

Senate Bill 151

By: Senators Jones of the 10th, Seay of the 34th, Butler of the 55th, Tate of the 38th, Lucas of the 26th and others

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 local boards of education have the
3 sole authority and responsibility with regard to decisions relating to the initiation and defense
4 of any civil actions, including decisions on whether to pursue appeals; to prohibit the
5 delegation or attempted delegation of such authority; to provide for legislative findings; to
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 3 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to local
10 boards of education, is amended by adding a new Code section to read as follows:

11 "20-2-75.

12 (a) The General Assembly finds:

13 (1) Local boards of education are constitutionally established and charged with the
14 management and control of the local school system;

15 (2) Local boards of education have sole discretion, within any confines of applicable
16 federal or state law, on the expenditure of any public funds in its possession and a
17 fiduciary duty to its constituents to expend any public funds in the best interests of the
18 local school system;

19 (3) Similar to other public and private boards, local boards of education on occasion are
20 parties to lawsuits;

21 (4) Decisions regarding the initiation and defense of any lawsuits, including decisions
22 on whether to pursue appeals, are squarely and solely within the constitutional
23 management and control authority of a local board of education;

24 (5) Further, any decisions regarding the initiation and defense of any lawsuits, including
25 decisions on whether to pursue appeals, necessarily will have fiscal costs to the local

26 board of education, which is the only body that can legally commit public funds for such
27 purposes;

28 (6) Local boards of education routinely retain the services of attorneys and law firms to
29 advise and represent such boards when parties to lawsuits; and

30 (7) The role of an attorney in any attorney-client relationship is to advise the client and
31 to zealously represent the client; the role of the client is to make informed decisions
32 regarding the initiation and defense of any lawsuits, including decisions on whether to
33 pursue appeals.

34 (b) A local board of education has the sole authority and responsibility to sue and be sued,
35 including, but not limited to, the initiation and defense of any civil actions, including
36 decisions on whether to pursue appeals. No local board of education shall delegate or
37 attempt to delegate such authority and responsibility to any third party, including any
38 attorney retained by the local board to advise it on school matters, and any delegation or
39 attempted delegation shall be null and void."

40 **SECTION 2.**

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