

HOUSE SUBSTITUTE TO SENATE BILL 249

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 payment of fees
 3 for advanced placement tests; to revise a provision relating to the release of questions from
 4 certain tests; to delete a provision that students with alternate assessments shall not count for
 5 accountability purposes; to change certain provisions regarding expenditure controls for the
 6 2003-2004 school year; to provide for certain reports; to change certain provisions regarding
 7 maximum class size for the 2003-2004 school year; to provide for automatic repeal; to
 8 change certain provisions regarding funding for additional days of instruction; to provide that
 9 when certain sales taxes for educational purposes are imposed, each board of education
 10 expending proceeds of the tax shall undergo a performance audit or performance review of
 11 such expenditures; to provide for contracts for such performance audit or review; to provide
 12 for related matters; to provide an effective date; to repeal conflicting laws; and for other
 13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
 17 striking subsection (g) of Code Section 20-2-161.1, relating to enrollment in postsecondary
 18 courses, and inserting in its place a new subsection (g) to read as follows:

19 "(g) The department shall pay the fees charged for advanced placement tests ~~taken by any~~
 20 ~~eligible high school student who successfully completes an approved advanced placement~~
 21 ~~course~~ according to rules set by the State Board of Education subject to appropriation by
 22 the General Assembly. ~~The local high school principal shall certify to the department the~~
 23 ~~number of students taking the advanced placement tests, the total fees charged, and such~~
 24 ~~additional information as the department requires regarding advanced placement tests, and~~
 25 ~~the department shall make payments directly to the testing service from funds dedicated~~
 26 ~~to this purpose within the secondary option grant account."~~

SECTION 2.

Said chapter is further amended by inserting a new Code section to be designated Code Section 20-2-167.1 to read as follows:

"20-2-167.1.

(a) For the purposes of the 2003-2004 school year only, the following changes to Code Section 20-2-167 shall apply:

(1) Except as otherwise provided in paragraph (2) of this subsection, for each program identified in Code Section 20-2-161, each local school system shall spend 100 percent of funds designated for direct instructional costs on the direct instructional costs of such program on one or more of the programs identified in Code Section 20-2-161 at the system level, with no requirement that the school system spend any specific portion of such funds at the site where such funds were earned.

(2) Direct instruction funds for the kindergarten early intervention program, the primary grades early intervention program, the upper elementary grades early intervention program, the remedial education program, and the alternative education program shall be expended on one or more of these programs at the system level, with no requirement that the school system spend any specific portion of such funds at the site where such funds were earned.

(3) Each local school system shall spend 100 percent of the funds designated for media center costs for such costs at the system level, and 100 percent of the funds designated for media materials for media materials at the system level.

(4) Funds allocated for staff development may be spent for any program approved under the 'Quality Basic Education Act.'

(5) Each local school system shall report to the Department of Education its budgets and expenditures in accordance with this Code section with expenditures based in the preceding school year for each school site as a part of its report in October for the FTE count and on March 15.

(b) Except as otherwise provided by subsection (a) of this Code section, Code Section 20-2-167 shall apply during the 2003-2004 school year.

(c) No penalty shall apply for failure to comply with expenditure controls set out in Code Section 20-2-167 that are contrary to this Code section, notwithstanding any law to the contrary, as long as the local school system complies with this Code section.

(d) Nothing in this Code section shall be construed to repeal any other provision of Code Section 20-2-167 or this chapter, or to apply to any time period other than the fiscal year beginning July 1, 2003, and ending June 30, 2004.

(e) This Code section shall be automatically repealed July 1, 2004."

SECTION 3.

Said title is further amended in Code Section 20-2-281, relating to effectiveness assessment, by striking subsections (d) and (f) and inserting in lieu thereof the following:

"(d)(1) The State Board of Education shall develop or adopt alternate assessments to be administered to each student receiving special education services pursuant to Code Section 20-2-152 who does not receive instruction in the essential knowledge and skills identified in the quality core curriculum developed pursuant to Code Section 20-2-140 and for whom the assessment instruments adopted under subsection (a) of this Code section, even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the student's Individualized Education Program team. A student's Individualized Education Program may serve as an alternate assessment for that student. ~~Students with alternate assessments shall not be counted for the state accountability purposes provided for in this article.~~

(2) A student's Individualized Education Program team shall determine appropriate participation in assessment and identify necessary accommodations in accordance with the federal Individuals with Disabilities Education Act."

"(f) Under rules adopted by the State Board of Education, the Department of Education shall, subject to appropriations by the General Assembly, release some or all of the questions and ~~answer keys~~ answers to each criterion-referenced competency test administered under subsection (a) of this Code section ~~and each end-of-course test administered under subsection (e) of this Code section~~ after the last time the instrument is administered for a school year. ~~To ensure a valid bank of questions for use each year, the department is not required to release a question that is being field tested and was not used to compute the student's score on the instrument.~~"

SECTION 4.

Said title is further amended in Code Section 20-2-182, relating to program weights, by striking subsection (i) and inserting in its place three new subsections to read as follows:

"(i) The State Board of Education shall adopt for each instructional program authorized pursuant to Part 3 of this article and the middle school program provided for in Code Section 20-2-290 the maximum number of students which may be taught by a teacher in an instructional period. Such maximum class sizes shall be equal to or greater than the teacher-student ratios used in the calculation of the program weights as set forth in subsection (b) of Code Section 20-2-161 but shall not exceed the funding class size by more than 20 percent, unless specifically authorized by the State Board of Education; provided, however, that in no case shall the 20 percent maximum be exceeded for mathematics, science, social studies, or English classes; provided, further, that the

1 maximum class size for kindergarten and grades one through three shall not exceed 20
 2 percent over the funding ratio except for art, music, or physical education classes;
 3 provided, further, that the maximum class size for special education, gifted, and English
 4 for speakers of other languages classes shall be set by the State Board of Education. For
 5 a period not to exceed four years, beginning with the 2000-2001 school year, local school
 6 systems shall be allowed to exceed the maximum class sizes set forth in this subsection in
 7 a manner consistent with State Board of Education rules. The State Board of Education
 8 shall lower the current maximum class sizes set by state board rules in effect for the
 9 1999-2000 school year, beginning with the 2000-2001 school year, by a proportional
 10 amount each school year so that, beginning with the 2003-2004 school year, State Board
 11 of Education rules are in compliance with this subsection except as otherwise provided in
 12 subsection (k) of this Code section for the 2003-2004 school year only. An aide may be
 13 used in programs to increase class size as allowed by State Board of Education rule, except
 14 that an aide shall not be used to increase the maximum class size in kindergarten or grades
 15 one through three, except as otherwise provided in subsection (k) of this Code section for
 16 the 2003-2004 school year only. The maximum class size for the kindergarten and primary
 17 grades programs is defined as the number of students in a physical classroom. Maximum
 18 class sizes that result in a fractional full-time equivalent shall be rounded up to the nearest
 19 whole number as needed. The middle school program shall use the teacher-student ratio of
 20 the middle grades program for the purpose of this subsection. The number of students
 21 taught by a teacher at any time after the first 15 school days of a school year may not
 22 exceed the maximum such number unless authorization for a specific larger number is
 23 requested of the state board, along with the educational justification for granting the
 24 requested exemption, and the state board has approved said request. The state board shall
 25 not reduce class sizes without the authorization of the General Assembly; if this reduction
 26 necessitates added costs for facilities, personnel, and other program needs. Local boards
 27 of education may reduce class sizes, build additional facilities, and provide other resources
 28 at local cost if such actions are in the best interest of the local school systems' programs
 29 as determined by the local boards of education.

30 (j) In its report of the initial full-time equivalent program count required by subsection (a)
 31 of Code Section 20-2-160, each local school system shall report to the Department of
 32 Education the number of students in each class in each school as of the date of the initial
 33 enrollment count; for schools where students change classes during the school day, the
 34 local school system shall report the number of students in each class period. Each local
 35 school system shall also report to the Department of Education by March 15 of each school
 36 year the number of students in each class in each school as of the first Monday in March;

1 for schools where students change classes during the school day, the local school system
 2 shall report the number of students in each class period.

3 (k) For the 2003-2004 school year, the maximum class sizes set by the State Board of
 4 Education for the 2002-2003 school year shall apply for grades four through 12. For the
 5 2003-2004 school year, the maximum class sizes set by the State Board of Education for
 6 the 2003-2004 school year shall apply to kindergarten and grades one through three, except
 7 that a kindergarten class may be increased to 20 students if a paraprofessional is present
 8 in addition to the certificated teacher. For the 2003-2004 school year, compliance with
 9 maximum class size requirements shall be determined by the system average for
 10 kindergarten and for each grade and no class shall exceed the applicable maximum size by
 11 more than two students. Except as otherwise provided in this subsection, other provisions
 12 of this Code section shall apply. This subsection shall not be construed to repeal any other
 13 provision of this Code section or this chapter, or to apply to any period of time other than
 14 the fiscal year beginning July 1, 2003, and ending June 30, 2004. This subsection shall be
 15 automatically repealed July 1, 2004."

16 SECTION 5.

17 Said title is further amended by striking Code Section 20-2-184.1, relating to funding for
 18 additional days of instruction, and inserting in its place a new Code Section 20-2-184.1 to
 19 read as follows:

20 "20-2-184.1.

21 The program weights for the kindergarten, kindergarten early intervention, primary,
 22 primary grades early intervention, upper elementary, upper elementary grades early
 23 intervention, middle grades, middle school, and remedial programs and the program
 24 weights for the high school programs authorized pursuant to paragraph (4) of subsection
 25 (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient
 26 funds to pay the beginning salaries for instructors needed to provide 20 additional days of
 27 instruction for 10 percent of the full-time equivalent count of the respective program. Such
 28 funds shall be used for addressing the academic needs of low-performing students with
 29 programs including, but not limited to, instructional opportunities for students beyond the
 30 regular school day, Saturday classes, intersession classes, and summer school classes.
 31 Following the midterm adjustment, the state board shall issue allotment sheets for each
 32 local school system. Each local school system shall spend 100 percent of the funds
 33 designated for additional days of instruction for such costs at the system level. Up to 15
 34 percent of funds designated for additional days of instruction may be spent for
 35 transportation costs incurred for transporting students who are attending the additional
 36 classes funded by these designated funds."

SECTION 6.

Said chapter is further amended by inserting a new Code section to be designated Code Section 20-2-491 to read as follows:

"20-2-491.

(a) When a sales tax for educational purposes is imposed for capital outlay projects as provided in Part 2 of Article 3 of Chapter 8 of Title 48 and such tax generates or is reasonably anticipated to generate annualized proceeds of \$5 million per year or more, the expenditure of tax proceeds shall be subject to an ongoing performance audit or performance review as provided in this Code section; but this Code section shall not apply if such tax generates annualized proceeds below \$5 million.

(b) Each local board of education expending tax proceeds for capital outlay projects shall provide for a continuing performance audit or performance review of the expenditure of such funds. The local board of education shall contract with an outside auditor, consultant, or other provider for such performance audit or performance review. The performance audit or performance review contract shall:

(1) Include a goal of ensuring to the maximum extent possible that the tax funds are expended efficiently and economically, so as to secure to the expending school district the maximum possible benefit from the tax dollars collected;

(2) Provide for the issuance of periodic public reports, not less often than once annually, with respect to the extent to which expenditures are meeting the goal specified in paragraph (1) of this subsection; and

(3) Provide for the issuance of periodic public recommendations, not less often than once annually, for improvements in meeting the goal specified in paragraph (1) of this subsection.

(c) The auditor, consultant, or other provider to carry out the performance audit or performance review shall be selected through a public request for proposals process. The cost of the performance audit or performance review may be paid from the proceeds of the sales tax for educational purposes or any other available funds of the local school system.

(d) The performance audit or review shall be required when the sales tax for educational purposes is imposed in whole or in part for capital outlay projects but shall not be required when the sales tax for educational purposes is imposed for the sole purpose of retirement of previously incurred general obligation debt.

(e) The requirements of this Code section shall apply with respect to any sales tax for educational purposes which is in effect on July 1, 2003, as well as any sales tax for educational purposes imposed or reimposed on or after that date."

1 **SECTION 7.**

2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval.

4 **SECTION 8.**

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