

House Bill 115 (AS PASSED HOUSE AND SENATE)

By: Representatives Dickson of the 6th, Lindsey of the 54th, Coleman of the 97th, and Casas of the 107th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
2 revise provisions relating to suspension and removal of local school board members upon
3 potential loss of accreditation; to prohibit the use of public funds for litigation expenses
4 relating to such removal proceedings; to provide for statutory construction; to provide for
5 reimbursement of attorney's fees and related expenses under certain conditions; to provide
6 for eligibility for HOPE scholarship for students attending schools which have lost
7 accreditation; to provide for related matters; to provide for an effective date; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
12 revising Code Section 20-2-73, relating to suspension and removal of local school board
13 members under certain circumstances, as follows:

14 "20-2-73.

15 (a)(~~1~~) Notwithstanding Code Section 20-2-54.1 or any other provisions of law to the
16 contrary, if a local school system or school is placed on the level of accreditation
17 immediately preceding loss of accreditation for school board governance related reasons
18 by one or more accrediting agencies included in subparagraph (A) of paragraph (6) of
19 Code Section 20-3-519, the local board of education shall notify the State Board of
20 Education in writing within three business days of such placement and the State Board
21 of Education shall conduct a hearing in not less than ten days of such notice nor more
22 than 30 90 days and recommend to the Governor whether to suspend all eligible members
23 of the local board of education with pay. A majority of the members of a local board of
24 education may petition the State Board of Education to continue any hearing scheduled
25 under this subsection. Upon a showing of good cause, the state board may in its sound
26 discretion continue any such hearing. Notwithstanding any other provision of law,

27 deliberations held by the State Board of Education pursuant to this subsection to
 28 formulate its recommendation to the Governor shall not be open to the public; provided,
 29 however, that testimony shall be taken in an open meeting and a vote on the
 30 recommendation shall be taken in an open meeting following the hearing or at the next
 31 regularly scheduled meeting. If the State Board of Education makes such
 32 recommendation, the Governor may, in his or her discretion, suspend all eligible
 33 members of the local board of education with pay and, in consultation with the State
 34 Board of Education, appoint temporary replacement members who shall be otherwise
 35 qualified to serve as members of such board.

36 ~~(2) Notwithstanding Code Section 20-2-54.1 or any other provisions of law to the~~
 37 ~~contrary, if a local school system or school has been placed on, as of April 20, 2011, the~~
 38 ~~level of accreditation immediately preceding loss of accreditation for school board~~
 39 ~~governance related reasons by one or more accrediting agencies included in subparagraph~~
 40 ~~(A) of paragraph (6) of Code Section 20-3-519 and does not regain full accreditation~~
 41 ~~status by July 1, 2011, the State Board of Education shall conduct a hearing in not less~~
 42 ~~than ten days nor more than 30 days and recommend to the Governor whether to suspend~~
 43 ~~all members of the local board of education with pay. If the State Board of Education~~
 44 ~~makes such recommendation, the Governor may, in his or her discretion, suspend all~~
 45 ~~members of the local board of education with pay and, in consultation with the State~~
 46 ~~Board of Education, appoint temporary replacement members who shall be otherwise~~
 47 ~~qualified to serve as members of such board.~~

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

54 (c) Upon petition for reinstatement by a suspended local board of education member, the
 55 Governor or his or her designated agent shall conduct a hearing for the purpose of receiving
 56 evidence relative to whether the local board of education member's continued service on
 57 the local board of education is more likely than not to improve the ability of the local
 58 school system or school to retain or regain its accreditation. The appealing member shall
 59 be given at least 30 days' notice prior to such hearing. Such hearing shall be held not later
 60 than 90 days after the petition is filed and in accordance with Chapter 13 of Title 50, the
 61 'Georgia Administrative Procedure Act,' except that the individual conducting the hearing
 62 shall have the power to call witnesses and request documents on his or her own initiative.
 63 For purposes of said chapter and any hearing conducted pursuant to this Code section, the

64 Governor shall be considered the agency, and the Attorney General or his or her designee
 65 shall represent the interests of the Governor in the hearing. If it is determined that it is
 66 more likely than not that the local board of education member's continued service on the
 67 local board of education improves the ability of the local school system or school to retain
 68 or regain its accreditation, the member shall be immediately reinstated; otherwise, the
 69 member shall be permanently removed, and the temporary replacement member shall
 70 become a permanent member and serve out the remainder of the term of the removed
 71 member or until the next general election which is at least six months after the member was
 72 permanently removed, whichever is sooner. Judicial review of any such decision shall be
 73 in accordance with Chapter 13 of Title 50.

74 ~~Paragraph (1) of subsection~~ Subsection (a) of this Code section shall apply to a local
 75 school system or school which is placed on the level of accreditation immediately
 76 preceding loss of accreditation on or after April 20, 2011.

77 ~~This Code section shall apply to all local board of education members, regardless of~~
 78 ~~when they were elected or appointed~~ For purposes of this Code section, an eligible member
 79 of a local board of education shall mean a board member who was serving on the local
 80 board at the time the accrediting agency placed the local school system or school on the
 81 level of accreditation immediately preceding loss of accreditation.

82 A local board of education shall not expend any public funds for attorney's fees or
 83 expenses of litigation relating to proceedings initiated pursuant to this Code section except
 84 to the extent such fees and expenses are incurred prior to and through the recommendation
 85 of the state board as provided for in subsection (a) of this Code section; provided, however,
 86 that nothing in this subsection shall be construed to prohibit an insurance provider from
 87 covering attorney's fees or expenses of litigation under an insurance policy.

88 Any suspended board member who is reinstated by the Governor pursuant to this Code
 89 section may be reimbursed by the local board of education for his or her reasonable
 90 attorney's fees and related expenses incurred in pursuing such reinstatement."

91 **SECTION 2.**

92 Said title is further amended in Code Section 20-3-519, relating to definitions relative to
 93 HOPE scholarships and grants, by revising paragraph (6) as follows:

94 "(6) 'Eligible high school' means a public or private secondary school which is:

- 95 (A) Located in Georgia and accredited as such by:
- 96 (i) The Southern Association of Colleges and Schools;
 - 97 (ii) The Georgia Accrediting Commission;
 - 98 (iii) The Georgia Association of Christian Schools;
 - 99 (iv) The Association of Christian Schools International;

- 100 (v) The Georgia Private School Accreditation Council; or
101 (vi) The Southern Association of Independent Schools;
102 provided, however, that between July 1, 2013, and June 30, 2015, if a high school
103 located in Georgia was accredited by one of the accrediting agencies included in this
104 subparagraph within the previous two years, such high school shall be considered an
105 eligible high school for purposes of this subparagraph; or
106 (B) Located in another state and accredited by one of the following regional agencies:
107 (i) The Southern Association of Colleges and Schools;
108 (ii) The New England Association of Schools and Colleges;
109 (iii) The Middle States Association of Colleges and Schools;
110 (iv) The North Central Association of Colleges and Schools;
111 (v) The Northwestern Association of Schools and Colleges;
112 (vi) The Western Association of Schools and Colleges;
113 (vii) The Alabama Independent School Association; or
114 (viii) The Southern Association of Independent Schools."

115 **SECTION 3.**

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

118 **SECTION 4.**

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