

House Bill 519

By: Representatives Jasperse of the 11<sup>th</sup>, Lindsey of the 54<sup>th</sup>, Battles of the 15<sup>th</sup>, Casas of the 107<sup>th</sup>, Peake of the 141<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 5 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,  
2 relating to local school superintendents, so as to change certain provisions relating to  
3 appointment of local school superintendents; to authorize the General Assembly to provide  
4 by local law for the election of local school superintendents as an alternative to appointment  
5 of local school superintendents; to provide for terms, qualifications, suspension and removal  
6 from office, and filling of vacancies; to provide for non-impairment of certain contracts; to  
7 provide an effective date; to provide for contingent repeal; to repeal conflicting laws; and for  
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Article 5 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to local  
12 school superintendents, is amended by revising Code Section 20-2-101, relating to  
13 appointment of local school superintendents, as follows:

14 "20-2-101.

15 (a) ~~Superintendents~~ Except in any local school district in which the superintendent is an  
16 elective office as provided by local law pursuant to Code Section 20-2-102, the  
17 superintendent of each school system shall be appointed and employed by the local board  
18 of education under written contracts for a term of not less than one year and not more than  
19 three years. Any provision of any such contract which provides for an extension of the  
20 duration of employment thereunder, whether automatic or contingent upon the occurrence  
21 of one or more events, shall be void if that extension would result in employment under the  
22 contract, as extended, for a period which exceeds three years.

23 (b)(1) No person shall be eligible to be appointed ~~or~~ and employed as superintendent of  
24 schools of any ~~county or independent~~ local school system unless such person is of good  
25 moral character, has never been convicted of any crime involving moral turpitude, and  
26 possesses acceptable business or management experience as specified by the Professional

27 Standards Commission or the minimum valid certificate or a letter of eligibility for said  
 28 certificate required by the Professional Standards Commission.

29 (2) No person shall be eligible to be appointed, employed, or to serve as an employed  
 30 superintendent of schools of any ~~county or independent~~ local school system who has an  
 31 immediate family member sitting on the local board of education for such school system  
 32 or who has an immediate family member hired as or promoted to a principal, assistant  
 33 principal, or system administrative staff on or after July 1, 2009, by that school system.  
 34 As used in this subsection, the term 'immediate family member' means a spouse, child,  
 35 sibling, or parent or the spouse of a child, sibling, or parent whose term as a member of  
 36 the local board of education or whose employment as a principal, assistant principal, or  
 37 system administrative staff in the local school system began on or after January 1, 2010.  
 38 Nothing in this Code section shall affect the employment of any person who is employed  
 39 by a local school system on or before July 1, 2009, or who is employed by a local school  
 40 system when an immediate family member becomes the superintendent for that school  
 41 system.

42 (c) Superintendents appointed and employed pursuant to this Code section shall have such  
 43 additional qualifications as may be prescribed by local law or policies of the local board  
 44 for that school district, not inconsistent with the provisions of this chapter.

45 (d) At any time during the 12 months immediately preceding the expiration of an  
 46 appointed and employed school superintendent's contract ~~or term of office~~, or when a  
 47 vacancy in the office of an appointed and employed school superintendent occurs, the local  
 48 board may appoint and employ a successor in accordance with the ~~above~~ provisions of this  
 49 Code section, notwithstanding that the terms of some or all of the board members will  
 50 expire before the employment of the superintendent so appointed and employed begins.

51 (e) A local school superintendent appointed and employed pursuant to this Code section  
 52 may concurrently serve as a principal, teacher, or in another staff position as directed by  
 53 the local board in its sole discretion and in accordance with the terms of the contract  
 54 between the superintendent and the local board. A local school superintendent may also  
 55 serve concurrently as an appointed and employed superintendent of one or more local  
 56 school systems in accordance with the terms of his or her respective contracts and upon  
 57 approval by each affected local school system.

58 (f) No substantive or procedural right regarding employment or termination of  
 59 employment of a superintendent by a local school system shall be created by this Code  
 60 section. Rather, the terms and conditions of employment of a school superintendent by a  
 61 local school system shall be determined exclusively by the contract between those parties  
 62 and may include, without being limited to, the conditions under and procedures by which  
 63 that contract may be terminated prior to the end of the term of that contract."

**SECTION 2.**

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

"20-2-102.

(a) The General Assembly may provide by local law for the election of the school superintendent in any county or independent school district. Elected school superintendents shall be elected by the qualified voters of their respective local school districts quadrennially in even-numbered years on Tuesday after the first Monday in November, for terms of four years beginning on January 1 following the day of election. Each shall hold office until his or her successor is elected and qualified.

(b) Before any person shall be qualified or eligible to hold the office of local school superintendent under this Code section, he or she shall meet the eligibility requirements of Code Section 45-2-1; shall have had not less than three years of actual teaching or education administration experience; shall be a person of good moral character, never convicted of any crime involving moral turpitude; and shall have such additional educational or professional qualifications, if any, as may be prescribed by local Act of the General Assembly.

(c) Before becoming eligible to qualify for election, candidates for the position of local school superintendent shall file with the State Board of Education a certificate under oath showing qualification under this Code section.

(d)(1) A local board of education may suspend a local school superintendent who holds office under this Code section for incompetency, willful neglect of duty, misconduct, immorality, or the commission of a crime involving moral turpitude and for other good and sufficient cause. The superintendent shall be given:

(A) A hearing on the charge or charges preferred against him or her;

(B) Ten days' written notice of the time and place of the hearing containing a brief general statement and enumeration of the charge or charges;

(C) An opportunity to present his or her defense; and

(D) Upon request, compulsory process issued by the local board requiring the attendance of witnesses and the production of documents and other papers as provided by law. Upon failure of any person to respond to such subpoena or other process issued by the local board, the latter shall certify the matter to the superior court as in other cases of contempt made and provided by law.

(2) In each case an appeal may be taken to the State Board of Education in accordance with Code Section 20-2-1160, except that the appeal shall be filed with the local board of education; and it shall be the duty of the local board to transmit the required documents and other matters in the file relating to the appeal to the state board.

100 (e)(1) A local school superintendent holding office under this Code section may be  
101 removed from office before the expiration of his or her term by a majority vote of the  
102 local board of education for inefficiency, incapacity, neglect of duty, or malfeasance or  
103 corruption in office. The superintendent shall be given:

104 (A) A hearing on the charge or charges preferred against him or her;

105 (B) Ten days' written notice of the time and place of the hearing containing a brief  
106 general statement and enumeration of the charge or charges;

107 (C) An opportunity to present his or her defense; and

108 (D) Upon request, compulsory process issued by the local board requiring the  
109 attendance of witnesses and the production of documents and other papers as provided  
110 by law. Upon failure of any person to respond to such subpoena or other process issued  
111 by the local board, the latter shall certify the matter to the superior court as in other  
112 cases of contempt made and provided by law.

113 (2) In each case an appeal may be taken to the State Board of Education in accordance  
114 with Code Section 20-2-1160, except that the appeal shall be filed with the local board  
115 of education; and it shall be the duty of the local board to transmit the required documents  
116 and other matters in the file relating to the appeal to the state board.

117 (f) In the event of a vacancy by death, resignation, or removal from office or from any  
118 cause whatever in the office of a local school superintendent holding office under this Code  
119 section or upon the death or disqualification of a superintendent-elect between the date of  
120 his or her election and the date that he or she was to assume office, the vacancy shall be  
121 filled as follows:

122 (1) In the event of a vacancy by death, resignation, or removal from office or from any  
123 other cause whatever:

124 (A) If there are less than six months remaining in the unexpired term, the local board  
125 of education shall appoint an acting local school superintendent for the remainder of the  
126 unexpired term. Any such acting superintendent shall be subject to the same eligibility  
127 requirements provided by subsection (b) of this Code section; or

128 (B) If there are six or more months remaining in the unexpired term, the local board  
129 shall appoint an acting superintendent to serve until the vacancy can be filled as  
130 provided in this paragraph; and any such acting superintendent shall be subject to the  
131 same eligibility requirements provided by subsection (b) of this Code section. In such  
132 event, it shall be the duty of the election superintendent to issue a call, within ten days  
133 after the vacancy occurs, for a special election to fill the vacancy for the unexpired  
134 term. Such election shall be held in accordance with Chapter 2 of Title 21, the 'Georgia  
135 Election Code'; or

136 (2) In the event of the death or disqualification of a superintendent-elect preceding the  
137 date that he or she was to have assumed office, it shall be the duty of the election  
138 superintendent, within ten days after the death or disqualification occurs, to issue the call  
139 for a special election to elect a superintendent for the term to which the deceased or  
140 disqualified superintendent-elect was elected. Such election shall be held in accordance  
141 with Chapter 2 of Title 21, the 'Georgia Election Code.' The incumbent superintendent  
142 shall hold over until his or her successor is elected as provided in this paragraph.  
143 (g) No local law enacted pursuant to this Code section shall impair any obligation or right  
144 under an employment contract entered into pursuant to Code Section 20-2-101."

145 **SECTION 3.**

146 This Act shall become effective on January 1, 2015, only if an amendment to the  
147 Constitution authorizing the General Assembly to provide by law for the election of local  
148 school superintendents as an alternative to the appointment of local school superintendents  
149 is ratified by the voters at the November, 2014, state-wide general election. If such an  
150 amendment is not so ratified, then this Act shall not become effective and shall stand  
151 repealed on January 1, 2015.

152 **SECTION 4.**

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