

## Senate Bill 35

By: Senators Moody of the 56th, Carter of the 13th, Stephens of the 27th, Starr of the 44th, Hill of the 4th and others

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to provide for the revision of certain provisions regarding education flexibility; to change certain provisions relating to expenditure controls for the 2005-2006 school year; to change certain provisions regarding program weights; to change certain provisions regarding legislative intent with respect to charter schools; to change certain provisions regarding minimum requirements for charter petitions; to repeal Code Section 20-2-2063.1, relating to exemption of charter schools from statutory and regulatory requirements; to change certain provisions regarding operation, control, and management requirements for charter schools; to amend Code Section 40-5-22, relating to persons not to be issued a driver's license, school attendance requirements, and driving training requirements, so as to provide for an additional exception to the school attendance requirements to obtain a driver's license for a minor pursuing a general educational development diploma; to provide for an additional offense to prohibit a suspended student from maintaining a driver's license; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended by striking Code Section 20-2-167.1, relating to the application of Code Section 20-2-167 for the 2003-2004 and 2004-2005 school year, and inserting in lieu thereof the following:

"20-2-167.1.

(a) For the purposes of the 2003-2004, ~~and 2004-2005~~, and 2005-2006 school years 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 at the system level;~~

~~(4)~~(3) During the 2003-2004 school year, funds allocated for staff development may be spent for any program approved under the 'Quality Basic Education Act.' During the 2004-2005 and 2005-2006 school year years, each school system shall spend 90 percent of funds allocated for professional development for such costs at the system level; and

~~(5)~~(4) 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, and 2004-2005, and 2005-2006 school years.

(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 ~~two~~ three fiscal years beginning July 1, 2003, and ending June 30, ~~2005~~ 2006.

(e) This Code section shall be automatically repealed July 1, ~~2005~~ 2006."

## SECTION 2.

Said chapter is further amended by striking subsections (i) and (k) of Code Section 20-2-182, relating to program weights, and inserting in lieu thereof the following:

"(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

1 an instructional period. ~~Such maximum class sizes shall be equal to or greater than the~~  
2 ~~teacher-student ratios used in the calculation of the program weights as set forth in~~  
3 ~~subsection (b) of Code Section 20-2-161 but shall not exceed the funding class size by~~  
4 ~~more than 20 percent, unless specifically authorized by the State Board of Education;~~  
5 ~~provided, however, that in no case shall the 20 percent maximum be exceeded for~~  
6 ~~mathematics, science, social studies, or English classes; provided, further, that the The~~  
7 ~~State Board of Education shall provide for a system average maximum class size that shall~~  
8 ~~not exceed the funding class size by more than 20 percent for mathematics, science, social~~  
9 ~~studies, or language arts classes, unless specifically authorized by the State Board of~~  
10 ~~Education. The system average~~ maximum class size for kindergarten and grades one  
11 through three shall not exceed 20 percent over the funding ratio except for art, music, or  
12 physical education classes; provided, further, that the system average maximum class size  
13 for special education, gifted, and English for speakers of other languages classes shall be  
14 set by the State Board of Education. For each instructional program, the maximum number  
15 of students who may be taught by a teacher in an instructional period shall not exceed the  
16 system average maximum class size for the program by more than two students; provided,  
17 however, that a system average maximum class size which results in a fractional full-time  
18 equivalent shall be rounded up to the nearest whole number. For a period not to exceed ~~four~~  
19 ~~seven~~ years, beginning with the 2000-2001 school year, local school systems shall be  
20 allowed to exceed the maximum class sizes set forth in this subsection in a manner  
21 consistent with State Board of Education rules and subsection (k) of this Code section. The  
22 State Board of Education shall lower the current maximum class sizes set by state board  
23 rules in effect for the 1999-2000 school year, beginning with the 2000-2001 school year,  
24 by a ~~proportional amount each school year~~ an amount so that, beginning with the  
25 ~~2003-2004~~ 2007-2008 school year, State Board of Education rules are in compliance with  
26 this subsection ~~except as otherwise provided in subsection (k) of this Code section for the~~  
27 ~~2003-2004 and 2004-2005 school years only.~~ An aide may be used in programs to increase  
28 class size as allowed by State Board of Education rule and subsection (k) of this Code  
29 section, except that beginning with the 2007-2008 school year, an aide shall not be used  
30 to increase the maximum class size in kindergarten or grades one through three, ~~except as~~  
31 ~~otherwise provided in subsection (k) of this Code section for the 2003-2004 and 2004-2005~~  
32 ~~school years only.~~ The maximum class size for the kindergarten and primary grades  
33 programs is defined as the number of students in a physical classroom. Maximum class  
34 sizes that result in a fractional full-time equivalent shall be rounded up to the nearest whole  
35 number as needed. The middle school program shall use the teacher-student ratio of the  
36 middle grades program for the purpose of this subsection. The number of students taught  
37 by a teacher at any time after the first 15 school days of a school year may not exceed the

1 maximum such number unless authorization for a specific larger number is requested of  
 2 the state board, along with the educational justification for granting the requested  
 3 exemption, and the state board has approved said request. The state board shall not reduce  
 4 class sizes without the authorization of the General Assembly if this reduction necessitates  
 5 added costs for facilities, personnel, and other program needs. Local boards of education  
 6 may reduce class sizes, build additional facilities, and provide other resources at local cost  
 7 if such actions are in the best interest of the local school systems' programs as determined  
 8 by the local boards of education."

9 "(k) For the 2003-2004, ~~and 2004-2005~~, 2005-2006, and 2006-2007 school years, the  
 10 maximum class sizes set by the State Board of Education for the 2002-2003 school year  
 11 shall apply for grades four through 12. For the 2003-2004, ~~and 2004-2005~~, 2005-2006, and  
 12 2006-2007 school years, the maximum class sizes set by the State Board of Education for  
 13 the 2003-2004 school year shall apply to kindergarten and grades one through three, except  
 14 that a kindergarten class may be increased to 20 students if a paraprofessional is present  
 15 in addition to the certificated teacher. ~~For the 2003-2004 and 2004-2005 school years,~~  
 16 ~~compliance with maximum class size requirements shall be determined by the system~~  
 17 ~~average for kindergarten and for each grade and no class shall exceed the applicable~~  
 18 ~~maximum size by more than two students.~~ Except as otherwise provided in this subsection,  
 19 other provisions of this Code section shall apply. This subsection shall not be construed to  
 20 repeal any other provision of this Code section or this chapter, or to apply to any period of  
 21 time other than the ~~two~~four fiscal years beginning July 1, 2003, and ending June 30,

22 ~~2005~~2007. This subsection shall be automatically repealed July 1, ~~2005~~2007."

### 23 SECTION 3.

24 Said chapter is further amended by striking Code Section 20-2-2061, relating to legislative  
 25 intent regarding charter schools, and inserting in its place a new Code Section 20-2-2061 to  
 26 read as follows:

27 "20-2-2061.

28 It is the intent of the General Assembly to provide a means whereby a petitioner may seek  
 29 a performance based contract called a charter, which ~~ties improved performance to the~~  
 30 ~~waiver of specifically identified state and local rules, regulations, policies, procedures, and~~  
 31 ~~identified provisions of this title other than the provisions of this article. In addition to~~  
 32 ~~specifically identified provisions of this title, a charter school shall be exempt from~~  
 33 ~~provisions listed in Code Section 20-2-2063.1~~ exempts the petitioner from the provisions  
 34 of this title, except as provided in this article, or any state or local rule, regulation, policy,  
 35 or procedure relating to schools within an applicable school system regardless of whether  
 36 such rule, regulation, policy, or procedure is established by the local board, the State Board

1 of Education, or the Department of Education; provided, however, that the state board may  
2 establish rules, regulations, policies, or procedures consistent with this article relating to  
3 charter schools. In exchange for such a waiver, the school agrees to meet or exceed the  
4 performance based goals included in the petition and approved by the local board,  
5 including but not limited to raising student achievement."

#### 6 **SECTION 4.**

7 Said chapter is further amended by striking Code Section 20-2-2063, relating to minimum  
8 requirements for charter petitions, and inserting in lieu thereof the following:

9 "20-2-2063.

10 The State Board of Education shall promulgate rules, regulations, policies, and procedures  
11 to govern the contents of a charter petition, ~~provided that the following shall be required~~  
12 ~~at a minimum:~~

13 ~~(1) The state board shall require that a petition designate the performance to be improved~~  
14 ~~and how it will be improved through the waiver of specifically identified state and local~~  
15 ~~rules, regulations, policies, and procedures, or provisions of this title other than the~~  
16 ~~provisions of this article;~~

17 ~~(2) The state board shall require that a petition describe how it will measure the~~  
18 ~~improvement in such performance and over what period of time, provided that such~~  
19 ~~requirement shall not waive the accountability provisions of Part 3 of Article 2 of Chapter~~  
20 ~~14 of this title; and~~

21 ~~(3) The state board shall require that a petition demonstrate how any such waiver does~~  
22 ~~not undermine and is consistent with the intent of the waived state and local rules,~~  
23 ~~regulations, policies, and procedures, or the provisions of this title."~~

#### 24 **SECTION 5.**

25 Said chapter is further amended by repealing in its entirety Code Section 20-2-2063.1,  
26 relating to exemption of charter schools from statutory and regulatory requirements.

#### 27 **SECTION 6.**

28 Said chapter is further amended by striking Code Section 20-2-2065, relating to operation,  
29 control, and management requirements for charter schools, and inserting in its place a new  
30 Code Section 20-2-2065 to read as follows:

31 "20-2-2065.

32 (a) Except as provided in this article or in a charter, a charter school shall not be subject  
33 to the provisions of this title or any state or local rule, regulation, policy, or procedure  
34 relating to schools within an applicable school system regardless of whether such rule,

1 regulation, policy, or procedure is established by the local board, the state board, or the  
 2 Department of Education; provided, however, that the state board may establish rules,  
 3 regulations, policies, or procedures consistent with this article relating to charter schools.

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 7.**

Code Section 40-5-22 of the Official Code of Georgia Annotated, relating to persons not to be issued a driver's license, school attendance requirements, and driving training requirements, is amended by striking subsection (a.1) and inserting in lieu thereof the following:

"(a.1)(1) The department shall not issue an instruction permit or driver's license to a person who is younger than 18 years of age unless at the time such minor submits an application for an instruction permit or driver's license the applicant presents acceptable proof that he or she has received a high school diploma, a general educational development (GED) diploma, a special diploma, or a certificate of high school completion, or has terminated his or her secondary education and is enrolled in a postsecondary school, pursuing a general educational development (GED) diploma, or the records of the department indicate that said applicant:

(A) Is enrolled in and not under suspension from a public or private school and has satisfied relevant attendance requirements as set forth in paragraph (2) of this subsection for a period of one academic year prior to application for an instruction permit or driver's license; or

(B) Is enrolled in a home education program that satisfies the requirements of all state laws governing such courses.

The department shall notify such minor of his or her ineligibility for an instruction permit or driver's license at the time of such application.

(2) The department shall forthwith notify by certified mail or statutory overnight delivery, return receipt requested, any minor issued an instruction permit or driver's license in accordance with this subsection other than a minor who has terminated his or her secondary education and is enrolled in a postsecondary school or who is pursuing a general education development (GED) diploma that such minor's instruction permit or driver's license is suspended subject to review as provided for in this subsection if the department receives notice pursuant to Code Section 20-2-701 that indicates that such minor:

(A) Has dropped out of school without graduating and has remained out of school for ten consecutive school days;

(B) Has more than ten school days of unexcused absences in any semester or combination of two consecutive quarters; ~~or~~

(C) Has been suspended from school for:

(i) Threatening, striking, or causing bodily harm to a teacher or other school personnel;

(ii) Possession or sale of drugs or alcohol on school property;

(iii) Possession or use of a weapon on school property. For purposes of this subparagraph, the term 'weapon' shall be defined in accordance with Code Section 16-11-127.1 but shall not include any part of an archeological or cultural exhibit brought to school in connection with a school project;

(iv) Any sexual offense prohibited under Chapter 6 of Title 16; or

(v) Causing substantial physical or visible bodily harm to or seriously disfiguring another person, including another student; or

(D) Has been suspended from school, for any reason, for more than ten cumulative days.

Notice given by certified mail or statutory overnight delivery with return receipt requested mailed to the person's last known address shall be prima-facie evidence that such person received the required notice. Such notice shall include instructions to the minor to return immediately the instruction permit or driver's license to the department and information summarizing the minor's right to request an exemption from the provisions of this subsection. The minor so notified may request in writing a hearing within ten business days from the date of receipt of notice. Within 30 days after receiving a written request for a hearing, the department shall hold a hearing as provided for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such hearing, the department shall sustain its order of suspension or rescind such order. The department shall be authorized to grant an exemption from the provisions of this subsection to a minor, upon such minor's petition, if there is clear and convincing evidence that the enforcement of the provisions of this subsection upon such minor would create an undue hardship upon the minor or the minor's family or if there is clear and convincing evidence that the enforcement of the provisions of this subsection would act as a detriment to the health or welfare of the minor. Appeal from such hearing shall be in accordance with said chapter. If no hearing is requested within the ten business days specified above, the right to a hearing shall have been waived and the instruction permit or driver's license of the minor shall remain suspended. The suspension provided for in this paragraph shall be for a period of one year or shall end upon the date of such minor's eighteenth birthday, whichever comes first.

(3) The State Board of Education and the commissioner of motor vehicle safety are authorized to promulgate rules and regulations to implement the provisions of this subsection."

## SECTION 8.

This Act shall become effective on July 1, 2005.



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- 2
- SECTION 9.
- All laws and parts of laws in conflict with this Act are repealed.