

Senate Bill 216

By: Senators Price of the 56th, Seabaugh of the 28th, Thomas of the 54th, Mullis of the 53rd,  
Kemp of the 46th and others

**AS PASSED SENATE**

**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 petitions for  
3 charter schools and funding of charter schools; to provide for revised petitions that address  
4 deficiencies cited in the denial; to allow a petitioner seeking to create a start-up charter  
5 school to submit the petition to a local board or the state board; to provide for exemption of  
6 charter schools from provisions of Title 20 or any state or local rule, regulation, policy, or  
7 procedure; to provide for exceptions; to provide for governance of charter schools; to provide  
8 for qualifications for members of governing boards; to provide a per pupil minimum for  
9 funding; to provide for negotiation; to provide for definitions; to provide for payment for the  
10 charter school's portion of administrative costs; to provide for payment of funds to charter  
11 schools; to provide for allocation of state categorical program funds and federal funds; to  
12 require transportation; to provide for contracts for administrative and educational services;  
13 to provide for participation in bulk purchasing programs; to provide for a facilities fund; to  
14 provide for procedures relating to such fund; to provide for reversion of certain funds,  
15 property, and equipment; to provide for the terms of use by charter schools of certain surplus  
16 or unused property of local boards; to provide for related matters; to repeal conflicting laws;  
17 and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
21 secondary education, is amended in Code Section 20-2-2064, relating to approval or denial  
22 of a charter petition, by striking subsections (a) and (b) and inserting in lieu thereof the  
23 following:

24 "(a) A charter petitioner seeking to create a conversion charter school must submit a  
25 petition to the local board of the local school system in which the proposed charter school

1 will be located. The local board must by a majority vote approve or deny a petition no later  
 2 than 60 days after its submission unless the petitioner requests an extension; provided,  
 3 however, that a denial of a petition by a local board shall not preclude the submission to  
 4 the local board of a revised petition that addresses deficiencies cited in the denial; and  
 5 provided, further, that the local board shall not act upon a petition for a conversion charter  
 6 school until such petition:

7 (1) Has been freely agreed to, by secret ballot, by a majority of the faculty and  
 8 instructional staff members of the petitioning local school at a public meeting called with  
 9 two weeks' advance notice for the purpose of deciding whether to submit the petition to  
 10 the local board for its approval; and

11 (2) Has been freely agreed to, by secret ballot, by a majority of parents or guardians of  
 12 students enrolled in the petitioning local school present at a public meeting called with  
 13 two weeks' advance notice for the purpose of deciding whether to submit the petition to  
 14 the local board for its approval.

15 (b) A charter petitioner seeking to create a start-up charter school ~~must~~ may submit a  
 16 petition to the local board of the local school system in which the proposed charter school  
 17 will be located. The local board must by a majority vote approve or deny a petition no  
 18 later than 60 days after its submission unless the petitioner requests an extension. A denial  
 19 of a petition by a local board shall not preclude the submission to the local board of a  
 20 revised petition that addresses deficiencies cited in the denial."

## 21 SECTION 2.

22 Said chapter is further amended by striking Code Section 20-2-2064.1, relating to reviews  
 23 of charter petitions by the state board and charters for state chartered special schools, and  
 24 inserting in lieu thereof the following:

25 "20-2-2064.1.

26 (a) The state board shall approve the charter of a charter petitioner if the petition has been  
 27 approved by the local board of the local school system in which the proposed charter  
 28 school will be located and the state board finds that the petition complies with the rules,  
 29 regulations, policies, and procedures promulgated in accordance with Code Section  
 30 20-2-2063 and the provisions of this title and is in the public interest. If the state board  
 31 denies a petition, it must within 60 days specifically state the reasons for the denial, list all  
 32 deficiencies with regard to Code Section 20-2-2063, and provide a written statement of the  
 33 denial to the charter petitioner and to the local board.

34 (b) No application may be made to the state board by a petitioner for a conversion charter  
 35 school ~~that has been denied by a local board.~~

1 ~~(c) Upon denial of a petition for a start-up charter school by a local board and upon~~  
 2 ~~application to the state board by the petitioner, A charter petitioner seeking to create a state~~  
 3 ~~chartered special start-up charter school shall submit a petition to the state board. the The~~  
 4 state board shall approve the charter of a start-up charter petitioner for a state chartered  
 5 special school if the state board finds that such petition meets the requirements set forth  
 6 in Code Section 20-2-2063 and the provisions of this title, and is in the public interest. A  
 7 ~~denial of a petition by the state board shall not preclude the submission to the state board~~  
 8 ~~of a revised petition that addresses deficiencies cited in the denial. If the state board denies~~  
 9 ~~a petition, it must within 60 days specifically state the reasons for the denial, list all~~  
 10 ~~deficiencies with regard to Code Section 20-2-2063, and provide a written statement of the~~  
 11 ~~denial to the charter petitioner.~~"

### 12 SECTION 3.

13 Said chapter is further amended by striking Code Section 20-2-2065, relating to  
 14 requirements for operations, control, and management, and inserting in lieu thereof the  
 15 following:

16 "20-2-2065.

17 (a) Except as otherwise provided in this article or in a charter, a charter school shall not be  
 18 subject to the provisions of this title or any state or local rule, regulation, policy, or  
 19 procedure relating to schools within an applicable school system regardless of whether  
 20 such rule, regulation, policy, or procedure is established by the local board, the state board,  
 21 or the State Department of Education; provided, however, that the state board may  
 22 establish rules, regulations, policies, or procedures consistent with this article relating to  
 23 charter schools.

24 ~~(b) In determining whether to waive, as sought by the petitioner, specifically identified~~  
 25 ~~state and local rules, regulations, policies, and procedures, and provisions of this title other~~  
 26 ~~than the provisions of this article, approve a charter petition or renew an existing charter,~~  
 27 the local board and state board shall ensure that a charter school shall be:

28 (1) A public, nonsectarian, nonreligious, nonprofit school that is not home based,  
 29 provided that a charter school's nonprofit status shall not prevent the school from  
 30 contracting for the services of a for profit entity;

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

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

1 (4) Organized and operated as a nonprofit corporation under the laws of this state;  
 2 provided, however, that this paragraph shall not apply to ~~conversion charter schools~~ any  
 3 charter petitioner who is a local school or state or local public entity;

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

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

9 (7) Subject to an annual financial audit in the manner specified in the charter;

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

13 (9) Subject to all reporting requirements of Code Section 20-2-320;

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

16 (11) Subject to the provisions of Code Section 20-2-1050 requiring a brief period of  
 17 quiet reflection."

#### 18 SECTION 4.

19 Said chapter is further amended by striking Code Section 20-2-2068.1, relating to operational  
 20 funding of charter schools, and inserting in lieu thereof the following:

21 "20-2-2068.1.

22 ~~(a) A local charter school shall be included in the allotment of QBE formula earnings,~~  
 23 ~~applicable QBE grants, applicable nonQBE state grants, and applicable federal grants to~~  
 24 ~~the local school system in which the local charter school is located under Article 6 of this~~  
 25 ~~chapter. The local board and the state board shall treat a conversion charter school no less~~  
 26 ~~favorably than other local schools located within the applicable local school system unless~~  
 27 ~~otherwise provided by law. The local board and the state board shall treat a start-up charter~~  
 28 ~~school no less favorably than other local schools within the applicable local system with~~  
 29 ~~respect to the provision of funds for instruction and school administration and, where~~  
 30 ~~feasible, transportation, food services, and building programs.~~

31 ~~(b) QBE formula earnings, applicable QBE grants, applicable nonQBE state grants, and~~  
 32 ~~applicable federal grants earned by a local charter school shall be distributed to the local~~  
 33 ~~charter school by the local board; provided, however, that state equalization grant earnings~~  
 34 ~~shall be distributed as provided in subsection (c) of this Code section. The local charter~~  
 35 ~~school shall report enrolled students in a manner consistent with Code Section 20-2-160.~~

1 ~~(c) In addition to the earnings set out in subsection (b) of this Code section local tax~~  
2 ~~revenue shall be earned by a local charter school and calculated as follows:~~

3 ~~(1) Determine the amount of funds earned by students enrolled in the local charter~~  
4 ~~school as calculated by the Quality Basic Education Formula pursuant to Code Section~~  
5 ~~20-2-160;~~

6 ~~(2) Determine the amount of funds earned by all students in the public schools of the~~  
7 ~~local school system, including any charter schools that receive local tax revenue, as~~  
8 ~~calculated by the Quality Basic Education Formula;~~

9 ~~(3) Divide the amount obtained in paragraph (1) of this subsection by the amount~~  
10 ~~obtained in paragraph (2) of this subsection; and~~

11 ~~(4) Multiply the quotient obtained in paragraph (3) of this subsection by the school~~  
12 ~~system's local tax revenue.~~

13 ~~The product obtained in paragraph (4) of this subsection shall be the amount of local funds~~  
14 ~~to be distributed to the local charter school by the local board; provided, however, that~~  
15 ~~nothing in this subsection shall preclude a charter petitioner and a local board of education~~  
16 ~~from specifying in the charter a greater amount of local funds to be provided by the local~~  
17 ~~board to the local charter school if agreed upon by all parties to the charter. Local funds~~  
18 ~~so earned shall be distributed to the local charter school by the local board. Where feasible~~  
19 ~~and where services are provided, funds for transportation, food service programs, and~~  
20 ~~construction projects shall also be distributed to the local charter school as earned. In all~~  
21 ~~other fiscal matters, including applicable federal allotments, the local board shall treat the~~  
22 ~~local charter school no less favorably than other local schools located within the applicable~~  
23 ~~school system.~~

24 ~~(d) QBE formula earnings, applicable QBE grants, applicable nonQBE state grants, and~~  
25 ~~applicable federal grants that are earned by a state chartered special school shall be~~  
26 ~~distributed to the local board of the local school system in which the state chartered~~  
27 ~~special school is located which shall distribute the same amount to the state chartered~~  
28 ~~special school; provided, however, that a state chartered special school shall not be~~  
29 ~~included in the calculation and distribution of the local school system's equalization grant~~  
30 ~~unless the voters of the local school system have approved the use of local tax revenue to~~  
31 ~~support the state chartered special school in accordance with subsection (e) of this Code~~  
32 ~~section. If such approval has been given, state equalization grant earnings shall be earned~~  
33 ~~for the state chartered special school and shall be distributed as provided in subsection (f)~~  
34 ~~of this Code section. The local board shall not be responsible for the fiscal management,~~  
35 ~~accounting, or oversight of the state chartered special school. The state chartered special~~  
36 ~~school shall report enrolled students in a manner consistent with Code Section 20-2-160.~~

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

~~(e) The state board may require a local referendum of the qualified voters in the local school system in which the proposed state chartered special school will be located. Such referendum shall be held at the next regularly scheduled general election or as may otherwise be authorized at an earlier date by the local board or boards of education affected. Such referendum shall be held for the purpose of deciding whether the local board of education shall provide funds from school tax levies to support such state chartered special school or incur bonded indebtedness to support such state chartered special school or both. The ballot question shall be approved by the state board.~~

~~(f) The local board shall treat a state chartered special school for which the use of funds from local bonded indebtedness and local school tax levies has been approved by qualified voters in the system in accordance with subsection (e) of this Code section no less favorably than other public schools located within the applicable school system.~~

~~(g) The local board shall not distribute funds from local bond indebtedness and local school tax levies to a state chartered special school unless such use has been approved by qualified voters in accordance with subsection (e) of this Code section.~~

(a) Each local charter school governing board or petitioner shall negotiate funding with its local board as a provision of its charter at a minimum of 95 percent of the local school board's expenditures per pupil for each pupil enrolled in the charter school. As used in this Code section, the term 'expenditures per pupil' includes expenditures of revenues from local taxation and bonds and from funds provided by the federal and state governments, and excludes funds for capital expenses. The local board may retain up to 5 percent of the expenditures per pupil for pupils enrolled in the charter school as payment for the charter school's portion of central administrative costs incurred by the local board. Each local charter school shall be included in the allotment of funds to the local school system in which the charter school is located. All federal, state, and local funds due to the local charter school shall be forwarded to the school from time to time as specified in the charter.

(b) Each state chartered special school governing board or petitioner shall negotiate funding per pupil enrolled in the state chartered special school with the state board as a provision of its charter at a minimum of 100 percent of funds available for expenditure per pupil from state and federal funds, excluding capital expenses.

(c) The state shall meet the financial obligations to state chartered special schools in accordance with this Code section; provided, however, that the state shall not be obligated

1 to pay an amount greater than the per pupil state average as determined annually by the  
2 state board. The state board and the Department of Education shall have the joint  
3 responsibility to assess the funding needs of all state chartered special schools in the state  
4 and ensure that appropriate funds are included in the department's annual budget proposal.  
5 Payment of funds for the first month shall be sent directly from the department to state  
6 chartered special schools on July 1 of each fiscal year. All other payments shall be sent  
7 directly to state chartered special schools from time to time as specified in each such  
8 school's charter.

9 (e) (d) The state board may require a local referendum of the qualified voters in the local  
10 school system in which the proposed state chartered special school will be located. Such  
11 referendum shall be held at the next regularly scheduled general election or as may  
12 otherwise be authorized at an earlier date by the local board or boards of education  
13 affected. Such referendum shall be held for the purpose of deciding whether the local  
14 board of education shall provide funds from school tax levies to support such state  
15 chartered special school or incur bonded indebtedness to support such state chartered  
16 special school or both. The ballot question shall be approved by the state board.

17 (g) (e) The local board shall not distribute funds from local bond indebtedness and local  
18 school tax levies to a state chartered special school unless such use has been approved by  
19 qualified voters in accordance with subsection (e)(d) of this Code section.

20 (f) Charter schools having students or programs that meet the eligibility criteria for state  
21 categorical program funds shall be entitled to their proportionate share of such funds. Any  
22 such funds shall be forwarded to each charter school as specified in such charter school's  
23 charter.

24 (g) Each charter school shall provide transportation of charter school students within a  
25 reasonable distance of the charter school. As used in this Code section, the term 'a  
26 reasonable distance of the charter school' shall be determined by the charter but in any case  
27 shall be no greater than the largest busing area served by any school within the local school  
28 system where the charter school is located. The governing body of a local charter school  
29 may provide transportation through an agreement or contract with the local board, a private  
30 provider, or one or more parents. A local charter school and the local board shall cooperate  
31 in making arrangements that ensure that transportation is not a barrier to equal access for  
32 all students residing within a reasonable distance of the local charter school. A state  
33 chartered special school and the state board shall cooperate in making arrangements that  
34 ensure that transportation is not a barrier to equal access for all students residing within a  
35 reasonable distance of the state chartered special school.

1 (h) If a charter school is located in a local school system that is providing programs or  
 2 services to students that are funded by federal funds, such charter school shall receive  
 3 federal funds for any eligible students enrolled in such charter school for the same level of  
 4 service provided to eligible students in the schools operated by the local board.

5 (i) State chartered special schools may elect to contract with the local board for the school  
 6 system where the state chartered special school is located for any administrative and  
 7 educational services.

8 (j) If other goods and services are made available to a charter school through its charter,  
 9 such goods and services shall be provided to the charter school at a rate no greater than the  
 10 actual cost to the local board or state board. To maximize the use of state funds, the local  
 11 board and state board shall allow charter schools to participate in their bulk purchasing  
 12 program if applicable.

13 20-2-2068.2.

14 (a) From moneys specifically appropriated for such purpose, the state board shall create a  
 15 facilities fund for local charter schools and state chartered special schools for the purpose  
 16 of:

17 (1) Lending money to such charter schools at a reduced rate of interest; or

18 (2) Guaranteeing repayment of loans to such charter schools.

19 (b) The state board shall not provide any moneys from the facilities fund to any conversion  
 20 charter school that operates in a facility or facilities provided by the local board for a  
 21 nominal fee or at no charge.

22 (c) (1) Prior to releasing moneys from the facilities fund, the Department of Education  
 23 shall ensure that the governing board of the local charter school and the local board shall  
 24 enter into a written agreement that includes a provision for the reversion of any  
 25 unencumbered funds and all equipment and property purchased with public education  
 26 funds to the ownership of the local board in the event the local charter school terminates  
 27 operations.

28 (2) Prior to releasing moneys from the facilities fund, the Department of Education shall  
 29 ensure that the governing board of the state chartered special school and the state board  
 30 shall enter into a written agreement that includes a provision for the reversion of any  
 31 unencumbered funds and all equipment and property purchased with public education  
 32 funds to the ownership of the state board in the event the state chartered special school  
 33 terminates operations.

34 (d) The reversion of property in accordance with subsection (c) of this Code section is  
 35 subject to the complete satisfaction of all lawful liens or encumbrances.



1 (e) Each local board of education that has designated any facility or property as surplus,  
2 intended for disposal, or otherwise unused shall make such facility or property available  
3 for lease or purchase by a local charter school on the same basis as it makes such facility  
4 or property available to other public schools under the control and management of the local  
5 board of education. A conversion charter school may not be charged a rental or leasing fee  
6 for the existing facility or for property normally used by the public school which became  
7 the conversion charter school. A local charter school that receives property from a local  
8 board may not sell or dispose of such property without the written permission of the local  
9 board."

10

**SECTION 5.**

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