

Senate Bill 39

By: Senators Weber of the 40th, Moody of the 56th, Williams of the 19th, Tarver of the 22nd, Carter of the 13th and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 31 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
2 relating to charter schools, so as to enact the 'Charter Systems Act'; to provide for legislative
3 findings; to provide for the establishment of charter systems; to revise and add definitions;
4 to provide for the establishment of the Charter Advisory Committee; to provide for
5 requirements for petitions for charter systems; to revise certain provisions relating to the
6 approval or denial of a charter petition; to revise certain provisions relating to the review of
7 charters; to provide for terms and renewals of charter systems; to provide for waivers and
8 operating requirements, control, and management for charter systems; to provide for
9 termination of charter systems; to revise certain provisions relative to funding of charter
10 schools; to provide for facilities funds for charter systems; to change certain provisions
11 relative to the Office of Charter School Compliance; to revise provisions for purposes of
12 conformity; to provide for related matters; to repeal conflicting laws; and for other purposes.

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

14 **SECTION 1.**

15 This Act shall be known and may be cited as the "Charter Systems Act."

16 **SECTION 2.**

17 The General Assembly finds that schools and school systems should be given high flexibility
18 to tailor their educational programs to meet the unique needs of their communities. In
19 furtherance of this, schools and school systems should be encouraged to use innovative
20 educational programs including local management of schools and should be provided
21 resources to help design and implement innovative programs. The General Assembly further
22 finds that schools and school systems shall be held accountable for student achievement.

1 system. Such rules, regulations, policies, and procedures shall require that a charter
 2 petition contain an explanation of the structure, rights, and responsibilities of the principal
 3 and governing council of the system charter school, with an objective of maximizing
 4 school level governance and the involvement of parents, teachers, and community members
 5 in such governance. School level governance shall include, but not be limited to, autonomy
 6 in personnel decisions, financial decisions, curriculum, resource allocation, and decisions
 7 relating to food service, transportation, scheduling, and facilities.”

8 SECTION 5.

9 Said article is further amended by adding new Code sections as follows:

10 "20-2-2063.1.

11 (a) The state board shall establish a Charter Advisory Committee to review charter
 12 petitions for compliance with established standards of the state board, to make
 13 recommendations to the state board on charter policy, and to provide recommendations to
 14 the state board regarding charter petitions. The committee shall be composed of nine
 15 members as follows:

16 (1) Three members appointed by the chairperson of the state board;

17 (2) Three members appointed by the Lieutenant Governor; and

18 (3) Three members appointed by the Speaker of the House of Representatives.

19 All members shall serve at the pleasure of their respective appointing officials. The
 20 committee shall elect a chairperson from among its membership.

21 (b) The committee shall conduct itself in accordance with any rules and guidelines
 22 established by the state board with regard to timeframes, procedures, and protocol.

23 (c) The committee shall be authorized to request clarifying information from a charter
 24 petitioner and to receive input from interested parties on a charter petition.

25 (d) The committee shall:

26 (1) Make recommendations to the state board of approval or denial on each charter
 27 petition and shall specify the reasons for such recommendations; and

28 (2) Periodically make recommendations to the state board regarding charter policy;

29 (3) Make recommendations to the state board on the disbursement of planning grants for
 30 charter systems, if funds are made available.

31 (e) The committee shall be authorized to enter into contracts, subject to available funding,
 32 with one or more consultants to assist the committee in its duties and if directed to do so
 33 by the committee, to do the following:

34 (1) Assist charter petitioners in the drafting of their petitions;

- 1 (2) Assist charter petitioners in the design and implementation of innovative education
 2 programs and school level governance based on research, model programs, or other
 3 credible information;
- 4 (3) Monitor and assist charter schools and charter systems; and
- 5 (4) Perform any other functions related to the support of the committee.
- 6 (f) The committee shall work in cooperation with the Office of Charter School
 7 Compliance, as established pursuant to Code Section 20-2-2069.
- 8 (g) The members of the committee shall receive no compensation for their services but
 9 shall be reimbursed for actual and necessary expenses incurred by them in carrying out
 10 their duties.
- 11 (h) The committee shall be assigned to the Department of Education for administrative
 12 purposes only, as prescribed in Code Section 50-4-3.
- 13 20-2-2063.2.
- 14 (a) The state board shall be authorized to enter into a charter with a local board to establish
 15 a local school system as a charter system.
- 16 (b) A local board seeking to create a charter system must submit a petition to the state
 17 board. Prior to submitting such petition, the local board shall:
- 18 (1) Adopt a resolution approving the proposed charter system petition;
- 19 (2) Conduct at least two public hearings and provide notice of the hearings in the same
 20 manner as other legal notices of the local board; and
- 21 (3) Send a notice to each principal within the local school system of the hearings with
 22 instructions that each school shall distribute the notice to faculty and instructional staff
 23 members and to the parent or guardian of each student enrolled in the school.
- 24 The local board may revise its proposed charter system petition, upon resolution, as a result
 25 of testimony at the public hearings or for other purposes.
- 26 (c) Prior to approval or denial of a charter petition for a charter system, the state board
 27 shall receive and give all due consideration to the recommendation and input from the
 28 Charter Advisory Committee established in Code Section 20-2-2063.1. The state board
 29 shall approve the charter if the state board finds, after receiving input from the Charter
 30 Advisory Committee, that the petition complies with the rules, regulations, policies, and
 31 procedures promulgated pursuant to Code Section 20-2-2063 and the provisions of this
 32 title, is in the public interest, and promotes school level governance.
- 33 (d) All schools within an approved charter system shall be system charter schools except
 34 as otherwise provided in subsection (f) and (g) of this Code section. The local board of an
 35 approved charter system shall promulgate policies to ensure that the individual needs of
 36 students and schools in the local school system are met.

1 (e)(1) Subject to appropriations by the General Assembly or other available funding, the
 2 state board, after receiving input and recommendations from the Charter Advisory
 3 Committee, shall disburse planning grants to local school systems which desire to
 4 become charter systems. Such grants will be disbursed in accordance with any applicable
 5 guidelines, policies, and requirements established by the state board.

6 (2) Subject to specific appropriations by the General Assembly for this purpose, the state
 7 board shall disburse implementation grants in the amount of \$125,000.00 or such other
 8 amount as determined by the state board to each charter system. The state board shall be
 9 authorized to approve up to five petitions for charter systems during fiscal year 2008, and
 10 may approve up to a maximum number of petitions in following years as may be
 11 established pursuant to board rules and as subject to availability of funding for
 12 implementation grants.

13 (f) A system charter school shall not be precluded from petitioning to become a conversion
 14 charter school, in accordance with Code Section 20-2-2064, not subject to the terms of the
 15 system charter. In the event a system charter school becomes a conversion charter school,
 16 the system charter shall be amended to reflect that such school is no longer bound by the
 17 system charter.

18 (g) An existing conversion or start-up charter school within a local school system which
 19 is petitioning to become a charter system shall have the option of continuing under its own
 20 existing charter, not subject to the terms of the system charter, or of terminating its existing
 21 charter, upon agreement by the local board and state board, and becoming subject to the
 22 system charter as a charter system school."

23 SECTION 6.

24 Said article is further amended by revising Code Section 20-2-2064, relating to approval or
 25 denial of petition, as follows:

26 "20-2-2064.

27 (a) A charter petitioner seeking to create a conversion charter school must submit a
 28 petition to the local board of the local school system in which the proposed charter school
 29 will be located. The local board must by a majority vote approve or deny a petition no later
 30 than 60 days after its submission unless the petitioner requests an extension; provided,
 31 however, that a denial of a petition by a local board shall not preclude the submission to
 32 the local board of a revised petition that addresses deficiencies cited in the denial; and
 33 provided, further, that the local board shall not act upon a petition for a conversion charter
 34 school until such petition:

35 (1) Has been freely agreed to, by secret ballot, by a majority of the faculty and
 36 instructional staff members of the petitioning local school present at a public meeting

1 called with two weeks' advance notice for the purpose of deciding whether to submit the
2 petition to the local board for its approval; and

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

7 This subsection shall not apply to a system charter school petitioning to be a conversion
8 charter school.

9 (b) A charter petitioner seeking to create a start-up charter school must submit a petition
10 to the local board of the local school system in which the proposed charter school will be
11 located. The local board must by a majority vote approve or deny a petition no later than
12 60 days after its submission unless the petitioner requests an extension. A denial of a
13 petition by a local board shall not preclude the submission to the local board of a revised
14 petition that addresses deficiencies cited in the denial.

15 (c) A system charter school's school council or governing council, as applicable, may
16 petition to become a conversion charter school. The petition shall be submitted to the local
17 board of the charter system in which the school is located. The local board must by a
18 majority vote approve or deny a petition no later than 60 days after its submission unless
19 the petitioner requests an extension; provided, however, that a denial of a petition by a local
20 board shall not preclude the submission to the local board of a revised petition that
21 addresses deficiencies cited in the denial.

22 ~~(e)~~(d) A local board shall approve a petition that complies with the rules, regulations,
23 policies, and procedures promulgated in accordance with Code Section 20-2-2063 and the
24 provisions of this title and is in the public interest. If a local board denies a petition, it must
25 within 60 days specifically state the reasons for the denial, list all deficiencies with respect
26 to Code Section 20-2-2063, and provide a written statement of the denial to the charter
27 petitioner and the state board.

28 ~~(d)~~(e) The state board or the Charter Advisory Committee, if directed by the state board
29 to do so, may mediate between the local board and a charter petitioner whose petition was
30 denied to assist in resolving issues which led to denial of the petition by the local board."

31 SECTION 7.

32 Said article is further amended by revising Code Section 20-2-2064.1, relating to review of
33 charter by state board, as follows:

1 "20-2-2064.1.

2 (a) Prior to approval or denial of a charter petition under this Code section, the state board
 3 shall receive and give all due consideration to the recommendation and input from the
 4 Charter Advisory Committee established in Code Section 20-2-2063.1.

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

14 ~~(b)~~(c) No application for a state chartered special school may be made to the state board
 15 by a petitioner for a conversion charter school that has been denied by a local board. Upon
 16 denial of a petition for a start-up charter school by a local board and upon application to
 17 the state board by the petitioner, the state board shall approve the charter of a start-up
 18 charter petitioner for a state chartered special school if the state board finds, after receiving
 19 input from the Charter Advisory Committee, that such petition meets the requirements set
 20 forth in Code Section 20-2-2063 and the provisions of this title, and is in the public
 21 interest."

22 SECTION 8.

23 Said article is further amended by revising Code Section 20-2-2065, relating to operating
 24 requirements, control, and management, as follows:

25 "20-2-2065.

26 (a) Except as provided in this article or in a charter, a charter school, or for charter
 27 systems, each school within the system, shall not be subject to the provisions of this title
 28 or any state or local rule, regulation, policy, or procedure relating to schools within an
 29 applicable school system regardless of whether such rule, regulation, policy, or procedure
 30 is established by the local board, the state board, or the Department of Education; provided,
 31 however, that the state board may establish rules, regulations, policies, or procedures
 32 consistent with this article relating to charter schools. A waiver granted pursuant to this
 33 Code section for a charter system shall apply to each system charter school within the
 34 system. In exchange for such a waiver, the charter school agrees to meet or exceed the
 35 performance based goals included in the charter and approved by the local board or, for the
 36 charter system, the system agrees to meet or exceed the system-wide performance based

1 goals included in the charter and approved by the state board, including but not limited to
 2 raising student achievement. For a charter system, the charter shall delineate the
 3 performance based goals that the system and each school will be expected to meet as well
 4 as the criteria by which a system charter may be revoked in addition to those contained in
 5 Code Section 20-2-2068.

6 (b) In determining whether to approve a charter petition or renew an existing charter, the
 7 local board and state board shall ensure that a charter school, or for charter systems, each
 8 school within the system, 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 and that nothing in this Code section
 12 shall preclude the use of computer and Internet based instruction for students in a virtual
 13 or remote setting;

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

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

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

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

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

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

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

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

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

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

- 1 (4) Updated contact information for the school and the administrator, and for charter
 2 systems, each system charter school and its respective administrator;
 3 (5) Proof of current nonprofit status, if applicable; and
 4 (6) Any other supplemental information that the charter school or charter system chooses
 5 to include or that the state board requests that demonstrates its that school or system's
 6 success."

7 SECTION 11.

8 Said chapter is further amended by revising Code Section 20-2-2068, relating to charter
 9 amendments and terminations, as follows:

10 "20-2-2068.

11 (a) The state board may terminate a charter under the following circumstances:

12 (1)(A) If a majority of the parents or guardians of students enrolled at the charter
 13 school vote by a majority vote to request the termination of its charter at a public
 14 meeting called with two weeks' advance notice and for the purpose of deciding whether
 15 to request the state board to declare the charter null and void; or

16 (B) If a majority of the faculty and instructional staff employed at the charter school
 17 vote by a majority vote to request the termination of its charter at a public meeting
 18 called with two weeks' advance notice and for the purpose of deciding whether to
 19 request the state board to declare the charter null and void;

20 This paragraph shall not apply to system charter schools.

21 (2) If, after providing reasonable notice to the charter school or charter system, as
 22 applicable, and an opportunity for a hearing, the state board finds:

23 (A) A failure to comply with any recommendation or direction of the state board with
 24 respect to Code Section 20-14-41;

25 (B) A failure to adhere to any material term of the charter, including but not limited to
 26 the performance goals set forth in the charter;

27 (C) A failure to meet generally accepted standards of fiscal management;

28 (D) A violation of applicable federal, state, or local laws or court orders;

29 (E) The existence of competent substantial evidence that the continued operation of the
 30 charter school or charter system would be contrary to the best interests of the students
 31 or the community; or

32 (F) A failure to comply with any provision of Code Section 20-2-2065; or

33 (3) Upon the written request of a local board for termination of a charter for a local
 34 charter school located within its school system if, prior to making such request, the local
 35 board provided reasonable notice to the charter school and an opportunity for a hearing,

1 and determined the existence of any of the grounds described in paragraph (2) of this
2 Code section.

3 (b) For a system charter school, if the school council or governing council, as applicable,
4 at such school within the charter system requests that:

5 (1) The system charter be terminated; or

6 (2) The system charter be amended with respect to such system charter school;

7 the state board, after providing reasonable notice to the charter system and the system
8 charter school, shall conduct a hearing. Based on the findings of the hearing, the state
9 board may enter into negotiations with the charter system to amend the charter to address
10 the concerns of the requesting system charter school. If negotiations fail and the state
11 board finds good cause, the state board shall be authorized to terminate the system charter
12 or to amend the system charter with respect to the requesting system charter school;
13 provided, however, that the local board shall be authorized to terminate the system charter
14 if it is unwilling to accept the amendments to such charter by the state board. 'Good cause'
15 includes but is not limited to a local board's failure to comply with its obligations and
16 duties under the system charter, state board rules, or other applicable law, or other good
17 cause as determined in the sole discretion of the state board."

18 SECTION 12.

19 Said chapter is further amended in Code Section 20-2-2068.1, relating to application of the
20 Quality Basic Education Formula, grants, local tax revenue, and funds from local bonds, by
21 revising subsections (a), (b), and (c) as follows:

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

32 (b) QBE formula earnings, applicable QBE grants, applicable nonQBE state grants, and
33 applicable federal grants earned by a local charter school or system charter school shall be
34 distributed to the local charter school or system charter school by the local board; provided,
35 however, that state equalization grant earnings shall be distributed as provided in
36 subsection (c) of this Code section. QBE formula earnings shall include the salary portion

1 of direct instructional costs, the adjustment for training and experience, the nonsalary
 2 portion of direct instructional costs, and earnings for psychologists and school social
 3 workers, school administration, facility maintenance and operation, media centers,
 4 additional days of instruction in accordance with Code Section 20-2-184.1, and staff
 5 development. The local charter school and system charter school shall report enrolled
 6 students in a manner consistent with Code Section 20-2-160.

7 (c) In addition to the earnings set out in subsection (b) of this Code section, local revenue
 8 shall be allocated to a local charter school or system charter school on the same basis as for
 9 any local school in the local school system. In the case of a start-up charter school or
 10 system charter school, local revenue earnings shall be calculated as follows:

11 (1) Determine the total amount of state and local five mill share funds earned by students
 12 enrolled in the local start-up charter school or system charter school as calculated by the
 13 Quality Basic Education Formula pursuant to Part 4 of Article 6 of this chapter including
 14 any funds for psychologists and school social workers but excluding five percent of any
 15 system-wide funds for central administration ~~and pupil transportation~~ and excluding any
 16 categorical grants not applicable to the charter school;

17 (2) Determine the total amount of state and local five mill share funds earned by all
 18 students in the public schools of the local school system, including any charter schools
 19 that receive local revenue, as calculated by the Quality Basic Education Formula but
 20 excluding categorical grants and other nonQBE formula grants;

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

23 (4) Multiply the quotient obtained in paragraph (3) of this subsection by the school
 24 system's local revenue.

25 The product obtained in paragraph (4) of this subsection shall be the amount of local funds
 26 to be distributed to the local start-up charter school or system charter school by the local
 27 board; provided, however, that nothing in this subsection shall preclude a charter petitioner
 28 and a local board of education from specifying in the charter a greater amount of local
 29 funds to be provided by the local board to the local start-up charter school or system charter
 30 school if agreed upon by all parties to the charter. Local funds so earned shall be
 31 distributed to the local start-up charter school or system charter school by the local board.
 32 Where feasible and where services are provided, funds for ~~transportation, food service~~
 33 ~~programs, and~~ construction projects shall also be distributed to the local start-up charter
 34 school as earned. In all other fiscal matters, including applicable federal allotments, the
 35 local board shall treat the local start-up charter school or system charter school no less
 36 favorably than other local schools located within the applicable school system and shall
 37 calculate and distribute the funding for the start-up charter school or system charter school

1 on the basis of its actual or projected enrollment in the current school year according to an
2 enrollment counting procedure or projection method stipulated in the terms of the charter."

3 **SECTION 13.**

4 Said chapter is further amended in Code Section 20-2-2068.2, relating to facilities fund for
5 charter schools, purposes for which funds may be used, upkeep of charter school property,
6 and receipt of surplus from board of education, by revising subsections (a) and (h) as follows:

7 "(a) From moneys specifically appropriated for such purpose, the state board shall create
8 a facilities fund for local charter schools, ~~and state chartered special schools,~~ and system
9 charter schools for the purpose of establishing a per pupil, need based facilities aid
10 program."

11 "(h) Each local board of education that has designated any facility or property as surplus,
12 intended for disposal, or otherwise unused shall make such facility or property available
13 for lease or purchase by a local charter school or a system charter school on the same basis
14 as it makes such facility or property available to other public schools under the control and
15 management of the local board of education. A conversion charter school or system charter
16 school may not be charged a rental or leasing fee for the existing facility or for property
17 normally used by the public school which became the conversion charter school. A local
18 charter school or a system charter school that receives property from a local board may not
19 sell or dispose of such property without the written permission of the local board."

20 **SECTION 14.**

21 Said chapter is further amended by revising Code Section 20-2-2069, relating to the Office
22 of Charter School Compliance, as follows:

23 "20-2-2069.

24 There is established within the Department of Education an Office of Charter School
25 Compliance, the responsibilities of which shall be to:

- 26 (1) Prepare charter school and charter system guidelines to be approved by the state
27 board;
- 28 (2) Distribute charter school and charter system petition information to inquiring parties;
- 29 (3) Process all charter school and charter system petitions and coordinate with the
30 Charter Advisory Committee established pursuant to Code Section 20-2-2063.1 to
31 facilitate its review and recommendations to the state board for consideration by the state
32 board;
- 33 (4) Administer any state or federal charter school implementation grant program;

- 1 (5) Contract with an independent party to evaluate the performance of charter schools
2 and charter systems, as such performance relates to fulfilling the terms of their charters;
3 and
4 (6) Compile information necessary to produce the annual report required by Code
5 Section 20-2-2070."

6 **SECTION 15.**

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