

The House Committee on Education offers the following substitute to SB 84:

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 revise provisions relating to eligibility for
3 election as a local board of education member; to provide for legislative findings; to limit the
4 size of local boards of education; to revise provisions relating to per diem and expenses of
5 local board of education members; to revise certain provisions relating to the secretary of
6 local boards of education; to provide for the fundamental roles of local boards of education
7 and local school superintendents; to prohibit certain conflicts of interest of board members;
8 to provide for a code of ethics for local board of education members; to provide for removal
9 of board members under certain circumstances; to revise provisions relating to eligibility for
10 appointment as a school superintendent; to revise provisions relating to training of local
11 board of education members; to provide for submission of certain provisions of this Act for
12 preclearance under the federal Voting Rights Act of 1965, as amended; to provide for related
13 matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
17 secondary education, is amended by adding a new Code section to Article 3, relating to local
18 boards of education, to read as follows:

19 "20-2-49.

20 The General Assembly finds that local boards of education play a critical role in setting the
21 policies that lead to the operation and success of local school systems. School board
22 members hold special roles as trustees of public funds, including local, state, and federal
23 funds, while they focus on the singular objective of ensuring each student in the local
24 school system receives a quality basic education. Board duties require specialized skills
25 and training in the performance of vision setting, policy making, approving multimillion
26 dollar budgets, and hiring a qualified superintendent. The motivation to serve as a member

27 of a local board of education should be the improvement of schools and academic
 28 achievement of all students. Service on a local board of education is important citizen
 29 service. Given the specialized nature and unique role of membership on a local board of
 30 education, this elected office should be characterized and treated differently from other
 31 elected offices where the primary duty is independently to represent constituent views.
 32 Local board of education members should abide by a code of conduct and conflict of
 33 interest policy modeled for their unique roles and responsibilities. And although there are
 34 many measures of the success of a local board of education, one is clearly essential:
 35 maintaining accreditation and the opportunities it allows the school system's students."

36 **SECTION 2.**

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

40 "20-2-51.

41 (a) No person shall be eligible for election as a member of a local board of education who
 42 is not a resident of the school district in which that person seeks election and of the election
 43 district which such person seeks to represent. Whenever there is in a portion of any county
 44 a local school system having a board of education of its own, receiving its pro rata of the
 45 public school fund directly from the State School Superintendent and having no dealings
 46 whatever with the local board, then the members of the board of such county shall be
 47 selected from that portion of the county not embraced within the territory covered by such
 48 local system.

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

54 (c)(1) No person ~~employed by or~~ serving on the governing body of a private elementary
 55 or secondary educational institution shall be eligible to serve as a member of a local
 56 board of education.

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

59 (3) No person employed by the Department of Education or serving as a member of the
 60 State Board of Education shall be eligible to serve as a member of a local board of
 61 education. ~~This paragraph shall not apply to institutions above the high school level.~~

62 ~~(2)(4)(A)~~ No person who has an immediate family member sitting on a local board of
 63 education or serving as the local school superintendent or as a principal, assistant
 64 principal, or system administrative staff in the local school system shall be eligible to
 65 serve as a member of such local board of education. As used in this paragraph, the term
 66 'immediate family member' means a spouse, child, sibling, or parent or the spouse of
 67 a child, sibling, or parent whose employment as the local school superintendent or as
 68 a principal, assistant principal, or system administrative staff in the local school system
 69 began on or after January 1, 2010. This paragraph shall apply only to local board of
 70 education members elected or appointed on or after July 1, 2009. Nothing in this Code
 71 section shall affect the employment of any person who is employed by a local school
 72 system on or before July 1, 2009, or who is employed by a local school system when
 73 an immediate family member becomes a local board of education member for that
 74 school system.

75 (B) Notwithstanding subsection (b) of Code Section 20-2-244, the State Board of
 76 Education shall be authorized to waive this paragraph upon the request of a local board
 77 of education or an individual attempting to qualify to run for local board of education
 78 member and in accordance with the provisions of subsections (d) and (e) of Code
 79 Section 20-2-244. The State Board of Education shall approve or deny a waiver request
 80 no later than 45 days after receipt of such waiver request. An approved waiver must
 81 be received by the local election superintendent prior to an individual's filing of a
 82 declaration or notice of candidacy in accordance with Article 4 of Chapter 2 of Title 21.

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

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

94 (1) Has read and understands the code of ethics and the conflict of interest provisions
 95 applicable to members of local boards of education and has agreed to abide by them; and

96 (2) Has agreed to annually disclose compliance with the State Board of Education's
 97 policy on training for members of local boards of education, the code of ethics of the

98 local board of education, and the conflict of interest provisions applicable to members of
 99 local boards of education.

100 Each person offering his or her candidacy for election as a member of a local board of
 101 education shall file an affidavit with the officer before whom such person has qualified for
 102 such election prior to or at the time of qualifying, which affidavit shall affirm that he or she
 103 meets all of the qualifications required pursuant to this subsection. This subsection shall
 104 apply only to local board of education members elected or appointed on or after July 1,
 105 2010.

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

108 **SECTION 3.**

109 Said chapter is further amended by revising Code Section 20-2-52, relating to terms of office
 110 of members of local boards of education, as follows:

111 "20-2-52.

112 (a) Members of local boards of education shall be elected for terms of four years unless
 113 their terms are otherwise provided by local Act or constitutional amendment.

114 (b)(1) Each local board of education shall have no more than seven members as provided
 115 by local Act.

116 (2) This subsection shall not apply to a local board of education whose board size
 117 exceeds seven members as provided by local constitutional amendment or federal court
 118 order or pursuant to a local law in effect prior to July 1, 2010; provided, however, that if
 119 the local law of any such local board of education is amended to revise the number of
 120 members on such board, paragraph (1) of this subsection shall apply."

121 **SECTION 4.**

122 Said chapter is further amended by revising subsection (a) of Code Section 20-2-55, relating
 123 to per diem, insurance, and expenses of local board members, as follows:

124 "(a)(1) In any local school system for which no local Act is passed, members of the local
 125 board of education shall, when approved by the local board affected, receive a per diem
 126 of \$50.00 for each day of attendance at meetings of the board and while meeting and
 127 traveling within or outside the state as a member of a committee of the board on official
 128 business first authorized by a majority of the board, plus reimbursement for actual
 129 expenses necessarily incurred in connection therewith; provided, however, that in any
 130 independent school system with a full-time equivalent (FTE) program count of less than
 131 4,000 students for which no local Act is passed, members of the local board of education
 132 may, when approved by the affected local board, receive a per diem of not less than

133 \$50.00 and not more than \$100.00 for each day of attendance at meetings of the board
 134 and while meeting and traveling within or outside the state as a member of a committee
 135 of the board, plus reimbursement for actual expenses. The accounts for such service and
 136 expenses shall be submitted for approval to the local school superintendent. In all school
 137 districts, the compensation of members of local boards shall be paid only from the local
 138 tax funds available to local boards for educational purposes. This paragraph shall apply
 139 only to local board of education members elected or appointed prior to July 1, 2010.

140 (2) In any local school system for which no local Act is passed, members of the local
 141 board of education shall, when approved by the local board affected, receive a per diem
 142 of \$50.00 for each day of attendance at a meeting, as defined in paragraph (2) of
 143 subsection (a) of Code Section 50-14-1, of the board, plus reimbursement for actual
 144 expenses necessarily incurred in connection therewith; provided, however, that in any
 145 independent school system with a full-time equivalent (FTE) program count of less than
 146 4,000 students for which no local Act is passed, members of the local board of education
 147 may, when approved by the affected local board, receive a per diem of not less than
 148 \$50.00 and not more than \$100.00 for each day of attendance at a meeting, as defined in
 149 paragraph (2) of subsection (a) of Code Section 50-14-1, of the board, plus
 150 reimbursement for actual expenses. The accounts for such service and expenses shall be
 151 submitted for approval to the local school superintendent. In all school districts, the
 152 compensation of members of local boards shall be paid only from the local tax funds
 153 available to local boards for educational purposes. This paragraph shall apply only to
 154 local board of education members elected or appointed on or after July 1, 2010."

155 **SECTION 5.**

156 Said chapter is further amended by revising subsection (a) of Code Section 20-2-57, relating
 157 to organization of county boards of education, as follows:

158 "(a) Unless otherwise provided by local law or, in the absence of local law, by local board
 159 policy, upon being called together by one of their number, the members of the local board
 160 shall organize by selecting one of their number as chairperson to serve as such during the
 161 term for which that person was chosen as a member of the local board. The local school
 162 superintendent shall act as secretary of the local board, ex officio. A majority of the local
 163 board shall constitute a quorum for the transaction of business. The votes of a majority of
 164 the members present shall be necessary for the transaction of any business or discharge of
 165 any duties of the local board of education, provided there is a quorum present. Any action
 166 taken by less than a majority of the board members may be rescinded by a majority of the
 167 board members at the next regular meeting or within 30 days of such action, whichever is
 168 later. It shall be the duty of the superintendent ~~or the board's nominee~~ as secretary to be

169 present at the meetings of the local board, to keep the minutes of its meetings and make a
 170 permanent record of them, and to do any other clerical work it may direct the
 171 superintendent to do. The superintendent ~~or the board's nominee~~ shall ~~record~~ cause to be
 172 recorded in a book, to be provided for the purpose, all official proceedings of the local
 173 board, which shall be a public record open to the inspection of any person interested
 174 therein; and all such proceedings, when so recorded, shall be signed by the chairperson and
 175 countersigned by the secretary."

176 SECTION 6.

177 Said chapter is further amended by revising Code Section 20-2-61, which is reserved, as
 178 follows:

179 "20-2-61.

180 ~~Reserved.~~

181 (a) The fundamental role of a local board of education shall be to establish policy for the
 182 local school system with the focus on student achievement. The fundamental role of a
 183 local school superintendent shall be to implement the policy established by the local board.
 184 It shall not be the role of the local board of education or individual members of such board
 185 to micromanage the superintendent in executing his or her duties, but it shall be the duty
 186 of the local board to hold the local school superintendent accountable in the performance
 187 of his or her duties. Local board of education members should work together with the
 188 entire local board of education and shall not have authority as independent elected officials
 189 but shall only be authorized to take official action as members of the board as a whole.
 190 Nothing in this subsection shall be construed to alter, limit, expand, or enlarge any powers,
 191 duties, or responsibilities of local boards of education, local board members, or local school
 192 superintendents.

193 (b) Except as may be allowed by law, no local board of education shall delegate or attempt
 194 to delegate its policy-making functions."

195 SECTION 7.

196 Said chapter is further amended by revising Code Section 20-2-63, which is reserved, as
 197 follows:

198 "20-2-63.

199 ~~Reserved.~~

200 (a)(1) No local board of education member shall use or attempt to use his or her official
 201 position to secure unwarranted privileges, advantages, or employment for himself or
 202 herself, his or her immediate family member, or others.

203 (2) No local board of education member shall act in his or her official capacity in any
204 matter where he or she, his or her immediate family member, or a business organization
205 in which he or she has an interest has a material financial interest that would reasonably
206 be expected to impair his or her objectivity or independence of judgment. Compliance
207 with Code Section 20-2-505 shall not constitute a violation of this paragraph.

208 (3) No local board of education member shall solicit or accept or knowingly allow his
209 or her immediate family member or a business organization in which he or she has an
210 interest to solicit or accept any gift, favor, loan, political contribution, service, promise
211 of future employment, or other thing of value based upon an understanding that the gift,
212 favor, loan, contribution, service, promise, or other thing of value was given or offered
213 for the purpose of influencing that board member in the discharge of his or her official
214 duties. This paragraph shall not apply to the solicitation or acceptance of contributions
215 to the campaign of an announced candidate for elective public office if the local board
216 of education member has no knowledge or reason to believe that the campaign
217 contribution, if accepted, was given with the intent to influence the local board of
218 education member in the discharge of his or her official duties. For purposes of this
219 paragraph, a gift, favor, loan, contribution, service, promise, or other thing of value shall
220 not include the items contained in subparagraphs (a)(2)(A) through (a)(2)(J) of Code
221 Section 16-10-2.

222 (4) No local board of education member shall use, or knowingly allow to be used, his or
223 her official position or any information not generally available to the members of the
224 public which he or she receives or acquires in the course of and by reason of his or her
225 official position for the purpose of securing financial gain for himself or herself, his or
226 her immediate family member, or any business organization with which he or she is
227 associated.

228 (5) No local board of education member or business organization in which he or she has
229 an interest shall represent any person or party other than the local board of education or
230 local school system in connection with any cause, proceeding, application, or other matter
231 pending before the local school system in which he or she serves or in any proceeding
232 involving the local school system in which he or she serves.

233 (6) No local board of education member shall be prohibited from making an inquiry for
234 information on behalf of a constituent if no fee, reward, or other thing of value is
235 promised to, given to, or accepted by the local board of education member or his or her
236 immediate family member in return therefor.

237 (7) No local board of education member shall disclose or discuss any information which
238 is subject to attorney-client privilege belonging to the local board of education to any
239 person other than other board members, the board attorney, the local school

240 superintendent, or persons designated by the local school superintendent for such
 241 purposes unless such privilege has been waived by a majority vote of the whole board.

242 (8) No member of a local board of education may also be an officer of any organization
 243 that sells goods or services to that local school system, except as provided in Code
 244 Section 20-2-505 and excluding nonprofit membership organizations.

245 (9) No local board of education member shall be deemed in conflict with this subsection
 246 if, by reason of his or her participation in any matter required to be voted upon, no
 247 material or monetary gain accrues to him or her as a member of any profession,
 248 occupation, or group to any greater extent than any gain could reasonably be expected to
 249 accrue to any other member of that profession, occupation, or group.

250 (b) Upon a motion supported by a two-thirds' vote, a local board of education may choose
 251 to conduct a hearing concerning the violation by a local board of education member of any
 252 conflict of interest provision in subsection (a) of this Code section. The local board of
 253 education member accused of violating said provision shall have 30 days' notice prior to
 254 a hearing on the matter. Said accused member may bring witnesses on his or her behalf,
 255 and the local board of education may call witnesses to inquire into the matter. If it is found
 256 by a vote of two-thirds of all the members of the board that the accused member has
 257 violated a conflict of interest provision contained in subsection (a) of this Code section, the
 258 local board shall determine an appropriate sanction. A board member subject to sanction
 259 pursuant to this Code section may, within 30 days of such sanction vote, appeal such
 260 decision to the State Board of Education, which shall be empowered to affirm or reverse
 261 the decision to sanction such board member. The State Board of Education shall
 262 promulgate rules governing such appeal process. This subsection shall apply only to local
 263 board of education members elected or appointed on or after July 1, 2010.

264 (c) As used in this Code section, the term 'immediate family member' means a spouse,
 265 child, sibling, or parent or the spouse of a child, sibling, or parent."

266 **SECTION 8.**

267 Said chapter is further amended by adding new Code sections to Article 3, relating to local
 268 boards of education, to read as follows:

269 "20-2-72.

270 (a) The State Board of Education shall adopt a model code of ethics for members of local
 271 boards of education by October 1, 2010. Such model code of ethics shall also include
 272 appropriate consequences for violation of a provision or provisions of such code. The State
 273 Board of Education may periodically adopt revisions to such model code as it deems
 274 necessary.

275 (b) Within three months of adoption by the State Board of Education of a model code of
276 ethics pursuant to subsection (a) of this Code section, each local board of education shall
277 adopt a code of ethics that includes, at a minimum, such model code of ethics. Each local
278 board of education shall incorporate into its code of ethics any revisions adopted by the
279 State Board of Education to the model code of ethics pursuant to subsection (a) of this
280 Code section within three months of adoption of such revisions.

281 20-2-73.

282 (a) Notwithstanding Code Section 20-2-54.1 or any other provisions of law to the contrary,
283 if a local school system or school is placed on the level of accreditation immediately
284 preceding loss of accreditation for school board governance related reasons by one or more
285 accrediting agencies included in subparagraph (6.1)(A) of Code Section 20-3-519, the State
286 Board of Education shall conduct a hearing in not less than ten days nor more than 30 days
287 and recommend to the Governor whether to suspend all eligible members of the local board
288 of education with pay. If the State Board of Education makes such recommendation, the
289 Governor may, in his or her discretion, suspend all eligible members of the local board of
290 education with pay and, in consultation with the State Board of Education, appoint
291 temporary replacement members who shall be otherwise qualified to serve as members of
292 such board.

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

299 (c) Upon petition for reinstatement by a suspended local board of education member, the
300 Governor or his or her designated agent shall conduct a hearing for the purpose of receiving
301 evidence relative to whether the local board of education member's continued service on
302 the local board of education is more likely than not to improve the ability of the local
303 school system or school to retain its accreditation. The appealing member shall be given
304 at least 30 days' notice prior to such hearing. Such hearing shall be held not later than 90
305 days after the petition is filed and in accordance with Chapter 13 of Title 50, the 'Georgia
306 Administrative Procedure Act,' except that the individual conducting the hearing shall have
307 the power to call witnesses and request documents on his or her own initiative. For
308 purposes of said chapter and any hearing conducted pursuant to this Code section, the
309 Governor shall be considered the 'agency' and the Attorney General or his or her designee
310 shall represent the interests of the Governor in the hearing. If it is determined that it is

311 more likely than not that the local board of education member's continued service on the
 312 local board of education improves the ability of the local school system or school to retain
 313 its accreditation, the member shall be immediately reinstated; otherwise, the member shall
 314 be permanently removed, and the temporary replacement member shall become a
 315 permanent member and serve out the remainder of the term of the removed member or until
 316 the next general election which is at least six months after the member was permanently
 317 removed, whichever is sooner. Judicial review of any such decision shall be in accordance
 318 with Chapter 13 of Title 50.

319 (d) This Code section shall apply only to a local school system or school which is placed
 320 on the level of accreditation immediately preceding loss of accreditation on or after July
 321 1, 2010.

322 (e) This Code section shall apply only to local board of education members elected or
 323 appointed on or after July 1, 2010."

324 **SECTION 9.**

325 Said chapter is further amended by revising subsection (b) of Code Section 20-2-101, relating
 326 to appointment of county school superintendents, as follows:

327 "(b)(1) No person shall be eligible to be appointed or employed as superintendent of
 328 schools of any county or independent school system unless such person is of good moral
 329 character, has never been convicted of any crime involving moral turpitude, and
 330 possesses acceptable business or management experience as specified by the Professional
 331 Standards Commission or the minimum valid certificate or a letter of eligibility for said
 332 certificate required by the Professional Standards Commission.

333 (2) No person shall be eligible to be appointed, employed, or to serve as superintendent
 334 of schools of any county or independent school system who has an immediate family
 335 member sitting on the local board of education for such school system or who has an
 336 immediate family member hired as or promoted to a principal, assistant principal, or
 337 system administrative staff on or after July 1, 2009, by that school system. As used in
 338 this subsection, the term 'immediate family member' ~~shall have the same meaning as~~
 339 ~~in subsection (c) of Code Section 20-2-51~~ means a spouse, child, sibling, or parent or
 340 the spouse of a child, sibling, or parent whose term as a member of the local board of
 341 education or whose employment as a principal, assistant principal, or system
 342 administrative staff in the local school system began on or after January 1, 2010.
 343 Nothing in this Code section shall affect the employment of any person who is
 344 employed by a local school system on or before July 1, 2009, or who is employed by
 345 a local school system when an immediate family member becomes the superintendent
 346 for that school system."

347 **SECTION 10.**

348 Said chapter is further amended by revising subsection (b) of Code Section 20-2-230, relating
 349 to staff development programs, as follows:

350 "(b)(1) The State Board of Education shall adopt a training program for members of local
 351 boards of education by July 1, 2011. The State Board of Education may periodically
 352 adopt revisions to such training program as it deems necessary.

353 (2) Within three months of adoption by the State Board of Education of a training
 354 program pursuant to paragraph (1) of this subsection, each local board of education and
 355 each governing board of other local units of administration shall adopt a training program
 356 for members of such boards that includes, at a minimum, such training program and
 357 requirements established by the State Board of Education pursuant to paragraph (1) of
 358 this subsection. Each local board of education shall incorporate any revisions adopted
 359 by the State Board of Education to the training program pursuant to paragraph (1) of this
 360 subsection within three months of adoption of such revisions. All new members of
 361 governing boards of local units of administration shall, before or within one year after
 362 assuming office, receive at least 12 hours of orientation to the educational program
 363 objectives of Georgia and instruction in school finance, school law, with special emphasis
 364 on the 'Quality Basic Education Act', responsiveness to the community, the ethics, duties,
 365 and responsibilities of local governing board members, annual performance evaluation
 366 of the school superintendent and the local board of education, and such other topics as
 367 the State Board of Education may deem to be necessary; provided, however, that at least
 368 six of these 12 hours of training shall be specifically related to education finance,
 369 generally accepted accounting principles, and budgeting. The board of education of the
 370 Department of Juvenile Justice shall be exempt from the six hours of training in education
 371 finance, generally accepted accounting principles, and budgeting. All members of boards
 372 of local units of administration are required to participate in at least one day of training
 373 annually to ensure the effective management and operation of local units of
 374 administration. The Georgia Education Leadership Academy is authorized, in
 375 cooperation with the Georgia School Boards Association or other agencies and
 376 associations, to conduct workshops annually to provide such instruction and to present
 377 to each board member completing such annual workshop for the first time an appropriate
 378 certificate. The Georgia Education Leadership Academy shall adopt such procedures as
 379 may be necessary to verify the attendance at such annual workshops of veteran members
 380 of boards of local units of administration.

381 (3) All boards of local units of administration are authorized to pay such board members
 382 for attendance at a required training program the same per diem as authorized by local
 383 or general law for attendance at regular or special meetings, as well as reimbursement of

384 actual expenses for travel, lodging, meals, and registration fees for such ~~workshops~~
385 training, either before or after such board members assume office."

386 **SECTION 11.**

387 The Attorney General of Georgia shall cause Sections 2, 3, 7, and 8 of this Act to be
388 submitted for preclearance under the federal Voting Rights Act of 1965, as amended, and
389 such submission shall be made to the United States Department of Justice or filed with the
390 appropriate court no later than 45 days after the date on which this Act is approved by the
391 Governor or becomes law without such approval. If, as of June 30, 2011, implementation
392 of any of the submitted sections of this Act are not permissible under the Voting Rights Act
393 of 1965, as amended, then as of such date, such section or sections of this Act shall be void
394 and shall stand repealed in their entirety.

395 **SECTION 12.**

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