

House Bill 318 (COMMITTEE SUBSTITUTE)

By: Representatives Hilton of the 48th, Jones of the 47th, Dubnik of the 29th, Thomas of the 21st, Mainor of the 56th, 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 reestablishment of the Office
3 of Charter School Compliance under the State Charter Schools Commission; to provide for
4 the staffing of such office; to provide that staff of the Office of Charter School Compliance
5 shall report directly to the State Board of Education; to establish the Office of District
6 Flexibility; to provide for the respective staffing and responsibilities of the Office of Charter
7 School Compliance and the Office of District Flexibility; to provide for the employment and
8 administrative assignment of personnel to staff the State Charter Schools Commission; to
9 provide for conditions upon which the State Board of Education and local boards of
10 education may request letters of assurance from charter schools; to provide for conditions
11 upon which the Department of Education, the State Charter Schools Commission, and local
12 school systems may withhold or retain certain percentages of funding from charter schools
13 for providing administrative or other services to such charter schools; to provide for the
14 calculation of local funding for local charter schools during the first year of a local charter
15 school's operation, during the first year a local charter school offers a new grade, or in an
16 upcoming school year when a local charter school is projected to exceed certain student
17 growth metrics; to provide for construction and applicability; to provide for related matters;
18 to repeal conflicting laws; and for other purposes.

H. B. 318 (SUB)

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 **SECTION 1.**

21 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
22 secondary education, is amended by revising subsection (f) of Code Section 20-2-2063.1,
23 relating to Charter Advisory Committee Established, members, and duties, as follows:

24 "(f) The committee shall work in cooperation with the Office of Charter School
25 Compliance, as established pursuant to subsection (a) of Code Section 20-2-2069."

26 **SECTION 2.**

27 Said chapter is further amended by revising subsections (c) and (e) of Code Section
28 20-2-2063.2, relating to charter systems, as follows:

29 "(c) Prior to approval or denial of a charter petition for a charter system, the state board
30 shall receive and give all due consideration to the recommendation and input from the
31 Office of District Flexibility established in subsection (b) of Code Section 20-2-2069
32 ~~Charter Advisory Committee established in Code Section 20-2-2063.1.~~ The state board
33 shall approve the charter if the state board finds, after receiving input from the ~~Charter~~
34 ~~Advisory Committee~~ Office of District Flexibility, that the petition complies with the rules,
35 regulations, policies, and procedures promulgated pursuant to Code Section 20-2-2063 and
36 the provisions of this title, is in the public interest, and promotes school level governance.
37 A charter for a charter system shall include the interventions, sanctions, and loss of
38 governance consequences contained in Code Section 20-14-41. A charter for a charter
39 system shall require that the local school system has not been designated as a high-risk
40 local school system by the Department of Audits and Accounts pursuant to Code Section
41 20-2-67, or if it has been designated as a high-risk local school system, the charter shall
42 require that the local school system has a written corrective action plan in place and that

43 local school system board members and appropriate personnel participate in required
44 training to address the deficiencies."

45 "(e)(1) Subject to appropriations by the General Assembly or other available funding, the
46 state board, after receiving input and recommendations from the ~~Charter Advisory~~
47 ~~Committee~~, Office of District Flexibility shall disburse planning grants to local school
48 systems which desire to become charter systems. Such grants will be disbursed in
49 accordance with any applicable guidelines, policies, and requirements established by the
50 state board.

51 (2) Subject to specific appropriations by the General Assembly for this purpose, the state
52 board shall disburse implementation grants in the amount of \$125,000.00 or such other
53 amount as determined by the state board to each charter system. The state board shall be
54 authorized to approve up to five petitions for charter systems during fiscal year 2008, and
55 may approve up to a maximum number of petitions in following years as may be
56 established pursuant to board rules and as subject to availability of funding for
57 implementation grants."

58

SECTION 3.

59 Said chapter is further amended by revising subsection (a) of Code Section 20-2-2065,
60 relating to waiver of provisions of this title, requirements for operating, and control and
61 management, as follows:

62 "(a)(1) Except as provided in this article or in a charter, a charter school, or for charter
63 systems, each school within the system, shall not be subject to the provisions of this title
64 or any state or local rule, regulation, policy, or procedure relating to schools within an
65 applicable school system regardless of whether such rule, regulation, policy, or procedure
66 is established by the local board, the state board, or the Department of Education;
67 provided, however, that the state board may establish rules, regulations, policies, or
68 procedures consistent with this article relating to charter schools; and provided, further,

69 that the state board and local boards may request letters of assurance from charter
 70 schools, subject to the following conditions:

71 (A) No provision contained in such requested letter of assurance shall supersede or be
 72 applied or construed to supersede the charter school's charter, constitute an addendum
 73 to such charter, or supersede any aspect of state or federal law; and

74 (B) The charter school shall have a minimum of 30 days from the date such letter of
 75 assurance is requested to provide a written response.

76 (2) A waiver granted pursuant to this Code section for a charter system shall apply to
 77 each system charter school within the system. In exchange for such a waiver, the charter
 78 school agrees to meet or exceed the performance based goals included in the charter and
 79 approved by the local board or, for the charter system, the system agrees to meet or
 80 exceed the system-wide performance based goals included in the charter and approved
 81 by the state board, including but not limited to raising student achievement. For a charter
 82 system, the charter shall delineate the performance based goals that the system and each
 83 school will be expected to meet as well as the criteria by which a system charter may be
 84 revoked in addition to those contained in Code Section 20-2-2068."

85 **SECTION 4.**

86 Said chapter is further amended by revising subsections (c.2), (d), and (i) of Code Section
 87 20-2-2068.1, relating to charter school funding, as follows:

88 "(c.2) For newly approved local charter schools, including charter renewals, the local board
 89 of education may retain an amount of the charter school's per pupil share of state and local
 90 funding not to exceed 3 percent of the total funds earned by the charter school to reimburse
 91 the local school system for administrative services actually provided to the charter school;
 92 subject to the following conditions:

93 (1) Any funds retained pursuant to this subsection shall be spent solely and directly on
 94 expenses incurred by the local school system in performing the duties required by this

95 article and State Board of Education rules and regulations with respect to local charter
96 schools;

97 (2) The local school system shall itemize and assign a value to such administrative
98 services actually provided to the local charter school; and

99 (3) The unspent portion of such retained funds shall be refunded to the local charter
100 school no later than June 30 each year."

101 "(d)(1) Effective July 1, 2012, except as otherwise provided in paragraph (2) of this
102 subsection, the department shall pay to each state chartered special school through
103 appropriation of state funds an amount equal to the sum of:

104 (A)(i) QBE formula earnings and QBE grants earned by the state chartered special
105 school based on the school's enrollment, school profile, and student characteristics.
106 For purposes of this subparagraph, the term 'QBE formula earnings' means funds
107 earned for the Quality Basic Education Formula pursuant to Code Section 20-2-161,
108 including the portion of such funds that are calculated in accordance with Code
109 Section 20-2-164. QBE formula earnings shall include the salary portion of direct
110 instructional costs, the adjustment for training and experience, the nonsalary portion
111 of direct instructional costs, and earnings for psychologists and school social workers,
112 school administration, facility maintenance and operation, media centers, additional
113 days of instruction in accordance with Code Section 20-2-184.1, and staff
114 development, as determined by the department; and

115 (ii) A proportional share of earned state categorical grants, non-QBE state grants,
116 transportation grants, school nutrition grants, and all other state grants, except state
117 equalization grants, as determined by the department;

118 (B) The state-wide average amount of the total revenues less federal revenues less state
119 revenues other than equalization grants per full-time equivalent for all school systems;
120 provided, however, that, if the average amount of the total revenues less federal
121 revenues less state revenues other than equalization grants per full-time equivalent for

122 the local school systems that comprise the attendance zone of the state chartered special
123 school is less than the state-wide average amount of the total revenues less federal
124 revenues less state revenues other than equalization grants per full-time equivalent for
125 all school systems, the state chartered special school shall receive the greater of:

126 (i) The average amount of the total revenues less federal revenues less state revenues
127 other than equalization grants per full-time equivalent for the local school systems
128 that comprise the attendance zone of the state chartered special school; or

129 (ii) The average amount of the total revenues less federal revenues less state revenues
130 other than equalization grants per full-time equivalent for the lowest five school
131 systems ranked by assessed valuation per weighted full-time equivalent count, as
132 determined by the department; and

133 (C)(i) For brick-and-mortar state chartered special schools, the state-wide average
134 total capital revenue, excluding local revenue bonds, per full-time equivalent, as
135 determined by the department or the capital revenue per full-time equivalent for the
136 local school system where the brick-and-mortar state chartered special school is
137 located, whichever is greater; and

138 (ii) For state chartered special schools that offer virtual instruction, an amount equal
139 to 25 percent of the state-wide average total capital revenue per full-time equivalent
140 if such school provides computer hardware, software, associated technical equipment,
141 and ongoing maintenance required and necessary for its students to participate in such
142 virtual instruction.

143 (2) In the event that a state chartered special school offers virtual instruction, the amount
144 of funds received pursuant to subparagraph (B) of paragraph (1) of this subsection shall
145 be equal to two-thirds of such calculated amount; provided, however, that this two-thirds
146 amount may be increased by any amount up to the originally calculated amount in the
147 discretion of the department if relevant factors warrant such increase.

148 (3) For purposes of this subsection, the terms:

149 (A) 'Assessed valuation' is defined as 40 percent of the equalized adjusted property tax
150 digest reduced by the amount calculated pursuant to subsection (g) of Code Section
151 20-2-164.

152 (B) 'Assessed valuation per weighted full-time equivalent count' is defined as the
153 assessed valuation for the most recent year available divided by the weighted full-time
154 equivalent count for the year of the digest.

155 (4) The department may withhold up to 3 percent of the amount determined pursuant to
156 paragraphs (1) and (2) of this subsection for each state chartered special school for use
157 in administering the duties required pursuant to this article with respect to state chartered
158 special schools; ~~provided, however,~~ subject to the following conditions:

159 (A) Any ~~that any~~ amount withheld pursuant to this ~~subsection~~ paragraph shall be spent
160 solely and directly on expenses incurred by the department in performing the duties
161 required by this article with respect to state chartered special schools;

162 (B) The department shall itemize and assign a value to each such duty performed; and

163 (C) The unspent portion of the amount withheld shall be refunded to the state chartered
164 special school no later than June 30 each year.

165 (5) No deduction shall be made to any state funding which a local school system is
166 otherwise authorized to receive pursuant to this chapter as a direct result or consequence
167 of the enrollment in a state chartered special school of a specific student or students who
168 reside in the geographical area of the local school system.

169 (6) Funding for state chartered special schools pursuant to this subsection shall be subject
170 to appropriations by the General Assembly and such schools shall be treated consistently
171 with all other public schools in this state, pursuant to the respective statutory funding
172 formulas and grants.

173 (7) The local board shall not be responsible for the fiscal management, accounting, or
174 oversight of the state chartered special school. The state chartered special school shall
175 report enrolled students in a manner consistent with Code Section 20-2-160. Any data

176 required to be reported by the state chartered special school shall be submitted directly
177 by the school to the appropriate state agency. Where feasible, the state board shall treat
178 a state chartered special school no less favorably than other public schools within the
179 state with respect to the provision of funds for transportation and building programs."

180 "(i)(1) For purposes of funding students enrolled in a local charter school in the first year
181 of such school's operation, in the first year that an existing local charter school offers a
182 new grade level, or in an upcoming year in which student growth in the existing local
183 charter school is projected to exceed 2 percent if authorized by the charter, and prior to
184 the initial student count, the state board shall calculate and the Department of Education
185 shall distribute the funding for the local charter school on the basis of its projected
186 enrollment according to an enrollment counting procedure or projection method
187 stipulated in the terms of the charter. Such initial funding shall include the adjustments
188 in each program for training and experience. No later than July 1 of each year, the state
189 board shall notify the Department of Education and the Office of Planning and Budget
190 of the funding estimates calculated pursuant to this subsection for any new local charter
191 schools, any new grade levels offered by existing local charter schools, or any existing
192 local charter schools with projected student growth exceeding 2 percent. After the initial
193 student count during the first year of such local charter school's operation, newly offered
194 grade level, or projected student growth exceeding 2 percent and in all years of operation
195 thereafter, each local charter school's student enrollment shall be based on the actual
196 enrollment in the current school year according to the most recent student count.

197 (2) Local boards shall provide state and local funding to local charter schools pursuant
198 to this subsection based on actual student enrollment; provided, however, that a local
199 charter school shall not be entitled to local funding greater than the amount calculated
200 based on the school-wide total enrollment cap as provided in the school's charter. A local
201 charter school that exceeds the enrollment cap provided for in such school's charter by

202 no more than 2 percent shall not be deemed to have exceeded the enrollment cap
 203 provisions of such charter.

204 (3) Nothing in this Code section shall be construed to require the Department of
 205 Education to conduct more than two student counts per year."

206 **SECTION 5.**

207 Said chapter is further amended by revising subsection Code Section 20-2-2069, relating to
 208 Office of Charter School Compliance, as follows:

209 "20-2-2069.

210 (a) There is established within the ~~Department of Education~~ State Charter Schools
 211 Commission an Office of Charter School Compliance, which shall be staffed with
 212 personnel as provided for in subsection (d.1) of Code Section 20-2-2082, who shall report
 213 directly to the State Board of Education for purposes of this subsection. The the
 214 responsibilities of ~~which~~ such office shall be to:

215 (1) Prepare charter school ~~and charter system~~ guidelines to be approved by the state
 216 board;

217 (2) Distribute charter school ~~and charter system~~ petition information to inquiring parties;

218 (3) Process all charter school ~~and charter system~~ petitions and coordinate with the
 219 Charter Advisory Committee established pursuant to Code Section 20-2-2063.1 to
 220 facilitate its review and recommendations to the state board;

221 (4) Administer any state or federal charter school implementation grant program;

222 (5) Contract with an independent party to evaluate the performance of charter schools
 223 ~~and charter systems~~, as such performance relates to fulfilling the terms of their charters;
 224 ~~and~~

225 (6) Compile information necessary to produce the annual report required by Code
 226 Section 20-2-2070; and

227 (7) Assist local school systems as charter school authorizers as challenges arise, support
228 local school systems as needed to implement best practices in charter school
229 authorization, and regularly engage with local school systems to promote charter school
230 authorization at the local level.

231 (b) There is established within the Department of Education an Office of District
232 Flexibility, the responsibilities of which shall be to:

233 (1) Prepare charter system guidelines to be approved by the state board;

234 (2) Distribute charter system petition information to inquiring parties;

235 (3) Process all charter system petitions and coordinate with the Charter Advisory
236 Committee established pursuant to Code Section 20-2-2063.1 to facilitate its review and
237 recommendations to the state board;

238 (4) Administer any state or federal charter school implementation grant program;

239 (5) Contract with an independent party to evaluate the performance of charter systems,
240 as such performance relates to fulfilling the terms of their charters; and

241 (6) Compile information necessary to produce the annual report required by Code
242 Section 20-2-2070."

243 **SECTION 6.**

244 Said chapter is further amended in Code Section 20-2-2082, relating to State Charter Schools
245 Commission, members, and operations, by revising subsections (a) and (d) and by adding a
246 new subsection to read as follows:

247 "(a) The State Charter Schools Commission is established as a state-level authorizing
248 entity working in collaboration with the Department of Education under the authority of
249 the State Board of Education. ~~Start-up funds~~ Funds necessary to establish and operate the
250 commission, including, but not limited to, funds to employ commission staff personnel,
251 may be received by the State Board of Education in addition to such other funds as may be

252 appropriated by the General Assembly. The department shall assist in securing federal and
 253 other institutional grant funds to establish the commission."

254 "(d) The commission shall determine the manner in which it reviews state charter school
 255 petitions ~~and may, in its discretion, use existing department personnel to conduct such~~
 256 ~~review.~~

257 (d.1)(1) The commission shall be authorized to employ staff personnel as necessary to
 258 accomplish commission objectives, including, but not limited to, reviewing state charter
 259 school petitions, staffing the Office of Charter School Compliance as provided for in
 260 subsection (a) of Code Section 20-2-2069, and performing such other duties as provided
 261 by law; provided, however, that such personnel shall be assigned to the department for
 262 administrative purposes only, as provided in Code Section 50-4-3.

263 (2) Nothing in this subsection or in subsection (a) of Code Section 20-2-2069 shall be
 264 construed or applied to provide the commission with any role in or responsibility for the
 265 oversight of local charter schools."

266 **SECTION 7.**

267 Said chapter is further amended by revising subsection (b) of Code Section 20-2-2089,
 268 relating to funding for state charter schools, as follows:

269 "(b) The department may withhold up to 3 percent of the amount determined pursuant to
 270 subsection (a) of this Code section for each state charter school for use in administering the
 271 duties required pursuant to Code Section 20-2-2083; ~~provided, however, that any, subject~~
 272 to the following conditions:

273 (1) Any amount withheld pursuant to this subsection shall be spent solely and directly
 274 on expenses incurred by the commission in performing the duties required by this article;

275 (2) The commission shall itemize and assign a value to each such duty performed; and

276 (3) The unspent portion of the amount withheld shall be refunded to the state charter
 277 school no later than November 1 each year."

278

SECTION 8.

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