

Senate Bill 81

By: Senators Wilkinson of the 50th, Gooch of the 51st, Tippins of the 37th, Williams of the 19th and McKoon of the 29th

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 provide for election of local school
3 superintendents by the voters and election of members of local boards of education by grand
4 juries, as an alternative to appointment of local school superintendents by local school boards
5 and election of local school board members by the voters; to change certain provisions
6 relating to election of local board of education members by voters, persons ineligible to be
7 members or superintendent, ineligibility for local boards of education, and ineligibility for
8 other elective offices; to provide for election of members of local boards of education by
9 grand juries; to change certain provisions relating to appointment of local school
10 superintendents; to authorize the General Assembly to provide by local law for the election
11 of local school superintendents; to provide for terms, qualifications, suspension and removal
12 from office, and filling of vacancies; to provide for nonimpairment of certain contracts; to
13 provide an effective date; to provide for contingent repeal; to repeal conflicting laws; and for
14 other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

17 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
18 secondary education, is amended by adding new Code sections to read as follows:

19 "20-2-50.1.

20 Members of each local board of education shall be elected by the qualified voters of the
21 local school district as otherwise provided by law, except in those instances provided for
22 by Code Section 20-2-50.2.

23 20-2-50.2.

24 (a) For any local school district in which the local school superintendent is elected by the
25 voters pursuant to Code Section 20-2-102, the grand jury of the county shall, from time to
26 time, elect residents of the local school district who shall constitute the local board of

27 education. The number of members and their terms of office shall be according to Code
 28 Sections 20-2-52 and 20-2-52.1. Members shall hold their offices until their successors are
 29 elected and qualified. The election districts thereof shall be as provided by local law, and
 30 such election districts shall be apportioned based upon population the same as if the local
 31 school board members were elected by the voters.

32 (b) Each member of a local board of education elected pursuant to this Code section shall
 33 be elected by the last grand jury immediately preceding the expiration of the term of the
 34 member who the member to be elected will replace.

35 (c) The grand jury, in electing the members of the local board of education, shall not elect
 36 one of their own members then in session. They shall elect persons of good moral
 37 character, who shall have at least a fair knowledge of the elementary and secondary
 38 branches of education and be favorable to the public school system.

39 (d) No person employed by or serving on the governing body of a private educational
 40 institution shall be eligible to serve as a member of a local board of education elected
 41 pursuant to this Code section.

42 (e) The provisions of Code Section 20-2-54.1 notwithstanding, any vacancy in office shall
 43 be filled by election of the grand jury in the same manner as the original election if the
 44 grand jury is in session, and the person so elected shall serve for the remainder of the
 45 unexpired term. If the grand jury is not in session, then the remaining members of the local
 46 board of education shall elect a qualified person to fill the vacancy until the next grand jury
 47 elects a person to serve for the remainder of the unexpired term.

48 (f) Whenever members of a county board of education are elected as provided by this
 49 Code section, it shall be the duty of the clerk of the superior court to forward to the State
 50 School Superintendent a certified statement of the facts, under the seal of the court, as
 51 evidence upon which to issue commissions.

52 (g) Except as otherwise provided by this Code section, the provisions of this article shall
 53 apply to local school board members elected as provided by this Code section.

54 (h) Nothing in this Code section shall authorize the shortening of the term of any local
 55 school board member in office who was elected by the voters."

56 **SECTION 2.**

57 Said chapter is further amended by revising Code Section 20-2-51, relating to election of
 58 local board of education members, persons ineligible to be members or superintendent,
 59 ineligibility for local boards of education, and ineligibility for other elective offices, as
 60 follows:

61 "20-2-51.

62 (a) No person shall be eligible for election as a member of a local board of education who
63 is not a resident of the school district in which that person seeks election and of the election
64 district which such person seeks to represent. Whenever there is in a portion of any county
65 a local school system having a board of education of its own, receiving its pro rata of the
66 public school fund directly from the State School Superintendent and having no dealings
67 whatever with the local board, then the members of the board of such county shall be
68 ~~selected~~ elected from that portion of the county not embraced within the territory covered
69 by such local system.

70 (b) Whenever a member of a local board of education moves that person's domicile from
71 the district which that person represents, such person shall cease to be a member of such
72 local board of education, and a vacancy shall occur. The member shall provide notice of
73 such move to the secretary of the local board of education and the election superintendent
74 within ten days of such move.

75 (c)(1) No person serving on the governing body of a private elementary or secondary
76 educational institution shall be eligible to serve as a member of a local board of
77 education.

78 (2) No person employed by a local board of education shall be eligible to serve as a
79 member of that board of education.

80 (3) No person employed by the Department of Education or serving as a member of the
81 State Board of Education shall be eligible to serve as a member of a local board of
82 education.

83 (4)(A) No person who has an immediate family member sitting on a local board of
84 education or serving as the local school superintendent or as a principal, assistant
85 principal, or system administrative staff in the local school system shall be eligible to
86 serve as a member of such local board of education. As used in this paragraph, the term
87 'immediate family member' means a spouse, child, sibling, or parent or the spouse of
88 a child, sibling, or parent whose employment as the local school superintendent or as
89 a principal, assistant principal, or system administrative staff in the local school system
90 began on or after January 1, 2010. This paragraph shall apply only to local board of
91 education members elected or appointed on or after July 1, 2009. Nothing in this Code
92 section shall affect the employment of any person who is employed by a local school
93 system on or before July 1, 2009, or who is employed by a local school system when
94 an immediate family member becomes a local board of education member for that
95 school system.

96 (B) Notwithstanding subsection (b) of Code Section 20-2-244, in local school systems
97 in which the initial fall enrollment count conducted in 2009 pursuant to Code Section

98 20-2-160 does not exceed a full-time equivalent count of 2,800, the State Board of
99 Education shall be authorized to waive this paragraph upon the request of a local board
100 of education or an individual attempting to qualify to run for local board of education
101 member and in accordance with the provisions of subsections (d) and (e) of Code
102 Section 20-2-244; provided, however, that prior to submitting any such request, the
103 local board of education shall, upon its own initiative, or at the request of such
104 individual attempting to qualify to run for local board of education member:

- 105 (i) Provide 30 days' notice of the individual's intent to run for office; and
106 (ii) Conduct a public hearing for the purpose of providing an opportunity for full
107 discussion and public input on the issue of potential nepotism problems and other
108 concerns with regard to such waiver. The public hearing shall be advertised at least
109 seven days prior to the date of such hearing in a local newspaper of general
110 circulation which shall be the same newspaper in which other legal announcements
111 of the local board of education are advertised. The public hearing may be conducted
112 in conjunction with a regular or called meeting of the local board or may be
113 conducted independently, at the local board's discretion.

114 The cost of such notice and public hearing shall be borne by the local board. The State
115 Board of Education shall approve or deny a waiver request no later than 45 days after
116 receipt of such waiver request, taking into consideration whether the benefit to the
117 public would justify approval of the waiver. An approved waiver must be received by
118 the local election superintendent prior to an individual's filing of a declaration or notice
119 of candidacy in accordance with Article 4 of Chapter 2 of Title 21.

120 (d) In all counties of this state having a population of not less than 500,000 or more than
121 600,000 according to the United States decennial census of 1990 or any future such census,
122 the members of the county boards of education taking office after December 1, 1975, shall
123 not hold any other elective governmental office. If any member of any such board should
124 qualify at any time after December 1, 1975, for nomination or election to any other elective
125 governmental office other than for membership on such county board, such member's
126 position on such county board shall thereby become vacant. Such vacancy shall be filled
127 as provided by the law applicable to any such county board.

128 (e) In addition to any other requirements provided by law, no person shall be eligible for
129 election as a member of a local board of education unless he or she:

- 130 (1) Has read and understands the code of ethics and the conflict of interest provisions
131 applicable to members of local boards of education and has agreed to abide by them; and
132 (2) Has agreed to annually disclose compliance with the State Board of Education's
133 policy on training for members of local boards of education, the code of ethics of the

134 local board of education, and the conflict of interest provisions applicable to members of
135 local boards of education.

136 Each person offering his or her candidacy for election by the voters as a member of a local
137 board of education shall file an affidavit with the officer before whom such person has
138 qualified for such election prior to or at the time of qualifying, which affidavit shall affirm
139 that he or she meets all of the qualifications required pursuant to this subsection. Each
140 person elected to a local school board by a grand jury shall file such an affidavit with the
141 county election superintendent prior to taking office. This subsection shall apply only to
142 local board of education members elected or appointed on or after July 1, 2010.

143 (f) No person who is on the National Sex Offender Registry or the state sexual offender
144 registry shall be eligible for election to or service on a local board of education.

145 (g) Subparagraph (c)(4)(B) of this Code section shall not apply to local boards of
146 education elected as provided by Code Section 20-2-50.1."

147 SECTION 3.

148 Said chapter is further amended by revising Code Section 20-2-101, relating to appointment
149 of local school superintendents, as follows:

150 "20-2-101.

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

159 (b)(1) No person shall be eligible to be appointed ~~or~~ and employed as superintendent of
160 schools of any ~~county or independent~~ local school system unless such person is of good
161 moral character, has never been convicted of any crime involving moral turpitude, and
162 possesses acceptable business or management experience as specified by the Professional
163 Standards Commission or the minimum valid certificate or a letter of eligibility for said
164 certificate required by the Professional Standards Commission.

165 (2) No person shall be eligible to be appointed, employed, or to serve as an employed
166 superintendent of schools of any ~~county or independent~~ local school system who has an
167 immediate family member sitting on the local board of education for such school system
168 or who has an immediate family member hired as or promoted to a principal, assistant
169 principal, or system administrative staff on or after July 1, 2009, by that school system.

170 As used in this subsection, the term 'immediate family member' means a spouse, child,
 171 sibling, or parent or the spouse of a child, sibling, or parent whose term as a member of
 172 the local board of education or whose employment as a principal, assistant principal, or
 173 system administrative staff in the local school system began on or after January 1, 2010.
 174 Nothing in this Code section shall affect the employment of any person who is employed
 175 by a local school system on or before July 1, 2009, or who is employed by a local school
 176 system when an immediate family member becomes the superintendent for that school
 177 system.

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

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

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

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

200 SECTION 4.

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

202 "20-2-102.

203 (a) The General Assembly may provide by local law for the election of the school
 204 superintendent by the voters in any county or independent school district. Each such
 205 school superintendent shall be elected by the qualified voters of their respective local

206 school districts quadrennially in even-numbered years on Tuesday after the first Monday
207 in November, for terms of four years beginning on January 1 following the day of election.
208 Each shall hold office until his or her successor is elected and qualified.

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

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

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

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

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

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

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

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

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

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

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

243 (C) An opportunity to present his or her defense; and
 244 (D) Upon request, compulsory process issued by the local board requiring the
 245 attendance of witnesses and the production of documents and other papers as provided
 246 by law. Upon failure of any person to respond to such subpoena or other process issued
 247 by the local board, the latter shall certify the matter to the superior court as in other
 248 cases of contempt made and provided by law.

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

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

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

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

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

272 (2) In the event of the death or disqualification of a superintendent-elect preceding the
 273 date that he or she was to have assumed office, it shall be the duty of the election
 274 superintendent, within ten days after the death or disqualification occurs, to issue the call
 275 for a special election to elect a superintendent for the term to which the deceased or
 276 disqualified superintendent-elect was elected. Such election shall be held in accordance
 277 with Chapter 2 of Title 21, the 'Georgia Election Code.' The incumbent superintendent
 278 shall hold over until his or her successor is elected as provided in this paragraph.

279 (g) No local law enacted pursuant to this Code section shall impair any obligation or right
280 under an employment contract entered into pursuant to Code Section 20-2-101."

281 **SECTION 5.**

282 This Act shall become effective on January 1, 2017, only if an amendment to the
283 Constitution authorizing the General Assembly to provide by law for election of local school
284 superintendents by the voters and election of members of local boards of education by grand
285 juries, as an alternative to appointment of local school superintendents by local school boards
286 and election of local school board members by the voters, is ratified by the voters at the
287 November, 2016, state-wide general election. If such an amendment is not so ratified, then
288 this Act shall not become effective and shall stand repealed on January 1, 2017.

289 **SECTION 6.**

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