

The House Committee on Education offers the following substitute to HB 629:

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 legislative intent relative to charter  
3 schools; to add and revise definitions; to provide for charter petitions from a group of two  
4 or more local schools or local school systems; to repeal Code Section 20-2-2063.1, relating  
5 to exemption of charter schools from statutory and regulatory requirements; to provide that  
6 a denial by a local board of a charter petition or renewal for a conversion or start-up charter  
7 school may be appealed to the State Board of Education; to provide that a charter school shall  
8 not be subject to the provisions of Title 20 and other regulations; to change certain provisions  
9 relating to operating requirements, control, and management; to change certain provisions  
10 relating to admission, enrollment, and withdrawal of students; to change certain provisions  
11 relating to the term and length of a charter; to change the provisions relating to the annual  
12 required report on the progress of the school; to revise and clarify certain provisions relating  
13 to funding for charter schools; to change certain provisions relating to purposes for which  
14 facilities funds may be used and upkeep of charter school property; to change certain  
15 provisions relating to the annual report to the General Assembly; to provide for related  
16 matters; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

19 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
20 secondary education, is amended by striking Code Section 20-2-2061, relating to legislative  
21 intent, and inserting in lieu thereof the following:

22 "20-2-2061.

23 ~~It is the intent of the General Assembly to provide a means whereby a petitioner may seek~~  
24 ~~a performance based contract called a charter, which ties improved performance to the~~  
25 ~~waiver of specifically identified state and local rules, regulations, policies, procedures, and~~  
26 ~~identified provisions of this title other than the provisions of this article. In addition to~~

1 ~~specifically identified provisions of this title, a charter school shall be exempt from~~  
 2 ~~provisions listed in Code Section 20-2-2063.1. It is the intent of the General Assembly to~~  
 3 ~~increase student achievement through academic and organizational innovation by~~  
 4 ~~encouraging local school systems to utilize the flexibility of a performance based contract~~  
 5 ~~called a charter.~~"

## 6 SECTION 2.

7 Said chapter is further amended in Code Section 20-2-2062, relating to definitions, by  
 8 inserting new paragraphs (1.1) and (5.1) to read as follows:

9 "(1.1) 'Charter attendance zone' means the geographic area from which the charter school  
 10 may draw students based on a random selection process. The charter attendance zone may  
 11 include all or any portion of the school system in which the charter school is located and  
 12 all or any portion of other school systems if the charter school is jointly authorized  
 13 pursuant to subsection (c) of Code Section 20-2-2063."

14 "(5.1) 'High school cluster' means a high school and all of the middle and elementary  
 15 schools which contain students who matriculate to such high school. The schools in a  
 16 high school cluster may include charter schools, local schools, or a combination of both."

## 17 SECTION 3.

18 Said chapter is further amended in Code Section 20-2-2062, relating to definitions, by  
 19 striking paragraphs (8), (9), and (10) and inserting in lieu thereof the following:

20 ~~"(10) (8)~~ 'Local tax revenue' means local taxes budgeted for school purposes in excess  
 21 of the local five mill share, combined with any ~~applicable equalization grant~~ budgeted  
 22 revenues from any of the following: investment earnings, tuition, unrestricted donations,  
 23 and the sale of surplus property; but exclusive of revenue from bonds issued for capital  
 24 projects, revenue to pay debt service on such bonds, local option sales tax for capital  
 25 projects, ~~budgeted transportation costs, budgeted central administration costs,~~ and  
 26 budgeted school food service program ~~costs~~ revenues. Nothing in this paragraph shall  
 27 be construed to prevent a local board from including a local charter school in projects  
 28 specified in the ballot language of a local option sales tax or bond referendum.

29 ~~(8) (9)~~ 'Local school' means a public school in Georgia that is under the management and  
 30 control of a local board.

31 ~~(9) (10)~~ 'Local school system' means the system of public schools established and  
 32 maintained by a local board within its limits pursuant to Article VIII, Section V,  
 33 Paragraph I of the Constitution."



1 "20-2-2064.1.

2 (a) The state board shall approve the charter of a charter petitioner if the petition has been  
3 approved by the local board of the local school system in which the proposed charter  
4 school will be located and the state board finds that the petition complies with the rules,  
5 regulations, policies, and procedures promulgated in accordance with Code Section  
6 20-2-2063 and the provisions of this title and is in the public interest. If the state board  
7 denies a petition, it must within 60 days specifically state the reasons for the denial, list all  
8 deficiencies with regard to Code Section 20-2-2063, and provide a written statement of the  
9 denial to the charter petitioner and to the local board.

10 (b) No application for a state chartered special school may be made to the state board by  
11 a petitioner for a conversion charter school that has been denied by a local board. Upon  
12 denial of a petition for a start-up charter school by a local board and upon application to  
13 the state board by the petitioner, the state board shall approve the charter of a start-up  
14 charter petitioner for a state chartered special school if the state board finds that such  
15 petition meets the requirements set forth in Code Section 20-2-2063 and the provisions of  
16 this title, and is in the public interest.

17 (c)(1) If a local board denies a charter petition or a renewal petition for a conversion  
18 charter school or a start-up charter school, the charter petitioner may initiate an appeal  
19 to the state board, provided that 40 percent of the members of the local board voted to  
20 approve the charter petition or renewal petition. The charter petitioner shall provide the  
21 state board and the local board with a notice of appeal no later than 30 days after receipt  
22 of the local board's written statement of denial. The state board shall not consider any  
23 facts, documents, or other information in support of the charter school that were not  
24 previously presented to the local board. The state board shall promulgate rules and  
25 regulations to govern the appeals process.

26 (2) After an opportunity for a hearing concerning the local board's denial, the state  
27 board's decision shall be binding on the local board."

## 28 SECTION 7.

29 Said chapter is further amended by striking Code Section 20-2-2065, relating to operating  
30 requirements, control, and management, and inserting in lieu thereof the following:

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,  
35 regulation, policy, or procedure is established by the local board, the state board, or the  
36 Department of Education; provided, however, that the state board may establish rules,

1 regulations, policies, or procedures consistent with this article relating to charter schools.  
 2 In exchange for such a waiver, the charter school agrees to meet or exceed the performance  
 3 based goals included in the charter and approved by the local board, including but not  
 4 limited to raising student achievement.

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

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

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

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

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

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

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

25 (7) Subject to an annual financial audit ~~in the manner specified in the charter~~ conducted  
 26 by the state auditor, or if specified in the charter, by an independent certified public  
 27 accountant licensed in this state;

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

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

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

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



1 The terms of a charter for a state chartered special school may be amended during the term  
2 of the charter upon the approval of the state board and the charter school.

3 (b) The initial term of a charter shall be for a minimum of ~~three~~ five years, unless the  
4 petitioner shall request a shorter period of time, and shall not exceed ~~five~~ ten years. The  
5 local board and the state board, in accordance with Code Section 20-2-2064.1, may renew  
6 a local charter, upon the request of the charter school, for the period of time specified in  
7 the request, not to exceed ~~five~~ ten years. The state board may renew a state chartered  
8 special school, upon the request of the school, for the period of time specified in the  
9 request, not to exceed ten years. For a local charter school, approval of the local board shall  
10 also be required to renew a charter.

11 (c) ~~A charter school shall provide an annual report to parents or guardians, the community,~~  
12 ~~and the state board which indicates the progress made by the charter school in the previous~~  
13 ~~year in implementing its charter goals. A local charter school shall also provide an annual~~  
14 ~~report to the local board. A charter school shall submit an annual report outlining the~~  
15 ~~previous year's progress to the authorizing local board or state board, as appropriate, and~~  
16 ~~to the Department of Education no later than October 1 of each year. The report shall~~  
17 ~~contain, but is not limited to:~~

18 (1) An indication of progress towards the goals as included in the charter;

19 (2) Academic data for the previous year, including state academic accountability data,  
20 such as standardized test scores and adequate yearly progress data;

21 (3) Unaudited financial statements for the fiscal year ending on June 30, provided that  
22 audited statements will be forwarded to the local board and state board upon completion;

23 (4) Updated contact information for the school and the administrator;

24 (5) Proof of current nonprofit status, if applicable; and

25 (6) Any other supplemental information that the charter school chooses to include or that  
26 the state board requests that demonstrates its success."

## 27 SECTION 10.

28 Said chapter is further amended by striking subsections (a) through (e) of Code Section  
29 20-2-2068.1, relating to application of the Quality Basic Education Formula, grants, local  
30 tax revenue, and funds from local bonds, and inserting in lieu thereof the following:

31 "(a) A local charter school shall be included in the allotment of QBE formula earnings,  
32 applicable QBE grants, applicable nonQBE state grants, and applicable federal grants to  
33 the local school system in which the local charter school is located under Article 6 of this  
34 chapter. The local board and the state board shall treat a conversion charter school no less  
35 favorably than other local schools located within the applicable local school system unless  
36 otherwise provided by law. The local board and the state board shall treat a start-up charter

1 school no less favorably than other local schools within the applicable local system with  
 2 respect to the provision of funds for instruction and school administration and, where  
 3 feasible, transportation, food services, and building programs.

4 (b) QBE formula earnings, applicable QBE grants, applicable nonQBE state grants, and  
 5 applicable federal grants earned by a local charter school shall be distributed to the local  
 6 charter school by the local board; provided, however, that state equalization grant earnings  
 7 shall be distributed as provided in subsection ~~(c)~~ (c.2) of this Code section. QBE formula  
 8 earnings shall include the salary portion of direct instructional costs, the adjustment for  
 9 training and experience, the nonsalary portion of direct instructional costs, and earnings for  
 10 psychologists and school social workers, school administration, facility maintenance and  
 11 operation, media centers, additional days of instruction in accordance with Code Section  
 12 20-2-184.1, and staff development. The local charter school shall report enrolled students  
 13 in a manner consistent with Code Section 20-2-160.

14 (c) In addition to the earnings set out in subsection (b) of this Code section, local tax  
 15 revenue shall be earned by a local charter school on the same basis as for any local school  
 16 in the local school system. and In the case of a start-up charter school, local revenue  
 17 earnings shall be calculated as follows:

18 (1) Determine the total amount of state and local five mill share funds earned by students  
 19 enrolled in the local start-up charter school as calculated by the Quality Basic Education  
 20 Formula pursuant to ~~Code Section 20-2-160~~ Part 4 of Article 6 of this chapter including  
 21 any funds for psychologists and school social workers but excluding any system-wide  
 22 funds for central administration and pupil transportation and excluding any categorical  
 23 grants not applicable to the charter school;

24 (2) Determine the total amount of state and local five mill share funds earned by all  
 25 students in the public schools of the local school system, including any charter schools  
 26 that receive local ~~tax~~ revenue, as calculated by the Quality Basic Education Formula but  
 27 excluding the local school system's equalization grant, categorical grants, and other  
 28 nonQBE formula grants;

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

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

33 The product obtained in paragraph (4) of this subsection shall be the amount of local funds  
 34 to be distributed to the local start-up charter school by the local board; provided, however,  
 35 that nothing in this subsection shall preclude a charter petitioner and a local board of  
 36 education from specifying in the charter a greater amount of local funds to be provided by  
 37 the local board to the local start-up charter school if agreed upon by all parties to the



1 charter. Local funds so earned shall be distributed to the local start-up charter school by  
 2 the local board. Where feasible and where services are provided, funds for transportation,  
 3 food service programs, and construction projects shall also be distributed to the local  
 4 start-up charter school as earned. In all other fiscal matters, including applicable federal  
 5 allotments, the local board shall treat the local start-up charter school no less favorably than  
 6 other local schools located within the applicable school system and shall calculate and  
 7 distribute the funding for the start-up charter school on the basis of its actual or projected  
 8 enrollment in the current school year.

9 (c.1) The adjustments in each program for training and experience used in calculating the  
 10 start-up charter school's Quality Basic Education Formula earnings shall not be less than  
 11 the comparable percentages for the local school system in which the charter school is  
 12 located in the same manner as for any local school within the local school system.

13 (c.2) If the local school system receives an equalization grant in accordance with Code  
 14 Section 20-2-165, the start-up charter school's share of the equalization grant shall be  
 15 calculated by multiplying the quotient obtained in paragraph (3) of subsection (c) of this  
 16 Code section by the amount of the equalization grant to the local school system. The local  
 17 conversion charter school's share of an equalization grant shall be calculated in the same  
 18 manner as for any local school within the local school system.

19 (d) QBE formula earnings, applicable QBE grants, applicable nonQBE state grants, and  
 20 applicable federal grants that are earned by a state chartered special school shall be  
 21 distributed to the local board of the local school system in which the state chartered special  
 22 school is located which shall distribute the same amount to the state chartered special  
 23 school; provided, however, that a state chartered special school shall not be included in the  
 24 calculation and distribution of the local school system's equalization grant unless the voters  
 25 of the local school system have approved the use of ~~local tax~~ revenue from local tax levies  
 26 and funds from local bonded indebtedness to support the state chartered special school in  
 27 accordance with subsection (e) of this Code section. If such approval has been given, state  
 28 equalization grant earnings shall be earned for the state chartered special school and shall  
 29 be distributed as provided in subsection (f) of this Code section. The local board shall not  
 30 be responsible for the fiscal management, accounting, or oversight of the state chartered  
 31 special school. The state chartered special school shall report enrolled students in a manner  
 32 consistent with Code Section 20-2-160. Any data required to be reported by the state  
 33 chartered special school shall be submitted directly by the school to the appropriate state  
 34 agency. Where feasible, the state board shall treat a state chartered special school no less  
 35 favorably than other public schools within the state with respect to the provision of funds  
 36 for transportation and building programs.

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

#### 9 **SECTION 11.**

10 Said chapter is further amended by striking Code Section 20-2-2068.2, relating to facilities  
 11 fund for charter schools, purposes for which funds may be used, upkeep of charter school  
 12 property, and receipt of surplus from board of education, by striking subsections (c) and (e)  
 13 and inserting in lieu thereof new subsections(c) and (e) to read as follows:

14 "(c) A charter school's governing body may use moneys from the facilities fund for the  
 15 following purposes:

16 (1) Purchase of real property;

17 (2) Construction of school facilities, including initial and additional equipment and  
 18 furnishings;

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

20 (4) Purchase of vehicles to transport students to and from the charter school; and

21 (5) Renovation, repair, and maintenance of school facilities that the charter school owns  
 22 or is purchasing through a lease-purchase or long-term lease of five years or longer."

23 "(e) Local boards are required to renovate, repair, and maintain the school facilities of  
 24 charter schools in the district to the same extent as other public schools in the district if the  
 25 local board owns the charter school facility, unless otherwise agreed upon by the petitioner  
 26 and the local board in the charter."

#### 27 **SECTION 12.**

28 Said chapter is further amended by striking Code Section 20-2-2070, relating to annual report  
 29 to the general assembly, and inserting in lieu thereof the following:

30 "20-2-2070.

31 The state board shall report to the General Assembly no later than ~~November 1~~ December  
 32 31 of each year on the status of the charter school program."

#### 33 **SECTION 13.**

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