and regulations of the state  
91 board governing appeals.

92 (g) **Superintendent's power to relieve from duty temporarily.** The superintendent of  
93 a local school system may temporarily relieve from duty any teacher, principal, or other  
94 employee having a contract for a definite term for any reason specified in subsection (a)  
95 of this Code section, pending hearing by the local board in those cases where the charges  
96 are of such seriousness or other circumstances exist which indicate that such teacher or  
97 employee could not be permitted to continue to perform his or her duties pending hearing  
98 without danger of disruption or other serious harm to the school, its mission, pupils, or  
99 personnel. In any such case, the superintendent shall notify the teacher or employee in  
100 writing of such action, which notice shall state the grounds thereof and shall otherwise

101 comply with the requirements of the notice set forth in subsection (b) of this Code section.  
102 Such action by the superintendent shall not extend for a period in excess of ten working  
103 days, and during such period, it shall be the duty of the local board to conduct a hearing on  
104 the charges in the same manner provided for in subsections (e) and (f) of this Code section,  
105 except that notice of the time and place of hearing shall be given at least three days prior  
106 to the hearing. During the period that the teacher or other employee is relieved from duty  
107 prior to the decision of the local board, the teacher or employee shall be paid all sums to  
108 which he or she is otherwise entitled. If the hearing is delayed after the ten-day period as  
109 set out in this subsection at the request of the teacher or employee, then the teacher or  
110 employee shall not be paid beyond the ten-day period unless he or she is reinstated by the  
111 local board, in which case he or she shall receive all compensation to which he or she is  
112 otherwise entitled."

113

**SECTION 2.**

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