

House Bill 430 (AS PASSED HOUSE AND SENATE)

By: Representatives Brockway of the 102<sup>nd</sup>, Jones of the 47<sup>th</sup>, Glanton of the 75<sup>th</sup>, Stovall of the 74<sup>th</sup>, and Nix of the 69<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to  
2 implement various recommendations from the Governor's Education Reform Commission  
3 with respect to charter schools; to provide for the establishment of a code of principles and  
4 standards of charter school authorizing; to provide for a facilities grant program for charter  
5 schools; to provide for a definition; to provide for related matters; to repeal conflicting laws;  
6 and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
10 adding a new Code section to Article 31 of Chapter 2, relating to charter schools, to read as  
11 follows:

12 "20-2-2063.3.

13 (a) The State Board of Education and the State Charter Schools Commission shall jointly  
14 establish a code of principles and standards of charter school authorizing to guide local  
15 boards of education, the state board, and the State Charter Schools Commission in meeting  
16 high-quality authorizing practices. The principles and standards established by the state  
17 board and the State Charter Schools Commission shall include:

18 (1) Maintaining high standards for approving charter petitions;

19 (2) Establishing high academic, financial, and operational performance standards for  
20 charter schools;

21 (3) Annually monitoring, evaluating, and reporting charter school progress in meeting  
22 academic, financial, and operational performance standards;

23 (4) Upholding charter school autonomy in school governance, instructional program  
24 implementation, personnel, and budgeting;

25 (5) Protecting students and holding charter schools accountable for their obligations to  
26 all students; and

27 (6) Protecting the public interest and holding charter schools accountable for their  
28 obligations of governance, management, and oversight of public funds.

29 (b)(1) The State Board of Education shall provide for the annual review of local boards  
30 of education by an independent party for adherence to the principles and standards of  
31 charter school authorizing practices adopted by the state board pursuant to subsection (a)  
32 of this Code section. The State Board of Education shall ensure that any independent  
33 party reviewing local boards of education pursuant to this paragraph has a demonstrated  
34 history of evaluating charter school authorizers for quality authorizing practices.

35 (2) A charter school authorized by a local board of education that fails to meet the  
36 principles and standards of charter school authorizing on its annual evaluation for two  
37 consecutive years may petition to transfer its charter authorization to the State Charter  
38 Schools Commission.

39 (3) In its discretion, the State Charter Schools Commission may approve a charter school  
40 petitioning for authorization pursuant to paragraph (2) of this subsection for an initial  
41 charter term of up to five years if, based on the charter school's prior performance, it is  
42 likely to meet the commission's comprehensive performance framework if approved. If  
43 the State Charter Schools Commission approves the transfer of a petitioning charter  
44 school to its jurisdiction, the local board shall terminate the existing charter pursuant to  
45 the terms of the charter and a new charter shall be established between the charter school  
46 and the State Charter Schools Commission. If the State Charter Schools Commission  
47 declines to authorize the charter school, the charter school shall continue to operate under  
48 the terms of its charter with the local board of education. The requirements of Code  
49 Section 20-2-2085 shall not apply to local charter schools petitioning for authorization  
50 to the State Charter Schools Commission pursuant to paragraph (2) of this subsection.  
51 On and after July 1, 2017, the terms of any charter entered into or renewed between a  
52 local board and a local charter school shall include a provision for termination if the local  
53 board fails to meet the principles and standards of charter school authorizing on its annual  
54 evaluation for two consecutive years.

55 (c) The State Charter Schools Commission shall ensure that its adherence to the principles  
56 and standards of charter school authorizing practices is annually reviewed by an  
57 independent body that has a demonstrated history of evaluating charter school authorizers  
58 for quality authorizing practices.

59 (d) The State Board of Education shall provide for or approve training for its staff and  
60 local board of education members on the principles and standards of charter school  
61 authorizers. The State Board of Education may incorporate training on the principles and  
62 standards into the training programs for staff and local board of education members  
63 adopted pursuant to Code Section 20-2-230. The annual evaluation of local boards of

64 education for adherence to the principles and standards of charter school authorizing  
 65 conducted pursuant to this Code section shall detail the participation of the local board of  
 66 education in training on the principles and standards of charter school authorizers."

67 **SECTION 2.**

68 Said title is further amended by revising subsection (b) of Code Section 20-2-2067.1, relating  
 69 to amendment of terms of charter for charter schools, initial term of charter, and annual  
 70 report, as follows:

71 "(b) The initial term of a charter, except for a charter system or a local charter school that  
 72 has transferred its authorization to the State Charter Schools Commission pursuant to  
 73 subsection (b) of Code Section 20-2-2063.3, shall be for a minimum of five years, unless  
 74 the petitioner shall request a shorter period of time, and shall not exceed ten years. The  
 75 local board and the state board, in accordance with Code Section 20-2-2064.1 and subject  
 76 to the provisions of Code Section 20-2-2063.3, may renew a local charter, upon the request  
 77 of the charter school, for the period of time specified in the request, not to exceed ten years.  
 78 The state board may renew a state chartered special school, upon the request of the school,  
 79 for the period of time specified in the request, not to exceed ten years. The initial term of  
 80 a charter for a charter system shall not exceed five years. The state board may renew the  
 81 charter of a charter system, upon the request of the local board, for the period of time  
 82 specified in the request, not to exceed ten years."

83 **SECTION 3.**

84 Said title is further amended by revising subsections (b) and (c) and by adding a new  
 85 subsection to Code Section 20-2-2068.1, relating to charter school funding, as follows:

86 "(b) QBE formula earnings, applicable QBE grants, applicable non-QBE state grants, and  
 87 applicable federal grants earned by a local charter school shall be distributed to the local  
 88 charter school by the local board; provided, however, that state equalization grant earnings  
 89 shall be distributed as provided in subsection (c) of this Code section. QBE formula  
 90 earnings shall include the salary portion of direct instructional costs, the adjustment for  
 91 training and experience, the nonsalary portion of direct instructional costs, and earnings for  
 92 psychologists and school social workers, school administration, facility maintenance and  
 93 operation, media centers, additional days of instruction in accordance with Code Section  
 94 20-2-184.1, and staff development. The local charter school shall report enrolled students  
 95 in a manner consistent with Code Section 20-2-160; provided, however, that a local charter  
 96 school shall certify that all data are correct, including enrollment data and certified  
 97 personnel information, prior to a local board of education submitting any such data to the  
 98 state board for purposes of funding.

99 (c) In addition to the earnings set out in subsection (b) of this Code section, local revenue  
 100 shall be allocated to a local charter school on the same basis as for any local school in the  
 101 local school system. In the case of a start-up charter school, local revenue earnings shall  
 102 be calculated as follows:

103 (1) Determine the total amount of state and local five mill share funds earned by students  
 104 enrolled in the local start-up charter school as calculated by the Quality Basic Education  
 105 Formula pursuant to Part 4 of Article 6 of this chapter including any funds for  
 106 psychologists and school social workers but excluding 5 percent of system-wide funds  
 107 for central administration and excluding any categorical grants not applicable to the  
 108 charter school;

109 (2) Determine the total amount of state and local five mill share funds earned by all  
 110 students in the public schools of the local school system, including any charter schools  
 111 that receive local revenue, as calculated by the Quality Basic Education Formula but  
 112 excluding categorical grants and other non-QBE formula grants;

113 (3) Divide the amount obtained in paragraph (1) of this subsection by the amount  
 114 obtained in paragraph (2) of this subsection; and

115 (4) Multiply the quotient obtained in paragraph (3) of this subsection by the school  
 116 system's local revenue.

117 The product obtained in paragraph (4) of this subsection shall be the amount of local funds  
 118 to be distributed to the local start-up charter school by the local board; provided, however,  
 119 that nothing in this subsection shall preclude a charter petitioner and a local board of  
 120 education from specifying in the charter a greater amount of local funds to be provided by  
 121 the local board to the local start-up charter school if agreed upon by all parties to the  
 122 charter. Local funds so earned shall be distributed to the local start-up charter school by  
 123 the local board. Where feasible and where services are provided, funds for construction  
 124 projects shall also be distributed to the local start-up charter school as earned. In all other  
 125 fiscal matters, including applicable federal allotments, the local board shall treat the local  
 126 start-up charter school no less favorably than other local schools located within the  
 127 applicable school system and shall calculate and distribute the funding for the start-up  
 128 charter school on the basis of its actual or projected enrollment in the current school year  
 129 according to an enrollment counting procedure or projection method stipulated in the terms  
 130 of the charter. The Department of Education shall implement procedures that ensure that  
 131 each local charter school receives from its local school system the proportionate amount  
 132 of federal funds for which such local charter school is eligible under each federal program,  
 133 including but not limited to funds earned pursuant to Title I, Title II, and Title III of the  
 134 federal Elementary and Secondary Education Act and pursuant to the federal Individuals  
 135 with Disabilities Education Act. The local school system shall distribute funds to a local

136 start-up charter school; provided, however, that by agreement between the local school  
 137 system and the local start-up charter school, the proportionate amount of federal funds for  
 138 which the local start-up charter school is eligible may be provided through the provision  
 139 of in-kind services by the local school system. Local charter schools shall use any federal  
 140 funds received pursuant to this subsection for the purposes of the federal program for  
 141 which they were earned."

142 "(c.3) Each local board of education that has one or more local charter schools shall  
 143 publish in a prominent location on its website the calculation of earnings to each local  
 144 charter school made pursuant to subsections (a), (b), and (c) of this Code section, including  
 145 federal funds received by each local charter school. Such calculations shall be published  
 146 as soon as practicable prior to the distribution of funds to the local charter school by the  
 147 local board and shall be updated upon receipt of any additional federal funds received  
 148 pursuant to state reallocation of federal funds and distributed to local charter schools. Such  
 149 calculations may be published in conjunction with the financial and transparency  
 150 information required to be published by local boards of education pursuant to Part 3A of  
 151 Article 2 of Chapter 14 of Title 20. In the event that the Department of Education makes  
 152 such calculations available on its website, a local board of education may post a link in a  
 153 prominent location on its website to the Department of Education's web page which  
 154 contains such calculations to comply with this subsection."

155 **SECTION 4.**

156 Said title is further amended by revising Code Section 20-2-2068.2, relating to facilities fund  
 157 for charter schools, purposes for which funds may be used, upkeep of charter school  
 158 property, and availability of unused facilities, as follows:

159 "20-2-2068.2.

160 (a) From moneys specifically appropriated for such purpose, the state board shall ~~create~~  
 161 ~~a~~ disburse facilities ~~fund~~ grants for local charter schools, state chartered special schools,  
 162 and state charter schools as defined in Code Section 20-2-2081 for the purpose of  
 163 ~~establishing a per pupil, need based facilities aid program providing facility funding more~~  
 164 comparable to traditional public schools in this state.

165 (b) A charter school or state charter school may receive ~~moneys from the~~ facilities ~~fund~~  
 166 grants if the charter school or state charter school has received final approval from the State  
 167 Charter Schools Commission or from the state board for operation during that fiscal year.

168 (c) A charter school's or state charter school's governing body may use ~~moneys from the~~  
 169 facilities ~~fund~~ grants for the following purposes:

170 (1) Purchase of real property;

171 (2) Construction of school facilities, including initial and additional equipment and  
172 furnishings;

173 (3) Purchase, lease-purchase, or lease of permanent or relocatable school facilities;

174 (4) Purchase of vehicles to transport students to and from the charter school or state  
175 charter school; and

176 (5) Renovation, repair, and maintenance of school facilities that the school owns or is  
177 purchasing through a lease-purchase or long-term lease of three years or longer.

178 (d) The Department of Education shall specify procedures for submitting and approving  
179 grant requests for funding under this Code section and for documenting expenditures.

180 (e) Local boards are required to renovate, repair, and maintain the school facilities of  
181 charter schools in the district local school system to the same extent as other public schools  
182 in the district local school system if the local board owns the charter school facility, unless  
183 otherwise agreed upon by the petitioner and the local board in the charter. Subject to  
184 appropriations by the General Assembly, the state board shall disburse annual facilities  
185 grants to eligible applicants in an amount of \$100,000.00 or such other amount as  
186 determined by the state board. In the event that in any fiscal year sufficient funds are not  
187 appropriated to all eligible applicants or available to make the full amount of grants to all  
188 eligible applicants, the grant award to each eligible applicant may be determined on a  
189 competitive basis by the State Board of Education. Eligible applicants may receive one or  
190 more annual grants. Nothing in this Code section shall preclude the State Board of  
191 Education from administering or continuing any other facilities grant program for charter  
192 schools.

193 (f)(1) Prior to ~~releasing moneys from the~~ disbursing facilities ~~fund~~ grants, the  
194 Department of Education shall ensure that the governing board of the local charter school  
195 and the local board shall enter into a written agreement that includes a provision for the  
196 reversion of any unencumbered funds and all equipment and property purchased with  
197 public education funds to the ownership of the local board in the event the local charter  
198 school terminates operations.

199 (2) Prior to ~~releasing moneys from the~~ disbursing facilities ~~fund~~ grants, the Department  
200 of Education shall ensure that the governing board of the state chartered special school  
201 and the state board shall enter into a written agreement that includes a provision for the  
202 reversion of any unencumbered funds and all equipment and property purchased with  
203 public education funds to the ownership of the state board in the event the state chartered  
204 special school terminates operations.

205 (3) Prior to ~~releasing moneys from the~~ disbursing facilities ~~fund~~ grants, the Department  
206 of Education shall ensure that the governing board of the state charter school and the  
207 State Charter Schools Commission shall enter into a written agreement that includes a

208 provision for the reversion of any unencumbered funds and all equipment and property  
 209 purchased with public education funds to the ownership of the State Charter Schools  
 210 Commission in the event the state charter school terminates operations.

211 (g) The reversion of property in accordance with subsection (f) of this Code section is  
 212 subject to the complete satisfaction of all lawful liens or encumbrances.

213 (h)(1) As used in this subsection, the term 'unused facilities' means real property of a  
 214 local board of education, including educational facilities, as defined in Code Section  
 215 20-2-260, which have not been used by the local board of education for the previous two  
 216 years and which are not included in the local school system's five-year educational  
 217 facilities plan.

218 (2) Each local board of education shall make its unused facilities available to local  
 219 charter schools. The terms of the use of such a facility by the charter school shall be  
 220 subject to negotiation between the board and the local charter school and shall be  
 221 memorialized as a separate agreement. A local charter school that is allowed to use such  
 222 a facility under such an agreement shall not sell or dispose of any interest in such  
 223 property without the written permission of the local board. A local charter school may  
 224 not be charged a rental or leasing fee for the existing facility or for property normally  
 225 used by the public school which became the local charter school. A local charter school  
 226 that receives property from a local board may not sell or dispose of such property without  
 227 the written permission of the local board.

228 (3) Prior to denying the use by a local charter school of an unused facility, the local  
 229 charter school shall have the right to a hearing before the local board of education in  
 230 accordance with Code Section 20-2-1160, including the right to appeal an adverse local  
 231 board decision.

232 (i) No municipality, county, or other local political subdivision of this state may require  
 233 the nonprofit corporation that holds the charter for a charter school that has passed the  
 234 Department of Education facility inspection and holds a valid certificate of occupancy to  
 235 obtain any other licensure to operate the school, including, but not limited to, a business  
 236 license, professional license, or occupational tax certificate; provided, however, that any  
 237 for profit vendor of the charter school shall be subject to any applicable local requirements  
 238 relating to doing business in this state. Charter schools shall only be subject to ~~an~~  
 239 ~~applicable~~ the zoning, planning, and building permitting requirements that apply to  
 240 traditional public schools when constructing or renovating a facility; provided, however,  
 241 that the location of a charter school site shall be in conformity with existing county or city  
 242 comprehensive land use plans, if applicable, or existing land use patterns in the area, which  
 243 requirement shall not be waived by the State Board of Education."

244

**SECTION 5.**

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