

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

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 provide for the revision of certain provisions
3 regarding education flexibility; to provide for the development of rules and regulations by
4 the State Board of Education for specified information, including budget and expenditure
5 information and site average class size by grade, to be provided by local boards of education
6 to school councils and the general public; to change certain provisions relating to expenditure
7 controls for the 2005-2006 school year; to change certain provisions regarding program
8 weights; to amend Code Section 40-5-22, relating to persons not to be issued a driver's
9 license, school attendance requirements, and driving training requirements, so as to provide
10 for an additional exception to the school attendance requirements to obtain a driver's license
11 for a minor pursuing a general educational development diploma; to provide for an additional
12 offense to prohibit a suspended student from maintaining a driver's license; to provide for
13 related matters; to provide an effective date; to repeal conflicting laws; and for other
14 purposes.

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

16 **SECTION 1.**

17 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
18 secondary education, is amended in Code Section 20-2-167, relating to funding for direct
19 instructional, media center, and staff development costs, by adding a new subsection to the
20 end of such Code section to read as follows:

21 “(e) No later than October 1, 2005 the State Board of Education shall develop rules and
22 regulations requiring that each local board of education provide information as specified
23 by the state board and which is not specifically made confidential by law, including school
24 site budget and expenditure information and site average class size by grade, to members
25 of the school council and the general public.”

SECTION 2.

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) 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) 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.

1 (d) Nothing in this Code section shall be construed to repeal any other provision of Code
 2 Section 20-2-167 or this chapter, or to apply to any time period other than the ~~two~~ three
 3 fiscal years beginning July 1, 2003, and ending June 30, ~~2005~~ 2006.

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

5 SECTION 3.

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

8 "(i) The State Board of Education shall adopt for each instructional program authorized
 9 pursuant to Part 3 of this article and the middle school program provided for in Code
 10 Section 20-2-290 the maximum number of students which may be taught by a teacher in
 11 an instructional period. ~~Such maximum class sizes shall be equal to or greater than the~~
 12 ~~teacher-student ratios used in the calculation of the program weights as set forth in~~
 13 ~~subsection (b) of Code Section 20-2-161 but shall not exceed the funding class size by~~
 14 ~~more than 20 percent, unless specifically authorized by the State Board of Education;~~
 15 ~~provided, however, that in no case shall the 20 percent maximum be exceeded for~~
 16 ~~mathematics, science, social studies, or English classes; provided, further, that the~~ The
 17 State Board of Education shall provide for a system average maximum class size that shall
 18 not exceed the funding class size by more than 20 percent for mathematics, science, social
 19 studies, or language arts classes, unless specifically authorized by the State Board of
 20 Education. The system average maximum class size for kindergarten and grades one
 21 through three shall not exceed 20 percent over the funding ratio except for art, music, or
 22 physical education classes; provided, further, that the system average maximum class size
 23 for special education, gifted, and English for speakers of other languages classes shall be
 24 set by the State Board of Education. For each instructional program, the maximum number
 25 of students who may be taught by a teacher in an instructional period shall not exceed the
 26 system average maximum class size for the program by more than two students; provided,
 27 however, that a system average maximum class size which results in a fractional full-time
 28 equivalent shall be rounded up to the nearest whole number. For a period not to exceed ~~four~~
 29 seven years, beginning with the 2000-2001 school year, local school systems shall be
 30 allowed to exceed the maximum class sizes set forth in this subsection in a manner
 31 consistent with State Board of Education rules and subsection (k) of this Code section. The
 32 State Board of Education shall lower the current maximum class sizes set by state board
 33 rules in effect for the 1999-2000 school year, beginning with the 2000-2001 school year,
 34 by a ~~proportional amount each school year~~ an amount so that, beginning with the
 35 ~~2003-2004~~ 2007-2008 school year, State Board of Education rules are in compliance with
 36 this subsection ~~except as otherwise provided in subsection (k) of this Code section for the~~

1 ~~2003-2004 and 2004-2005 school years only.~~ An aide may be used in programs to increase
 2 class size as allowed by State Board of Education rule and subsection (k) of this Code
 3 section, except that beginning with the 2007-2008 school year, an aide shall not be used
 4 to increase the maximum class size in kindergarten or grades one through three, ~~except as~~
 5 ~~otherwise provided in subsection (k) of this Code section for the 2003-2004 and 2004-2005~~
 6 ~~school years only.~~ The maximum class size for the kindergarten and primary grades
 7 programs is defined as the number of students in a physical classroom. Maximum class
 8 sizes that result in a fractional full-time equivalent shall be rounded up to the nearest whole
 9 number as needed. The middle school program shall use the teacher-student ratio of the
 10 middle grades program for the purpose of this subsection. The number of students taught
 11 by a teacher at any time after the first 15 school days of a school year may not exceed the
 12 maximum such number unless authorization for a specific larger number is requested of
 13 the state board, along with the educational justification for granting the requested
 14 exemption, and the state board has approved said request. The state board shall not reduce
 15 class sizes without the authorization of the General Assembly if this reduction necessitates
 16 added costs for facilities, personnel, and other program needs. Local boards of education
 17 may reduce class sizes, build additional facilities, and provide other resources at local cost
 18 if such actions are in the best interest of the local school systems' programs as determined
 19 by the local boards of education."

20 "(k) For the 2003-2004, ~~and 2004-2005~~, 2005-2006, and 2006-2007 school years, the
 21 maximum class sizes set by the State Board of Education for the 2002-2003 school year
 22 shall apply for grades four through 12. For the 2003-2004, ~~and 2004-2005~~, 2005-2006, and
 23 2006-2007 school years, the maximum class sizes set by the State Board of Education for
 24 the 2003-2004 school year shall apply to kindergarten and grades one through three, except
 25 that a kindergarten class may be increased to 20 students if a paraprofessional is present
 26 in addition to the certificated teacher. ~~For the 2003-2004 and 2004-2005 school years,~~
 27 ~~compliance with maximum class size requirements shall be determined by the system~~
 28 ~~average for kindergarten and for each grade and no class shall exceed the applicable~~
 29 ~~maximum size by more than two students.~~ Except as otherwise provided in this subsection,
 30 other provisions of this Code section shall apply. This subsection shall not be construed to
 31 repeal any other provision of this Code section or this chapter, or to apply to any period of
 32 time other than the ~~two~~four fiscal years beginning July 1, 2003, and ending June 30,
 33 ~~2005~~2007. This subsection shall be automatically repealed July 1, ~~2005~~2007."

1 (iii) Possession or use of a weapon on school property. For purposes of this
 2 subparagraph, the term 'weapon' shall be defined in accordance with Code Section
 3 16-11-127.1 but shall not include any part of an archeological or cultural exhibit
 4 brought to school in connection with a school project;

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

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

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

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

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

34 SECTION 5.

35 This Act shall become effective on July 1, 2005.

1

SECTION 6.

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