

House Bill 881 (COMMITTEE SUBSTITUTE)

By: Representatives Jones of the 46th, Coleman of the 97th, Lindsey of the 54th, Millar of the 79th, Everson of the 106th, and others

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 legislative findings and intent; to
3 establish the Georgia Charter Schools Commission; to provide for its powers and duties; to
4 provide for commission charter schools; to provide for approval and duties of cosponsors;
5 to provide for cosponsor agreements; to provide for revocation of approval of cosponsors;
6 to provide for application and review; to provide for applications of existing charter schools;
7 to provide for application of general charter school laws; to provide for access to information
8 for parents; to provide for an annual report; to provide for debts of commission charter
9 schools; to provide for funding for commission charter schools; to provide for commission
10 charter schools to be treated as part of a single, state-wide local education agency for certain
11 purposes; to provide for rules and regulations; to provide for retention of administrative fees
12 by a local board of education for newly approved local charter schools; to provide for related
13 matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

16 (a) The General Assembly finds that:

17 (1) Charter schools are a critical component in this state's efforts to provide efficient and
18 high-quality schools within this state's uniform system of public education;

19 (2) Charter schools provide valuable educational options and learning opportunities
20 while expanding the capacity of this state's system of public education and empowering
21 parents with the ability to make choices that best fit the individual needs of their children;
22 and

23 (3) The growth of charter schools in this state has contributed to enhanced student
24 performance, greater efficiency, and increased parental satisfaction.

25 (b) It is the intent of the General Assembly that:

(1) There be established a state-level commission whose primary focus is the development and support of charter schools in order to better meet the growing and diverse needs of some of the increasing number and array of charter schools in this state and to further ensure that charter schools of the highest academic quality are approved and supported throughout the state in an efficient manner; and

(2) New sources of community support from cosponsors should be authorized to participate in developing and supporting charter schools, with the goal of maximizing access to a wide variety of high-quality educational options for all students regardless of disability, race, or socioeconomic status, including those students who have struggled in a traditional public school setting.

SECTION 2.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is revised by adding a new article to read as follows:

"ARTICLE 31A

20-2-2080.

As used in this article, the term:

(1) 'Commission' means the Georgia Charter Schools Commission established pursuant to Code Section 20-2-2081.

(2) 'Commission charter school' means a charter school authorized by the commission pursuant to this article whose creation is authorized as a special school pursuant to Article VIII, Section V, Paragraph VII of the Constitution.

(3) 'Cosponsor' means a municipality, county, consolidated government, university or college of the board of regents, technical institution of the Department of Technical and Adult Education, or regional educational service agency which meets the requirements of Code Section 20-2-2083 and has been authorized by the commission pursuant to Code Section 20-2-2082.

(4) 'Department' means the state Department of Education.

20-2-2081.

(a) The Georgia Charter Schools Commission is established as a state-level charter school authorizing entity working in collaboration with the Department of Education. Startup funds necessary to establish and operate the commission may be received by the State Board of Education in addition to such other funds as may be appropriated by the General

1 Assembly. The department shall assist in securing federal and other institutional grant
2 funds to establish the commission.

3 (b) The commission shall be appointed by the State Board of Education and shall be
4 composed of a total of seven members and made up of three appointees recommended by
5 the Governor, two appointees recommended by the President of the Senate, and two
6 appointees recommended by the Speaker of the House of Representatives. The Governor,
7 the President of the Senate, and the Speaker of the House of Representatives shall each
8 recommend a list of no fewer than two nominees for each appointment to the commission.

9 The appointments shall be made as soon as feasible but no later than September 1, 2008.

10 Each member shall serve a term of two years; however, for the purpose of providing
11 staggered terms, of the initial appointments, three members shall be appointed to one-year
12 terms and four members shall be appointed to two-year terms as determined by the State
13 Board of Education. Thereafter, each appointee shall serve a two-year term unless the
14 State Board of Education, after review and upon recommendation by the initial
15 recommending authority, extends the appointment. If a vacancy occurs on the commission,
16 it shall be filled by the State Board of Education from a recommendation by the appropriate
17 authority according to the procedure set forth in this subsection. The members of the
18 commission shall annually vote to appoint a chairperson and a vice chairperson from
19 among its membership. Each member of the commission shall hold a bachelor's degree
20 or higher, and the commission should include a group of diverse individuals representative
21 of Georgia's school population who has experience in finance, administration, law,
22 education, public school teaching, and school governance.

23 (c) The commission is encouraged to convene its first meeting no later than October 1,
24 2008, and thereafter shall meet each month at the call of the chairperson or upon the
25 request of four members of the commission. Four members of the commission shall
26 constitute a quorum.

27 (d) The commission shall determine the manner in which it reviews commission charter
28 school applications and may, in its discretion, use existing department personnel to conduct
29 such review.

30 (e) The members of the commission shall not be compensated for their services on the
31 commission but may be reimbursed for per diem and travel expenses in the same manner
32 as provided for in Code Section 45-7-21.

33 20-2-2082.

34 (a) The commission shall have the power to:

35 (1) Authorize commission charter schools, including the approval or denial of
36 commission charter school applications pursuant to Code Section 20-2-2064 and the

1 nonrenewal or termination of charter schools pursuant to Code Section 20-2-2068. At its
2 discretion, the commission may endorse a charter for a commission charter school before
3 the applicant has secured space, equipment, or personnel, if the applicant indicates such
4 endorsement is necessary for it to raise working capital. The State Board of Education
5 may overrule the authorization or endorsement of a commission charter school by the
6 commission within 60 days of the commission approval, upon a vote to overrule of at
7 least two-thirds of the members of the state board; provided, however, that this shall not
8 preclude a commission charter school applicant from re-applying for authorization or
9 endorsement to the commission after remedying any deficiencies cited by the State Board
10 of Education in its overrule decision;

11 (2) Authorize municipalities, counties, consolidated governments, universities and
12 colleges of the board of regents, technical institutions of the Department of Technical and
13 Adult Education, and regional educational service agencies to act as cosponsors of
14 commission charter schools; and

15 (3) Conduct facility and curriculum reviews of commission charter schools.

16 (b) The commission shall have the following duties:

17 (1) Review charter school applications for commission charter schools and assist in the
18 establishment of commission charter schools throughout this state. The commission shall
19 ensure that all charters for commission charter schools are consistent with state education
20 goals. A commission charter school shall exist as a public school within the state as a
21 component of the delivery of public education within Georgia's K-12 education system
22 pursuant to a charter approved by the commission under this article;

23 (2) Develop, promote, and disseminate best practices for charter schools and charter
24 school cosponsors in order to ensure that high-quality charter schools are developed and
25 encouraged. At a minimum, the best practices shall encourage the development and
26 replication of academically and financially proven charter school programs;

27 (3) Develop, promote, and require high standards of accountability for any school that
28 applies for and is granted a charter under this article. The commission shall ensure that
29 each commission charter school participates in the state's education accountability
30 system. If a commission charter school falls short of performance measures included in
31 the approved charter, the commission shall report such shortcomings to the Department
32 of Education;

33 (4) Monitor and annually review the performance of cosponsors approved pursuant to
34 this article and hold the cosponsors accountable for their performance pursuant to the
35 provisions of Code Section 20-2-2083 and of the terms of the agreement entered into
36 pursuant to Code Section 20-2-2084. The commission shall annually review and evaluate
37 the performance of each cosponsor based upon the financial and administrative support

1 provided to the cosponsor's charter schools and the quality of charter schools sponsored
2 by the cosponsor, including the academic performance of the students that attend those
3 schools;

4 (5) Monitor and annually review and evaluate the academic and financial performance,
5 including the revenues and expenditures, of the commission charter schools and hold the
6 schools accountable for their performance pursuant to the charter and to the provisions
7 of this article and Article 31 of this chapter. The commission's duties to monitor the
8 charter school shall not constitute the basis for a private cause of action;

9 (6) Report the student enrollment in each commission charter school to the local board
10 of education of the district in which the school is located;

11 (7) Work with its cosponsors to monitor the financial management of each commission
12 charter school;

13 (8) Direct charter schools and persons seeking to establish charter schools to sources of
14 private funding and support;

15 (9) Actively seek, with the assistance of the department, supplemental revenue from
16 federal grant funds, institutional grant funds, and philanthropic organizations. The
17 commission may, through the State Board of Education, receive and expend gifts, grants,
18 and donations of any kind from any public or private entity to carry out the purposes of
19 this article;

20 (10) Review and recommend to the General Assembly any necessary revisions to
21 statutory requirements regarding the qualification and approval of municipalities,
22 counties, consolidated governments, universities and colleges of the board of regents,
23 technical institutions of the Department of Technical and Adult Education, and regional
24 educational service agencies as cosponsors for commission charter schools;

25 (11) Review and recommend to the General Assembly any necessary revisions to
26 statutory requirements regarding the standards for accountability and criteria for
27 revocation of approval of cosponsors of commission charter schools;

28 (12) Act as liaison for cosponsors and commission charter schools in cooperating with
29 local boards of education that may choose to allow charter schools to utilize excess space
30 within public school facilities;

31 (13) Collaborate with municipalities, counties, consolidated governments, universities
32 and colleges of the board of regents, technical institutions of the Department of Technical
33 and Adult Education, and regional educational service agencies as cosponsors for
34 commission charter schools for the purpose of providing the highest level of public
35 education to low-income, low-performing, gifted, or underserved student populations or
36 to students with special needs. Such collaborations shall:

(A) Allow universities and colleges of the board of regents and technical institutions of the Department of Technical and Adult Education that cosponsor commission charter schools to enable students attending a charter school to take college courses and receive high school and college credit for such courses; and

(B) Be used to determine the feasibility of opening charter schools for students with disabilities;

A technical institution of the Department of Technical and Adult Education or a community college of the board of regents may work with the school system or school systems in its designated service area to develop commission charter schools that offer secondary education. These charter schools may include an option for students to receive an associate degree, either upon high school graduation or thereafter. Local boards of education shall cooperate with and be encouraged to assist the technical institution or community college on the charter application;

(14) Support municipalities, counties, and consolidated governments when the governing body, through resolution passed by such governing body of the municipality, county, or consolidated government, expresses an intent to cosponsor and establish charter schools within the municipal or county boundaries;

(15) Meet the needs of charter schools and local school systems by uniformly administering high-quality charter schools, thereby removing administrative burdens from the local school systems;

(16) Assist commission charter schools in negotiating and contracting with local boards of education that choose to provide certain administrative or transportation services to the charter schools on a contractual basis; and

(17) Provide training for members of commission charter school governing bodies after approval of the charter school. The training shall include, but not be limited to, best practices on charter school governance, the constitutional and statutory requirements relating to public records and meetings, and the requirements of applicable statutes and State Board of Education rules.

20-2-2083.

(a) The commission shall begin accepting applications to act as cosponsors no later than January 31, 2009. The commission shall review and evaluate all applications for compliance with the provisions of subsection (d) of this Code section.

(b) Cosponsors shall have no authority to authorize charter schools. Instead, interested municipalities, counties, consolidated governments, universities and colleges of the board of regents, technical institutions of the Department of Technical and Adult Education, and regional educational service agencies, once approved by the commission, may partner with

1 charter applicants to provide local sources of community support for the proposed charter
2 school. This support may include providing technical assistance, academic support,
3 curriculum review, financial assistance, or other support as agreed to between the
4 cosponsor and the charter school.

5 (c) The commission shall limit the number of charter schools that a cosponsor may sponsor
6 pursuant to its review of the cosponsor's application under subsection (d) of this Code
7 section. Upon application by the cosponsor and review by the commission of the
8 performance of a cosponsor's current charter schools, the commission may approve a
9 cosponsor's application to raise the limit previously set by the commission.

10 (d) Any entity set forth in subsection (b) of this Code section that is interested in becoming
11 a cosponsor pursuant to this Code section shall prepare and submit an application to the
12 commission that provides evidence that the entity:

13 (1) Has the necessary staff and infrastructure or has established the necessary contractual
14 or interagency relationships to ensure its ability to handle all of the administrative
15 responsibilities required of a charter school cosponsor;

16 (2) Has the necessary staff expertise and infrastructure or has established the necessary
17 contractual or interagency relationships to ensure that it will approve and is able to
18 develop and maintain charter schools of the highest academic quality;

19 (3) Is able to provide the necessary public and private financial resources and staff to
20 ensure that it can monitor and support charter schools that are economically efficient and
21 fiscally sound;

22 (4) Is committed to providing equal access to all students and to maintaining a diverse
23 student population within its charter schools, including compliance with all applicable
24 requirements of federal law;

25 (5) Is committed to serving low-income, low-performing, gifted, or underserved student
26 populations, students with special needs, or a critical need;

27 (6) Has articulated annual academic and financial goals and expected outcomes for its
28 charter schools as well as the methods and plans by which it will measure and achieve
29 those goals and outcomes; and

30 (7) Has policies in place to protect its cosponsoring practices from conflicts of interest.

31 (e) The commission's decision to deny an application or to revoke approval of a cosponsor
32 pursuant to Code Section 20-2-2085 is not subject to Chapter 13 of Title 50, the "Georgia
33 Administrative Procedure Act," and may be appealed to the State Board of Education
34 pursuant to Code Section 20-2-2064.1.

1 20-2-2084.

2 Upon approval of a cosponsor, the commission and the cosponsor shall enter into an
3 agreement that defines the cosponsor's rights and obligations.

4 20-2-2085.

5 If at any time the commission finds that a cosponsor is not in compliance, or is no longer
6 willing to comply, with its contract with a charter school or with its cosponsor agreement
7 with the commission, the commission shall provide notice and a hearing in accordance with
8 State Board of Education rules. If after a hearing the commission confirms its initial
9 finding, the commission shall revoke the cosponsor's approval.

10 20-2-2086.

11 Charter school applications submitted to the commission shall be subject to State Board of
12 Education regulations and the same requirements set forth in Code Section 20-2-2063. The
13 commission shall receive and review all applications for commission charter schools
14 according to the provisions for review of charter school applications under Code
15 Section 20-2-2064.

16 20-2-2087.

17 (a) An application may be submitted pursuant to this Code section by an existing charter
18 school approved by a local board of education or the State Board of Education provided
19 that the obligations of its charter with the local board of education will expire prior to
20 entering into a new charter with the commission. A local board of education or the State
21 Board of Education in the case of a state chartered special school may agree to rescind or
22 waive the obligations of a current charter to allow an application to be submitted by an
23 existing charter school pursuant to this Code section. A charter school that changes
24 cosponsors pursuant to this subsection shall be allowed to continue the use of all facilities,
25 equipment, and other assets it owned or leased prior to the expiration or rescission of its
26 charter with a local board of education.

27 (b) An application to the commission by a conversion charter school as defined in Code
28 Section 20-2-2062 may only be submitted upon consent of the local board of education.
29 In such instance, the local board of education may retain the facilities, equipment, and other
30 assets of the conversion charter school for its own use or agree to reasonable terms for their
31 continued use by the conversion charter school.

1 20-2-2088.

2 The provisions of Article 31 of this chapter shall apply to the commission and the
3 cosponsors and commission charter schools approved pursuant to this article.

4 20-2-2089.

5 The commission shall provide maximum access to information regarding commission
6 charter schools to all parents in this state. It shall maintain information systems, including,
7 but not limited to, a user-friendly Internet website, that will provide information and data
8 necessary for parents to make informed decisions. At a minimum, the commission shall
9 provide parents with information on its accountability standards, links to schools of
10 excellence throughout this state, and public education programs available in this state.

11 20-2-2090.

12 Each year, the chairperson of the commission shall appear before the State Board of
13 Education and submit a report regarding the academic performance and fiscal responsibility
14 of all commission charter schools and cosponsors approved under this article.

15 20-2-2091.

16 If a charter is not renewed or is terminated, the commission charter school is responsible
17 for all debts of such charter school. The local school system may not assume the debt from
18 any contract for services made between the governing body of the commission charter
19 school and a third party, except for a debt that is previously detailed and agreed upon in
20 writing by both the local school system and the governing body of the charter school and
21 that may not reasonably be assumed to have been satisfied by the local school system.

22 20-2-2092.

23 (a) A commission charter school shall be entitled to funding, through state appropriation
24 of state and federal funds, so that the school shall receive a full proportional share for each
25 student enrolled in such school equivalent to the federal, state, and local funding from the
26 local school system in which the student attending the commission charter school resides.
27 Such funding shall be based on the charter school's student enrollment and student
28 characteristics, including all applicable categorical grants, equalization grants, and all other
29 grant programs for which such students qualify. The department, however, may retain up
30 to 3 percent of the funding so calculated for each charter school it has approved for use in
31 administering the duties required pursuant to Code Section 20-2-2082. The total allotment
32 of state and federal funds to the local school system in which a student attending a
33 commission charter school resides shall be calculated as otherwise provided in Article 6

1 of this chapter with an ensuing reduction equivalent to the amount of state and federal
2 funds appropriated to the commission charter schools from such local school system.

3 (b) For purposes of funding students enrolled in commission charter schools in the first
4 year of such charter school's operation and prior to the initial student count, the
5 Department of Education shall calculate and distribute the funding for the charter school
6 on the basis of its projected enrollment according to an enrollment counting procedure or
7 projection method stipulated in the terms of the charter. After the initial student count
8 during the first year of such charter school's operation and in all years of operation
9 thereafter, each charter school's student enrollment shall be based on the actual enrollment
10 in the current school year according to the most recent student count. Nothing in this Code
11 section shall be construed to require the Department of Education to conduct more than two
12 student counts per year.

13 20-2-2093.

14 The commission shall work in collaboration with the department on all matters related to
15 charter authorizing and shall be assigned to the department for administrative purposes
16 only, as prescribed in Code Section 50-4-3. For administrative purposes, including data
17 reporting, student enrollment counting procedures, student achievement reporting, funding
18 allocations, and related purposes as defined by the State Board of Education, commission
19 charter schools should, consistent with department rules and regulations, be treated as
20 contained within a single, state-wide local education agency. This local education agency
21 shall be administered by the Department of Education, which shall ensure that commission
22 charter schools receive the support required by this article, including, but not limited to,
23 establishing procedures to ensure that commission charter schools receive the funding
24 required by Code Section 20-2-2092.

25 20-2-2094.

26 The commission shall adopt rules and regulations necessary to facilitate the implementation
27 of this article."

28 **SECTION 3.**

29 Said chapter is further amended in Code Section 20-2-2068.1, relating to application of the
30 Quality Basic Education Formula, grants, local tax revenue, and funds from local bonds, by
31 adding a new subsection to read as follows:

32 "(c.2) For newly approved local charter schools, including charter renewals, the local board
33 of education may retain an amount of the charter school's per pupil share of state and local

- 1 funding not to exceed 3 percent of the total funds earned by the charter school to reimburse
2 the local school system for administrative services actually provided to the charter school.”

3 **SECTION 4.**

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