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EDUCATION General Provisions: Create Office of School Readiness; Elementary and Secondary Education: Provide State School Superintendent with Authority to Employ Certain Senior Staff Personnel and to Enter Into Certain Contracts; Vocational Education: Provide that the Department of Adult and Technical Education be Responsible for Libraries

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EDUCATION

***General Provisions: Create Office of School Readiness;
Elementary and Secondary Education: Provide State School
Superintendent with Authority to Employ Certain Senior Staff
Personnel and to Enter Into Certain Contracts; Vocational
Education: Provide that the Department of Adult and
Technical Education be Responsible for Libraries***

CODE SECTIONS:	O.C.G.A. §§ 20-1A-1 to -6 (new), 20-2-241, -305 (amended), 20-4-14.1 (new), 20-5-2 to -4, -45, -47 to -48, -51, -60, 43-24-2 (amended)
BILL NUMBER:	SB 709
ACT NUMBER:	601
GEORGIA LAWS:	1996 Ga. Laws 167
SUMMARY:	The Act creates an Office of School Readiness to fulfill certain duties previously performed by the Department of Education. The Act allows the Office of School Readiness to have a director as well as equipment, positions, and appropriations from other state agencies. The Act provides the State School Superintendent with the authority to employ persons serving in the five senior staff positions within the Department of Education and to enter into contracts in amounts up to \$50,000 on behalf of that Department. The Act also transfers responsibility for libraries from the State Board of Education to the Department of Technical and Adult Education.
EFFECTIVE DATE:	April 15, 1996, O.C.G.A. §§ 20-1A-1 to -6; ¹ July 1, 1996, §§ 20-2-241, -305, 20-4-14.1, 20-5-2 to -4, -45, -47 to -48, -51, -60, 43-24-2

History

Public opinion polls conducted over the last several years indicated dissatisfaction with public education.² The public wanted a

1. The early effective date gives the Office of School Readiness time to prepare to register students for the upcoming school year. Telephone Interview with Rep. John Godbee, House District No. 145 (June 10, 1996) [hereinafter Godbee Interview]. Most of the pre-kindergarten services are provided by private contractors and the Office of School Readiness needed time to establish contracts. *Id.*

2. Record of Proceedings in the Senate Education Committee (Feb. 28, 1996)

fundamental change.³ Prior to the Act, an appointed School Board and an elected State School Superintendent shared management of and authority over education.⁴ This shared authority resulted in neither the Board nor the Superintendent being directly accountable to the public because one was always blaming the other.⁵ Duplicative management created a "state of confusion" in public education.⁶ The goal of SB 709 was to "achieve some clarity of mission between the School Board and the State School Superintendent,"⁷ and the bill drafted was entitled the "Education Reform Act of 1996."⁸

SB 709

Office of School Readiness

The Act creates a new Code chapter in title 20.⁹ The new chapter creates the Office of School Readiness as a department of the executive branch of Georgia government.¹⁰ For administrative purposes only, the Office of School Readiness is assigned to the Department of Education.¹¹ The Act makes this administrative assignment to the

(remarks by Linda Schrenko, State School Superintendent) [hereinafter Schrenko Remarks] (available in Georgia State University College of Law Library).

3. See generally *Lawmakers '96* (GPTV broadcast, Mar. 6, 1996) (remarks by Rep. Bob Irvin, House District No. 45) (videotape available in Georgia State University College of Law Library).

4. Telephone Interview with Sen. Mark Taylor, Senate District No. 12 (June 6, 1996) [hereinafter Taylor Interview].

5. *Id.*

6. *Southside Voices: Readers' Letters Tell Us What You Think*, ATLANTA J. & CONST., Apr. 4, 1996, at I5 [hereinafter *Southside Voices*].

7. Taylor Interview, *supra* note 4.

8. SB 709, as introduced, 1996 Ga. Gen. Assem.

9. O.C.G.A. §§ 20-1A-1 to -6 (1996). As introduced, SB 709 would also have added a Code section granting the Department of Agriculture the authority to operate and manage the school nutrition programs. SB 709, as introduced, 1996 Ga. Gen. Assem. The sponsors of SB 709 thought that the Department of Agriculture would be better suited to administer the school lunch program than the State Board of Education because the Department of Agriculture was accustomed to dealing with large payments of federal funds. Taylor Interview, *supra* note 4. The proposed transfer would have also allowed the Department of Education to concentrate on educational issues. Record of Proceedings in the Senate Education Committee (Feb. 28, 1996) (remarks by Sen. Mark Taylor, Senate District No. 12) [hereinafter Taylor Remarks] (available in Georgia State University College of Law Library). However, the House Education Committee deleted these proposed revisions because it did not feel that any change was necessary. Godbee Interview, *supra* note 1. The programs that would have been moved were programs in the schools and needed to be controlled by the Department of Education. *Id.*

10. O.C.G.A. § 20-1A-1 (1996).

11. *Id.* "Administrative purposes only" means the following:

Department of Education because the Office of School Readiness deals with education and children.¹² Assignment to a department enhances accountability.¹³

The director of the Office of School Readiness (the Director) is appointed by and serves at the pleasure of the Governor.¹⁴ The Governor also sets the Director's salary.¹⁵ The Act provides the Director with the authority to hire office personnel and to establish the rules, regulations, and procedures by which to carry out the provisions of this chapter.¹⁶ These powers granted to the Director are similar to those given to other appointed department directors.¹⁷

The Office of School Readiness administers programs and services, including the disbursement of federal funds, necessary for the operation and management of voluntary pre-kindergarten, preschool, and child

(a) An agency assigned to a department for administrative purposes only . . . shall:

- (1) Exercise its quasi-judicial, rule-making, licensing, or policy-making functions independently of the department and without approval or control of the department.
- (2) Prepare its budget, if any, and submit budgetary requests, if any, through the department.
- (3) Hire its own personnel if authorized by the Constitution of this state or by statute or if the General Assembly provides or authorizes the expenditure of funds therefor.

(b) The department to which the agency is assigned for administrative purposes only shall:

- (1) Provide record keeping, reporting, and related administrative and clerical functions for the agency.
- (2) Disseminate for the agency required notices, rules, or orders adopted, amended, or repealed by the agency.
- (3) Provide staff for the agency subject to the provisions of (a)(3).
- (4) Include in the departmental budget the agency's budgetary request, if any, as a separate part of the budget and exactly as prepared and submitted to the department by the agency.

(c) Whenever any authority is assigned for administrative purposes, it means only that the state department through which the authority deals with the state shall be that department to which the authority is assigned. . . . Any authority created by Georgia law shall retain its separate identity as an instrumentality of the state and a public corporation. The department to which an authority is assigned is authorized, only with the approval of the authority, to perform for such authority any or all of the functions set forth in subsection (b) of this Code section.

1972 Ga. Laws 1015, § 3, at 1020-21 (codified at O.C.G.A. § 50-4-3 (1994)).

12. Godbee Interview, *supra* note 1.

13. *Id.*

14. O.C.G.A. § 20-1A-3 (1996). The Governor requested that the Director be an appointed position. Godbee Interview, *supra* note 1.

15. Godbee Interview, *supra* note 1.

16. O.C.G.A. § 20-1A-3 (1996).

17. Godbee Interview, *supra* note 1.

development programs.¹⁸ Senator Mark Taylor views this new program as a critical component in achieving “future success in public education.”¹⁹

The Office of School Readiness began operation on April 15, 1996.²⁰ At that time, all of the functions and powers of the Department of Education with regard to pre-kindergarten and child development programs were transferred to the Office of School Readiness.²¹ On that same date, at the Director’s discretion,²² all of the personnel, office equipment, furniture, and assets in the Department of Education that had been used to provide pre-kindergarten and child development programs were to be transferred to the new Office of School Readiness.²³

Also on April 15, 1996, the Office of School Readiness assumed the duties of the Department of Human Resources with regard to the “operation and management of child care regulation services.”²⁴ Again, the Act allows the Director to transfer the personnel and assets necessary for those services to the new Office of School Readiness.²⁵ The Act gives the Director these responsibilities to eliminate duplication of services.²⁶

The personnel transferred to the Office of School Readiness from either the Department of Education or the Department of Human Resources may retain their current state merit system classification or elect to be unclassified.²⁷ Any employee that accepts a promotion or changes job position will be unclassified in the state merit system.²⁸ For all personnel transferred to the Office of School Readiness, the Georgia General Assembly intended that they be allowed to retain all employee benefits as well as “rights, credits, and funds” in their current retirement system unless they elect to not continue in the same retirement system.²⁹

18. O.C.G.A. § 20-1A-4 (1996).

19. Taylor Remarks, *supra* note 9.

20. *See supra* note 1.

21. O.C.G.A. § 20-1A-5 (1996).

22. *Id.* § 20-1A-5(c).

23. *Id.* § 20-1A-5(a).

24. *Id.* § 20-1A-5(b).

25. *Id.* § 20-1A-5(c).

26. Godbee Interview, *supra* note 1.

27. O.C.G.A. § 20-1A-5(d) (1996). Although Georgia continues to attempt to reduce its budget and switch to a true merit system of benefits instead of a seniority system, existing employees are allowed to retain their current benefit level for equity reasons. Godbee Interview, *supra* note 1.

28. Godbee Interview, *supra* note 1.

29. O.C.G.A. § 20-1A-5(f) (1996); Godbee Interview, *supra* note 1.

The new Director and the new employees in the Office of School Readiness are unclassified in the merit system.³⁰ New employees in the Office of School Readiness are members of the Employees' Retirement System of Georgia.³¹

"[A]ll rules, regulations, policies, procedures, and administrative orders . . ." instituted by either the Department of Education or Department of Human Resources that pertained to any of the transferred areas remained in full force and effect when the transfer took place on April 15, 1996.³² After the transfer, the Director could "amend[], repeal[], supersede[], or nullif[y]" the proclamations of the prior departments to establish the Director's own agenda.³³

Authority of the State School Superintendent

The Act increases the authority of the State School Superintendent, but to a lesser degree than the bill as introduced.³⁴ The State School Superintendent now may employ five senior staff members in the Department of Education and may bind the Department of Education to contracts for up to fifty thousand dollars.³⁵ SB 709, as introduced, would have given the State School Superintendent complete control over hiring and firing of all employees in the department as well as the authority to enter into contracts for any amount.³⁶ The suggestion that the State School Superintendent be given these additional powers was the most controversial portion of the bill.³⁷ Democrats as well as "groups ranging from the PTA to local school boards" disapproved of giving additional powers to the State School Superintendent because they feared an erosion of the checks and balances currently in place.³⁸ The Chairman of the Senate Education Committee, Richard Marable,

30. O.C.G.A. §§ 20-1A-3(a), -5(d) (1996).

31. *Id.* § 20-1A-5(e).

32. *Id.* § 20-1A-6.

33. *Id.*

34. Compare *id.* § 20-2-241 with SB 709, as introduced, 1996 Ga. Gen. Assem. The State School Superintendent's increased power has been called a "hollow win . . . because the state school board . . . was letting [the superintendent] do more . . ." than the Act actually permits. Betsy White, *School Chief Wins Small Power Boost; Lawmakers Also Agree to Let Gov. Zell Miller Take Charge of His Pet Pre-Kindergarten Program*, ATLANTA J. & CONST., Mar. 18, 1996, at B1.

35. O.C.G.A. § 20-2-241 (1996).

36. SB 709, as introduced, 1996 Ga. Gen. Assem.; Taylor Remarks, *supra* note 9. In Georgia, all contracts over \$100,000 must go through the competitive bid process. Taylor Remarks, *supra* note 9.

37. Compare *Southside Voices*, *supra* note 6 (arguing that State School Superintendent should not be given additional power) with Jim Wooten, *Don't You Dare: The Children Agree With My Politics*, ATLANTA J. & CONST., Mar. 8, 1996, at A14 (arguing that State School Superintendent should be given additional power).

38. Godbee Interview, *supra* note 1; White, *supra* note 34.

also disagreed with giving the State School Superintendent more power.³⁹ In refuting arguments that the power given to the State School Superintendent would be no different from the powers delegated to other agency heads, Senator Marable noted that a mistake in agricultural policy results in a lost crop for one year, but a mistake in education policy impacts children for the rest of their lives.⁴⁰

Libraries

To ensure a focus for libraries in the future⁴¹ and to eliminate the duplication of services,⁴² the Act shifts control of libraries from the Department of Education to the Department of Technical and Adult Education.⁴³ In effecting the transfer, the Act simply substitutes the name of the new responsible agency into the Code.⁴⁴ A new Code section was added to provide a start date for the State Board of Technical and Adult Education's new responsibilities, and to allow for the transfer of personnel and assets necessary for implementing the new responsibilities.⁴⁵

At the time of transfer, the commissioner of the State Board of Technical and Adult Education could determine whether any particular employee or asset should be transferred.⁴⁶ Those employees who were transferred to the State Board of Technical and Adult Education were able to retain their state merit system classification unless they chose to become unclassified.⁴⁷ Likewise, the transferred employees could elect to remain members of their retirement system and maintain their "rights, credits, and funds."⁴⁸ Otherwise, all new employees in the Department of Technical and Adult Education are unclassified in the

39. Jim Wooten, Editorial, *Growing Vegetables and Educating Georgia's Children*, ATLANTA J. & CONST., Feb. 18, 1996, at P5.

40. Record of Proceedings in the Senate (Mar. 6, 1996) (remarks by Sen. Richard O. Marable, Senate District No. 52) (available in Georgia State University College of Law Library).

41. Record of Proceedings in the Senate (Mar. 6, 1996) (remarks by Sen. Mark Taylor, Senate District No. 12) (available in Georgia State University College of Law Library).

42. Godbee Interview, *supra* note 1.

43. O.C.G.A. § 20-4-14.1 (1996).

44. Compare *id.* § 20-2-305 with 1987 Ga. Laws 1169, § 1, at 1284-85 (formerly found at O.C.G.A. § 20-2-305 (1994)).

45. O.C.G.A. § 20-4-14.1 (1996).

46. *Id.* § 20-4-14.1(b).

47. *Id.* § 20-4-14.1(c).

48. *Id.* § 20-4-14.1(d).

state merit system and become members of state⁴⁹ retirement systems.⁵⁰

The new duties of the Department of Technical and Adult Education took effect on July 1, 1996, and "all rules, regulations, policies, procedures, and administrative orders" then regulating libraries remain effective until they are "amended, repealed, superseded, or nullified by the State Board or Department of Technical and Adult Education."⁵¹

In Code sections 20-5-2 to -4, -45, -47 to -48, -51, -60, and 43-24-2, the Act merely substitutes the Department of Technical and Adult Education where Department of Education had previously been found.⁵²

Conclusion

The Act establishes several mechanisms for bettering Georgia Education.⁵³ The new Office of School Readiness provides for specific attention to be paid to education in the critical pre-kindergarten years.⁵⁴ The State School Superintendent is given increased authority over the operation of the Department of Education. In addition, shifting the control of libraries to the Department of Technical and Adult Education corresponds with Governor Miller's desire to reduce adult illiteracy and to cause each county library to become a local center for life-long learning.⁵⁵

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49. See 1988 Ga. Laws 1252, § 2, at 1279-80 (codified at O.C.G.A. §§ 20-4-25 to -26 (1996)) (providing that employees may become members of the Teachers Retirement System of Georgia or the Employees' Retirement System of Georgia).

50. O.C.G.A. § 20-4-14.1(c), (e) (1996).

51. *Id.* § 20-4-14.1(g).

52. Compare *id.* §§ 20-5-2 to -4, -45, -47 to -48, -51, -60, 43-24-2 with 1943 Ga. Laws 385 (formerly found at O.C.G.A. §§ 20-5-2 to -4 (1994)), 1984 Ga. Laws 1005, § 1, at 1010-12 (formerly found at O.C.G.A. §§ 20-5-45, -47 to -48, -51 (1994)); 1972 Ga. Laws 872, § 3, at 879 (formerly found at O.C.G.A. § 20-5-60 (1994)), and 1987 Ga. Laws 355, § 1, at 355-56 (formerly found at O.C.G.A. § 43-24-2 (1994)).

53. Taylor Interview, *supra* note 4.

54. *Id.*

55. *Id.*