

Senate Bill 472

By: Senators Hickman of the 4th, Walker III of the 20th, Tillery of the 19th, Hufstetler of the 52nd, Sims of the 12th and others

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 the suspension of members of local
3 boards of education following certain audit findings or findings by the state auditor of
4 financial mismanagement or misconduct; to provide for a cap on the total amount of advance
5 distributions of state allotted funds that may be made by the State Board of Education to local
6 units of administration; to provide for intervention plans; to provide for the authority of the
7 state auditor relative to such intervention plans; to provide for an effective date; to provide
8 for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
12 secondary education, is amended in Article 3, relating to local boards of education, by
13 revising Code Section 20-2-73, relating to suspension and removal of local school board
14 members upon potential loss of accreditation or when schools in system are turnaround
15 eligible schools, procedures, petition for reinstatement, prohibition on use of public funds for
16 litigation expenses, and reimbursement of expenses, as follows:

17 "20-2-73.

S. B. 472

- 1 -

18 (a)(1) Notwithstanding Code Section 20-2-54.1 or any other provisions of law to the
19 contrary, if:

20 (A) A local school system or school is placed on the level of accreditation immediately
21 preceding loss of accreditation for any reason or reasons by one or more accrediting
22 agencies included in subparagraph (A) of paragraph (6) of Code Section 20-3-519, the
23 local board of education shall notify the State Board of Education in writing within
24 three business days of such placement and the State Board of Education shall conduct
25 a hearing in not less than ten days of such notice nor more than 90 days and recommend
26 to the Governor whether to suspend all eligible members of the local board of education
27 with pay; ~~or~~

28 (B) One-half or more of the schools in a local school system are turnaround eligible
29 schools, as defined in subsection (a) of Code Section 20-14-45, for the fifth or more
30 consecutive year, the Department of Education shall notify the State Board of
31 Education in writing within three business days of the publication of the list of
32 turnaround eligible schools by the Office of Student Achievement, and the State Board
33 of Education with input from the State School Superintendent shall conduct a hearing
34 in not less than ten days of such notice nor more than 90 days and recommend to the
35 Governor whether to suspend all eligible members of the local board of education with
36 pay; provided, however, that this subparagraph shall be tolled for a local board of
37 education while under a contract amendment or intervention contract pursuant to Code
38 Section 20-14-45 so long as such local board of education is in substantial compliance
39 with the terms of such contract amendment or intervention contract; or

40 (C)(i) A local school system is the subject of an audit report that includes a finding
41 of significant risk for the most recent fiscal year for which an audit has been
42 conducted pursuant to Code Section 50-6-6, the local school superintendent shall
43 notify the State Board of Education in writing within three business days of receiving
44 such finding, and the State Board of Education shall, upon a recommendation of the

45 audit committee of the State Board of Education followed by a majority vote of the
46 State Board of Education, conduct a hearing in not less than ten days of such vote nor
47 more than 90 days and recommend to the Governor whether to suspend any eligible
48 members of the local board of education with pay. As used in this subsection, the
49 term 'finding of significant risk' means a finding of a potential negative outcome that
50 is highly probable and would involve a substantial impact on the financial operations
51 of the local school system.

52 (ii) A local board of education, a member thereof, a local school system, or a local
53 school superintendent is the subject of a finding by the state auditor of financial
54 mismanagement or misconduct following an investigation made pursuant to
55 subsection (b) of Code Section 50-6-28, the state auditor shall notify the State Board
56 of Education in writing within three business days of such finding, and the State
57 Board of Education shall, upon a recommendation of the audit committee of the State
58 Board of Education followed by a majority vote of the State Board of Education,
59 conduct a hearing in not less than ten days of such vote nor more than 90 days and
60 recommend to the Governor whether to suspend any eligible members of the local
61 board of education with pay.

62 (2) A majority of the members of a local board of education may petition the State Board
63 of Education to continue any hearing scheduled under this subsection. Upon a showing
64 of good cause, the ~~state board~~ State Board of Education may in its sound discretion
65 continue any such hearing. Notwithstanding any other provision of law, deliberations
66 held by the State Board of Education pursuant to this subsection to formulate its
67 recommendation to the Governor shall not be open to the public; provided, however, that
68 testimony shall be taken in an open meeting and a vote on the recommendation shall be
69 taken in an open meeting following the hearing or at the next regularly scheduled
70 meeting. If the State Board of Education makes such recommendation, the Governor
71 may, in his or her discretion, suspend all eligible members of the local board of education

72 with pay and, in consultation with the State Board of Education, appoint temporary
73 replacement members who shall be otherwise qualified to serve as members of such
74 board.

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

81 (c) Upon petition for reinstatement by a suspended local board of education member, the
82 Governor or his or her designated agent shall conduct a hearing for the purpose of receiving
83 evidence relative to whether the local board of education member's continued service on
84 the local board of education is more likely than not to improve the ability of the local
85 school system or school to retain or reattain its accreditation or to improve the ratings of
86 the schools in the local school system so that less than one-half of the schools in such local
87 school system are on the turnaround eligible schools list in subsequent years or to
88 remediate or mitigate the auditor's finding of significant risk or the state auditor's finding
89 of financial mismanagement or misconduct. The appealing member shall be given at
90 least 30 days' notice prior to such hearing. Such hearing shall be held not later than 90 days
91 after the petition is filed and in accordance with Chapter 13 of Title 50, the 'Georgia
92 Administrative Procedure Act,' except that the individual conducting the hearing shall have
93 the power to call witnesses and request documents on his or her own initiative. For
94 purposes of said chapter and any hearing conducted pursuant to this Code section, the
95 Governor shall be considered the agency, and the Attorney General or his or her designee
96 shall represent the interests of the Governor in the hearing. If it is determined that it is
97 more likely than not that the local board of education member's continued service on the
98 local board of education improves the ability of the local school system or school to retain

99 or regain its accreditation or to improve the ratings of the schools in the local school
 100 system so that less than one-half of the schools in such local school system are on the
 101 turnaround eligible schools list in subsequent years or to remediate or mitigate the auditor's
 102 finding of significant risk or the state auditor's finding of financial mismanagement or
 103 misconduct, the member shall be immediately reinstated; otherwise, the member shall be
 104 permanently removed, and the temporary replacement member shall become a permanent
 105 member and serve out the remainder of the term of the removed member or until the next
 106 general election which is at least six months after the member was permanently removed,
 107 whichever is sooner. Judicial review of any such decision shall be in accordance with
 108 Chapter 13 of Title 50.

109 ~~(d)(1) Subparagraph (B) of paragraph (1) of subsection (a) (a)(1)(A)~~ of this Code section
 110 shall apply to a local school system or school which is placed on the level of accreditation
 111 immediately preceding loss of accreditation on or after April 20, 2011.

112 ~~(2) Subparagraph (B) of paragraph (1) of subsection (a) (a)(1)(B)~~ of this Code section
 113 shall apply to a local school system which, on or after July 1, 2017, has one-half or more
 114 of the schools in the local school system on the turnaround eligible schools list for the
 115 fifth or more consecutive year.

116 (3) Subparagraph (a)(1)(C) of this Code section shall apply to a local school system
 117 which, on or after July 1, 2026, was the subject of an auditor's report that includes a
 118 finding of significant risk or at the time for which the local board of education, a member
 119 thereof, the local school system, or the local school superintendent was the subject of a
 120 finding of financial mismanagement or misconduct.

121 (e) For purposes of this Code section, an eligible member of a local board of education
 122 shall mean a board member who:

123 (1) Was serving on the local board of education at the time the accrediting agency placed
 124 the local school system or school on the level of accreditation immediately preceding loss
 125 of accreditation; or

126 (2) Was serving on the local board of education at the time the local school system had
 127 one-half or more of the schools in the local school system on the turnaround eligible
 128 schools list for the fifth or more consecutive year and had served on the local board of
 129 education for at least the immediately preceding two years; or

130 (3) Was serving on the local board of education at the time for which the local school
 131 system was the subject of an auditor's report that includes a finding of significant risk or
 132 at the time for which the local board of education, a member thereof, the local school
 133 system, or the local school superintendent was the subject of a finding of financial
 134 mismanagement or misconduct.

135 (f) A local board of education shall not expend any public funds for attorney's fees or
 136 expenses of litigation relating to proceedings initiated pursuant to this Code section except
 137 to the extent such fees and expenses are incurred prior to and through the recommendation
 138 of the ~~state board~~ State Board of Education as provided for in subsection (a) of this Code
 139 section; provided, however, that nothing in this subsection shall be construed to prohibit
 140 an insurance provider from covering attorney's fees or expenses of litigation under an
 141 insurance policy.

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

145 **SECTION 2.**

146 Said chapter is further amended in Part 4 of Article 6, relating to financing under the "Quality
 147 Basic Education Act," by revising subsection (b) of Code Section 20-2-166, relating to state
 148 funds, calculation, allotment, and distribution, as follows:

149 "(b)(1) The State Board of Education shall, by regulation, provide for distribution of state
 150 funds allotted to local units of administration under this article and budgets approved by
 151 the ~~state board~~ State Board of Education. The state board is authorized to provide for

152 distribution of such state allotted funds to local units of administration at such times and
153 in such manner as will most likely meet the periodic needs of local units for the state
154 allotted funds, except as provided in paragraph (2) of this subsection. In determining the
155 time and manner for distribution of state allotted funds, the ~~state board~~ State Board of
156 Education may consider the time at which local school tax funds shall be collected and
157 made available to local units of administration. State allotted funds to be distributed to
158 local units under this article shall be withdrawn from the state treasury on requisitions to
159 be signed by the State School Superintendent, which shall be signed in accordance with
160 such regulations and directions of the ~~state board~~ State Board of Education.

161 (2)(A) Except as provided for in subparagraph (B) of this paragraph, the aggregate of
162 state allotted funds distributed by the State Board of Education to a local unit of
163 administration in advance of the routine periodic allotments established by the Office
164 of Planning and Budget shall not exceed an amount that is equal to 50 percent of the
165 total of such local unit's state allotted funds for the preceding fiscal year.

166 (B) In the event that a local unit of administration requests or, in the opinion of the
167 state auditor, requires an advance distribution by the State Board of Education of state
168 allotted funds that would exceed the limit provided for in subparagraph (A) of this
169 paragraph, the State Board of Education shall be authorized to make advance
170 distributions that exceed the limit provided for in subparagraph (A) of this paragraph
171 only under the following conditions:

172 (i) The state auditor shall provide a written opinion to the State Board of Education
173 that such advance distribution is necessary and appropriate to improve the conditions
174 of the financial operations of the local unit of administration and shall include with
175 such opinion an intervention plan for the local unit of administration developed by the
176 Department of Audits and Accounts in consultation with the Department of Education
177 and the local unit of administration to the extent the local unit of administration
178 participates in such consultation. The local unit of administration shall have the

179 opportunity to request modification of the proposed intervention plan; provided,
180 however, that the intervention plan to be implemented shall be determined by the state
181 auditor;
182 (ii) Within 30 days of the date of such proposed intervention plan, the local board of
183 education or other governing body of the local unit of administration shall adopt a
184 resolution stating that the local board of education or other governing body of the
185 local unit of administration and the officers, employees, and agents of such local unit
186 of administration shall strictly comply with the intervention plan for the duration of
187 the intervention plan;
188 (iii) The State Board of Education shall not authorize an advance distribution of any
189 state allotted funds to the local unit of administration without a recommendation in
190 writing from the state auditor;
191 (iv) The intervention plan may be modified by the state auditor upon written notice
192 to the State Board of Education and the local unit of administration; and
193 (v) The intervention plan shall remain in effect until concluded in writing by the state
194 auditor."

195 **SECTION 3.**

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

198 **SECTION 4.**

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