

House Bill 327 (COMMITTEE SUBSTITUTE)

By: Representatives Coleman of the 97th, Dudgeon of the 25th, England of the 116th, Dickson of the 6th, Kaiser of the 59th, 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 enact the "Flexibility and Accountability Act
3 for Student Achievement"; to provide for legislative intent; to provide for definitions; to
4 categorize each school system as a Category 1, Category 2, or Category 3 school system; to
5 establish requirements; to provide for specified flexibility and accountability for Category
6 1 school systems; to provide for full flexibility for Category 2 school systems; to provide for
7 Category 3 school systems as charter systems; to provide for statutory construction; to
8 provide for grants; to provide for mediation; to provide for rules and regulations; to revise
9 provisions relating to waivers to improve student performance; to revise provisions relating
10 to waiver of provisions for charter schools; to provide for related matters; to repeal
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
15 secondary education, is amended by repealing Article 4, relating to increased flexibility for
16 local school systems, and inserting in lieu thereof the following:

17 style="text-align:center">"ARTICLE 4

18 20-2-80.

19 This article shall be known and may be cited as the 'Flexibility and Accountability Act for
20 Student Achievement.'

21 20-2-81.

22 The General Assembly finds that the state's current flexibility options should be
23 streamlined and synthesized to form a more cohesive state-wide flexibility and

24 accountability structure. The General Assembly has determined that the state should focus
 25 its efforts on supporting struggling schools and school systems, while allowing successful
 26 schools and school systems the flexibility to continue their efforts unfettered by state
 27 oversight.

28 20-2-82.

29 For purposes of this article, the term:

30 (1) 'Category 1 school system' or 'strategic school system' means a local school system
 31 which does not meet the criteria of a Category 2 school system and has not elected to
 32 become a Category 3 school system.

33 (2) 'Category 2 school system' or 'high performing school system' means a local school
 34 system which:

35 (A) Has a school system rating greater than or equal to 80; and

36 (B)(i) Has at least 90 percent of its schools with a school rating greater than or equal
 37 to 80, or for school systems with fewer than ten schools, no more than one school
 38 with a school rating of less than 80; or

39 (ii) Demonstrates significant growth through a CCRPI growth score.

40 (3) 'Category 3 school system' or 'charter system' means a local school system which has
 41 become a charter system pursuant to Code Section 20-2-2063.2.

42 (4) 'CCRPI' means the College and Career Ready Performance Index established by the
 43 State Board of Education for purposes of determining individual school and school
 44 system ratings in accordance with Code Section 20-14-33.

45 (5) 'Rating' means the individual school and school system ratings determined annually
 46 by the Office of Student Achievement pursuant to Code Section 20-14-33 and based on
 47 the CCRPI.

48 (6) 'State board' means the State Board of Education.

49 20-2-83.

50 (a)(1) Beginning in school year 2015-2016, each local school system shall be categorized
 51 as a Category 1, Category 2, or Category 3 school system pursuant to school system
 52 ratings determined in accordance with this article.

53 (2) Initial school system ratings shall be based on the higher of:

54 (A) A two-year average of CCRPI scores for each school system, based on the
 55 2012-2013 and 2013-2014 CCRPI for individual schools and averaged to determine the
 56 school system rating; or

57 (B) The most recent CCRPI overall score for the school system.

58 (3) Subsequent ratings shall be based on the higher of:

59 (A) A three-year average of CCRPI scores for each school system, based on the
 60 previous three years CCRPI for individual schools and averaged to determine the
 61 school system rating; or

62 (B) The most recent CCRPI overall score for the school system.

63 (b) A Category 1 or Category 2 school system may elect, at any time, to seek a charter
 64 with the state board to establish the local school system as a charter system in accordance
 65 with Code Section 20-2-2063.2 and become a Category 3 school system.

66 (c) On and after July 1, 2013, a school system that has a contract with the state board
 67 which was executed pursuant to the provisions of this article as they existed on June 30,
 68 2013, shall be entitled to continue to be subject to the rights and responsibilities contained
 69 in the contract between such school system and the state board through the expiration of
 70 the contract term; provided, however, that the state board may extend the term of any such
 71 contract to June 30, 2015, if the initial term of the contract expires between June 30, 2013,
 72 and such date; provided, further, that notwithstanding the provisions of Code Section
 73 20-2-84 as it existed on June 30, 2013, consequences for noncompliance shall not be
 74 imposed until the end of the five-year term of the contract, and in imposing any such
 75 consequences, the state board shall take into consideration the upcoming placement of such
 76 school system into a Category 1, Category 2, or Category 3 school system beginning July
 77 1, 2015. Upon termination or expiration of any such contract and extension, if applicable,
 78 such school system shall be subject to the provisions of this article with respect to Category
 79 1, Category 2, and Category 3 school systems. Any such school system may elect to
 80 convert to a Category 1, Category 2, or Category 3 school system, as appropriate, in
 81 accordance with this article, prior to the expiration of its contract if approved by the state
 82 board.

83 20-2-84.

84 (a) A Category 1 school system, in its discretion, shall:

85 (1) Request increased flexibility and be subject to increased accountability by submitting
 86 a waiver request and strategic plan to the state board in accordance with this Code
 87 section; or

88 (2) Remain subject to all education laws, rules, regulations, and policies, including
 89 accountability requirements.

90 (b) In order to receive increased flexibility pursuant to paragraph (1) of subsection (a) of
 91 this Code section, a school system shall articulate in a strategic plan how the requested
 92 waivers will enable the school system to make progress toward specific goals relating to
 93 student achievement outcomes. The strategic plan shall include proposed performance
 94 goals and performance measures and benchmarks for evaluating improvement and

95 achievement and monitoring progress toward student achievement outcomes. The school
96 system may request varied flexibility and accountability measures for schools or groups of
97 schools, upon approval by the state board. A Category 1 school system which has been
98 granted a waiver by the state board pursuant to Code Section 20-2-244 which is in effect
99 on June 30, 2015, shall include such waiver in its flexibility request submitted pursuant to
100 this Code section. A Category 1 school system which receives increased flexibility
101 pursuant to paragraph (1) of subsection (a) of this Code section shall be subject to strong
102 oversight and monitoring from the Department of Education to ensure:

103 (1) The implementation of the strategic plan;

104 (2) The appropriate use of the increased flexibility; and

105 (3) Improved local capacity.

106 (c) The state board shall have the authority to approve or deny the proposed flexibility
107 requested pursuant to this Code section. In the event that the state board denies the
108 proposed flexibility, the local board of education shall work with the department for further
109 revisions to its strategic plan and waiver request and resubmission to the state board.

110 (d) A Category 1 school system that receives increased flexibility pursuant to this Code
111 section shall retain such flexibility for a period of three years, regardless of subsequent
112 school system ratings within the three-year period, unless:

113 (1) The school system does not adhere to its strategic plan, in which case, flexibility may
114 be revoked but oversight and monitoring by the Department of Education will continue;

115 or

116 (2) During its three-year term, the school system attains the criteria of a Category 2
117 school system, in which case, it may elect, in accordance with state board rules, to
118 become a Category 2 school system and avail itself of the automatic exemptions provided
119 for in Code Section 20-2-84.1.

120 (e) Except as otherwise provided by Code Section 20-2-84.2, the state board shall be
121 authorized to waive for Category 1 school systems the provisions of this title and
122 specifically identified rules, regulations, policies, and procedures relating to schools;
123 provided, however, that the state board shall be authorized to waive the following
124 provisions only upon a determination that the school system's strategic plan includes high
125 standards of achievement:

126 (1) Class size requirements in Code Section 20-2-182;

127 (2) Expenditure controls in Code Section 20-2-171 and categorical allotment
128 requirements in Article 6 of this chapter; provided, however, that this shall not include
129 expenditure requirements relating to school nurses pursuant to paragraph (5) of
130 subsection (a) of Code Section 20-2-186;

131 (3) Certification requirements in Code Section 20-2-200; and

132 (4) Salary schedule requirements in Code Section 20-2-212.

133 20-2-84.1.

134 (a) A Category 2 school system shall be automatically exempt from the provisions of this
 135 title and rules, regulations, policies, and procedures relating to schools, except as otherwise
 136 provided by Code Section 20-2-84.2.

137 (b) A Category 2 school system shall retain such exemption for a period of three years,
 138 regardless of whether the school system continues to meet the criteria to be a Category 2
 139 school system. Upon expiration of three years, the school system shall be subject to
 140 categorization based upon its current school system rating.

141 20-2-84.2.

142 (a) All Category 1 and Category 2 school systems shall be subject to:

143 (1) Federal, state, and local rules, regulations, court orders, and statutes relating to civil
 144 rights; insurance; the protection of the physical health and safety of school students,
 145 employees, and visitors; conflicting interest transactions; and the prevention of unlawful
 146 conduct;

147 (2) Laws relating to unlawful conduct in or near a public school;

148 (3) The provisions of Part 3 of Article 2 of Chapter 14 of this title;

149 (4) The reporting requirements of Code Section 20-2-160, subsection (e) of Code Section
 150 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;

151 (5) The requirement that a local board of education shall not charge tuition or fees to its
 152 students except as may be authorized for local boards by Code Section 20-2-133;

153 (6) The provisions of Code Section 20-2-1050 requiring a brief period of quiet reflection;

154 (7) The provisions of Code Section 20-2-211.1, relating to fingerprint and criminal
 155 background checks;

156 (8) The provisions of subsection (c) of Code Section 20-2-327, relating to individual
 157 graduation plans;

158 (9) The expenditure requirements relating to school nurses pursuant to paragraph (5) of
 159 subsection (a) of Code Section 20-2-186; and

160 (10) The annual performance evaluation requirements in Code Section 20-2-210.

161 (b) All Category 3 school systems shall be subject to the provisions of Code Section
 162 20-2-2065.

163 (c) All Category 1, Category 2, and Category 3 school systems shall be subject to periodic
 164 verification and inspection by the Department of Education and the Office of Student
 165 Achievement to confirm that such school systems are complying with the requirements of

166 this article and any flexibility and accountability measures approved by the state board
167 pursuant to this article or Code Section 20-2-2063.2.

168 20-2-84.3.

169 (a) Nothing in this article shall preclude the establishment of a charter school or the
170 conversion of an existing school to a charter school within a Category 1 or Category 2
171 school system.

172 (b) Nothing in this article shall be construed to waive any obligations a local school system
173 or the state board has with respect to any grant agreement or any federal reporting or
174 monitoring requirements.

175 20-2-84.4.

176 Subject to appropriations, the state board may establish one or more grant programs,
177 subject to funding criteria established by the state board, which may include, but not be
178 limited to:

179 (1) Providing for innovation grants to assist school systems in implementing innovative
180 practices pursuant to this article; and

181 (2) Providing for grants to Category 2 and Category 3 school systems to mentor
182 Category 1 school systems in attaining specific goals relating to student achievement
183 outcomes.

184 20-2-84.5.

185 The Department of Education shall identify and make recommendations for additional
186 accountability and improvement measures for schools and school systems that are not
187 performing adequately to the Governor, President of the Senate, Speaker of the House of
188 Representatives, and chairpersons of the Senate Education and Youth Committee and the
189 House Committee on Education no later than December 31, 2013.

190 20-2-84.6.

191 (a) The Governor and the State School Superintendent shall each designate a member of
192 their respective staffs to be authorized to jointly mediate between the state board and a
193 local board of education in the event that such parties cannot agree on the parameters of
194 any waiver granted pursuant to this article or pursuant to Code Section 20-2-2063.2, for a
195 Category 3 school system.

196 (b) Such designees shall report annually to the General Assembly, no later than December
197 31 of each year, on the matters brought to such designees' attention and the resolution of
198 such matters.

199 20-2-84.7.
 200 The state board shall establish rules, regulations, and guidelines to effect the
 201 implementation of this article."

202 **SECTION 2.**

203 Said chapter is further amended by revising paragraph (2) of subsection (a) and paragraph
 204 (1) of subsection (b) of Code Section 20-2-211.1, relating to clearance certificates issued by
 205 the Professional Standards Commission, as follows:

206 "(2) 'Educator' means a teacher, school or school system administrator, or other education
 207 personnel who would, if not exempted pursuant to a charter under Article 31 or 31A of
 208 this chapter or ~~an increased flexibility contract~~ as a Category 1 or Category 2 school
 209 system under Article 4 of this chapter, be required to hold a professional educator
 210 certificate, license, or permit issued by the Professional Standards Commission and
 211 persons who have applied for but have not yet received such a certificate, license, or
 212 permit."

213 "(b)(1) On and after January 1, 2011, all educators employed by a local unit of
 214 administration shall hold a valid clearance certificate; provided, however, that an
 215 educator who possesses a professional educator certificate as of January 1, 2011, shall not
 216 be required to obtain a clearance certificate until his or her professional educator
 217 certificate is up for renewal. A local unit of administration may employ an educator who
 218 does not already hold a valid clearance certificate, provided the individual has applied for
 219 a clearance certificate, for a maximum of 20 days in order to allow for the receipt of the
 220 results of the criminal record check and issuance of the clearance certificate. The
 221 requirements of this Code section shall be in addition to professional educator certificate
 222 requirements unless such educator is employed by a school which is exempt from teacher
 223 certification requirements pursuant to a charter under Article 31 or 31A of this chapter
 224 or ~~an increased flexibility contract~~ as a Category 1 or Category 2 school system under
 225 Article 4 of this chapter."

226 **SECTION 3.**

227 Said chapter is further amended by revising Code Section 20-2-244, relating to waivers to
 228 improve student performance, as follows:

229 "20-2-244.

230 (a) The State Board of Education is authorized to waive specifically identified state rules,
 231 regulations, policies, and procedures, or provisions of this chapter, upon the request of a
 232 local school board and in accordance with this Code section. The goal for each waiver
 233 shall be improvement of student performance. It is the intent of the General Assembly that

234 the authority under this Code section is supplemental to the authority to grant waivers to
 235 Category 1, Category 2, and Category 3 school systems pursuant to Article 4 of this
 236 chapter, and that this authority is intended to be utilized only when special circumstances
 237 warrant, as determined by the state board.

238 (b) The State Board of Education is not authorized to waive any federal, state, and local
 239 rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection
 240 of the physical health and safety of school students, employees, and visitors; conflicting
 241 interest transactions; the prevention of unlawful conduct; any laws relating to unlawful
 242 conduct in or near a public school; any reporting requirements pursuant to Code Section
 243 20-2-320 or Chapter 14 of this title; the requirements of Code Section 20-2-211.1; ~~or the~~
 244 requirements in subsection (c) of Code Section 20-2-327; or the annual performance
 245 evaluation requirements in Code Section 20-2-210. A school or school system that has
 246 received a waiver shall remain subject to the provisions of Part 3 of Article 2 of Chapter
 247 14 of this title, the requirement that it shall not charge tuition or fees to its students except
 248 as may be authorized for local boards by Code Section 20-2-133, and shall remain open to
 249 enrollment in the same manner as before the waiver request.

250 (c) The provisions of this Code section shall not apply to charter schools, as charter
 251 schools are afforded flexibility pursuant to Articles 31 and 31A of this chapter.

252 (d) The board shall require a written application for a waiver that shall include, at a
 253 minimum:

- 254 (1) Identification of the specific state rules, regulations, policies, and procedures, or
 255 provisions of this chapter that are requested for waiver;
- 256 (2) A description of the policies and procedures the school or school system shall
 257 substitute for the waived state rules, regulations, policies, and procedures, or provisions;
- 258 (3) A description of how the proposed waiver will improve student performance;
- 259 (4) A description of the students who will be affected by the proposed waiver, including
 260 their estimated number, current performance, grade level, and any common demographic
 261 traits;
- 262 (5) A list of schools by name that will be affected by the proposed waiver, and a
 263 description of each school, including current performance, grade levels, and demographic
 264 traits of the students of each such school;
- 265 (6) Methods for collection of data, and for measuring and evaluating any change in
 266 student performance resulting from the proposed waiver;
- 267 (7) The period of time for which the proposed waiver is requested and the proposed
 268 starting date; and
- 269 (8) A resolution from the local school board approving the waiver request.

270 (e) The State Board of Education may grant or deny a waiver request, or grant a waiver
271 request subject to specified modifications in the waiver request.

272 (f) A waiver may be granted in accordance with this Code section for any period of time
273 not to exceed five years. The State Board of Education shall require reports regarding the
274 effect of the waiver at least annually, and may require more frequent reports if necessary
275 to monitor the effect of the waiver effectively. The State Board of Education shall report
276 annually to the General Assembly regarding the waivers granted, the effect of each waiver,
277 and any recommendations for legislative changes generated by successful waivers.

278 (g) On and after July 1, 2008, except as provided for in subsection (h) of this Code section,
279 the State Board of Education shall not authorize any waivers or variances pursuant to this
280 Code section to any local school system for the following:

281 (1) Class size requirements in Code Section 20-2-182; provided, however, that the state
282 board shall be authorized to waive class size requirements pursuant to this Code section
283 on and after July 1, 2008, in the event that a local school system can demonstrate a
284 hardship pursuant to a waiver request;

285 (2) Expenditure controls in Code Section 20-2-171 and categorical allotment
286 requirements in Article 6 of this chapter;

287 (3) Certification requirements in Code Section 20-2-200; or

288 (4) Salary schedule requirements in Code Section 20-2-212.

289 A local school system which has received a waiver or variance pursuant to this Code
290 section prior to ~~entering into a contract~~ receiving flexibility pursuant to Article 4 of this
291 chapter shall be required to include such waiver or variance in such ~~contract~~ flexibility
292 request.

293 (h) The State Board of Education shall be authorized to provide a blanket waiver or
294 variance of the class size requirements in Code Section 20-2-182 for all local school
295 systems for a specified school year in the event that a condition of financial exigency
296 occurs, as determined by the state board. For purposes of this subsection, 'financial
297 exigency' means circumstances which cause a shortfall in state appropriations and local
298 revenue for operation of local school systems as compared with projected expenditures
299 over the same period and such shortfall would have a material adverse effect on the
300 operation of public schools. Subsections (c) and (f) of this Code section shall not apply to
301 blanket waivers or variances issued pursuant to this subsection."

302 **SECTION 4.**

303 Said chapter is further amended by revising Code Section 20-2-2063.2, relating to charter
304 systems, as follows:

305 "20-2-2063.2.

306 (a) The state board shall be authorized to enter into a charter with a local board to establish
307 a local school system as a charter system.

308 (b) A local board seeking to create a charter system must submit a petition to the state
309 board. Prior to submitting such petition, the local board shall:

310 (1) Adopt a resolution approving the proposed charter system petition;

311 (2) Conduct at least two public hearings and provide notice of the hearings in the same
312 manner as other legal notices of the local board; and

313 (3) Send a notice to each principal within the local school system of the hearings with
314 instructions that each school shall distribute the notice to faculty and instructional staff
315 members and to the parent or guardian of each student enrolled in the school.

316 The local board may revise its proposed charter system petition, upon resolution, as a result
317 of testimony at the public hearings or for other purposes.

318 (c) Prior to approval or denial of a charter petition for a charter system, the state board
319 shall receive and give all due consideration to the recommendation and input from the
320 Charter Advisory Committee established in Code Section 20-2-2063.1. The state board
321 shall approve the charter if the state board finds, after receiving input from the Charter
322 Advisory Committee, that the petition complies with the rules, regulations, policies, and
323 procedures promulgated pursuant to Code Section 20-2-2063 and the provisions of this
324 title, is in the public interest, and promotes school level governance.

325 (d) All schools within an approved charter system shall be system charter schools except
326 as otherwise provided in subsections (f) and (g) of this Code section.

327 (e)(1) Subject to appropriations by the General Assembly or other available funding, the
328 state board, after receiving input and recommendations from the Charter Advisory
329 Committee, shall disburse planning grants to local school systems which desire to
330 become charter systems. Such grants will be disbursed in accordance with any applicable
331 guidelines, policies, and requirements established by the state board.

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

339 (f) A system charter school shall not be precluded from petitioning to become a conversion
340 charter school, in accordance with Code Section 20-2-2064, not subject to the terms of the
341 system charter. In the event a system charter school becomes a conversion charter school,

342 the system charter shall be amended to reflect that such school is no longer bound by the
343 system charter.

344 (g) An existing conversion or start-up charter school within a local school system which
345 is petitioning to become a charter system shall have the option of continuing under its own
346 existing charter, not subject to the terms of the system charter, or of terminating its existing
347 charter, upon agreement by the local board and state board, and becoming subject to the
348 system charter as a charter system school.

349 (h) On and after July 1, 2015, charter systems shall be designated as Category 3 school
350 systems pursuant to Article 4 of this chapter."

351 **SECTION 5.**

352 Said chapter is further amended by revising subsection (b) of Code Section 20-2-2065,
353 relating to waiver of provisions of Title 20, as follows:

354 "(b) In determining whether to approve a charter petition or renew an existing charter, the
355 local board and state board shall ensure that a charter school, or for charter systems, each
356 school within the system, shall be:

357 (1) A public, nonsectarian, nonreligious, nonprofit school that is not home based,
358 provided that a charter school's nonprofit status shall not prevent the school from
359 contracting for the services of a for profit entity and that nothing in this Code section
360 shall preclude the use of computer and Internet based instruction for students in a virtual
361 or remote setting;

362 (2) Subject to the control and management of the local board of the local school system
363 in which the charter school is located, as provided in the charter and in a manner
364 consistent with the Constitution, if a local charter school;

365 (3) Subject to the supervision of the state board, as provided in the charter and in a
366 manner consistent with the Constitution, if a state chartered special school;

367 (4) Organized and operated as a nonprofit corporation under the laws of this state;
368 provided, however, that this paragraph shall not apply to any charter petitioner that is a
369 local school, local school system, or state or local public entity;

370 (5) Subject to all federal, state, and local rules, regulations, court orders, and statutes
371 relating to civil rights; insurance; the protection of the physical health and safety of
372 school students, employees, and visitors; conflicting interest transactions; and the
373 prevention of unlawful conduct;

374 (6) Subject to all laws relating to unlawful conduct in or near a public school;

375 (7) Subject to an annual financial audit conducted by the state auditor or, if specified in
376 the charter, by an independent certified public accountant licensed in this state;

377 (8) Subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, and such
378 provisions shall apply with respect to charter schools whose charters are granted or
379 renewed on or after July 1, 2000;

380 (9) Subject to all reporting requirements of Code Section 20-2-160, subsection (e) of
381 Code Section 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;

382 (10) Subject to the requirement that it shall not charge tuition or fees to its students
383 except as may be authorized for local boards by Code Section 20-2-133;

384 (11) Subject to the provisions of Code Section 20-2-1050 requiring a brief period of
385 quiet reflection;

386 (12) Subject to the provisions of Code Section 20-2-211.1 relating to fingerprint and
387 criminal background checks; ~~and~~

388 (13) Subject to the provisions of subsection (c) of Code Section 20-2-327 relating to
389 individual graduation plans; and

390 (14) Subject to the provisions of Code Section 20-2-210 relating to annual performance
391 evaluations."

392 **SECTION 6.**

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