

House Bill 1209

By: Representatives Coleman of the 97th, Golick of the 34th, Smith of the 129th, Cole of the 125th, Maxwell of the 17th, 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 that a local school system may enter
3 into a contract with the State Board of Education for increased flexibility in exchange for
4 increased accountability; to provide that a local school system can opt for the status quo; to
5 provide for the development of a three-year strategic plan; to provide for contract
6 requirements; to provide for monitoring of strategic plans; to provide for accountability,
7 flexibility, and consequences components of the contract; to provide for certain laws which
8 may be waived; to provide for loss of governance under certain conditions; to provide for
9 duties of the Office of Student Achievement with respect to such strategic plans; to provide
10 for a phased-in implementation; to provide for exceptions for charter systems; to provide for
11 rules, regulations, and guidelines; to change certain provisions relating to appointment of
12 local school superintendents; to change certain provisions relating to waivers to improve
13 student performance; to provide for related matters; to repeal conflicting laws; and for other
14 purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**SECTION 1.**

17 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
18 secondary education, is amended by adding a new Article 4, which is reserved, to read as
19 follows:

20 style="text-align:center">"ARTICLE 4

21 20-2-80.

22 (a) A local school system may request increased flexibility from certain state laws, rules,
23 and regulations in exchange for increased accountability through a contract with the State

1 Board of Education. Such contract shall be based on a strategic plan which will establish
2 a framework of accountability, flexibility, and consequences in accordance with this article.

3 (b) A local school system which elects not to request increased flexibility in exchange for
4 increased accountability but which opts to remain under all current laws, rules, and
5 regulations shall be required to comply with the requirements of subsection (k) of Code
6 Section 20-2-81.

7 20-2-81.

8 (a) Each local school system which elects to request increased flexibility shall develop a
9 three-year strategic plan which sets out the school system's vision and mission for
10 improving the performance of its schools. The strategic plan shall clearly delineate:

11 (1) Current performance data, grade levels, and demographic data for each school within
12 the school system;

13 (2) Performance goals, including both improvement and achievement; and

14 (3) Performance measures and benchmarks for evaluating improvement and achievement
15 and monitoring progress toward yearly performance goals.

16 (b) The proposed strategic plan shall incorporate, to the extent practicable, any school
17 improvement plans in effect for any of the schools in the local school system.

18 (c) The department shall develop an electronic template accessible through the Internet for
19 local school systems to input their strategic plans. The template shall be designed to
20 include the information contained in subsection (a) of this Code section.

21 (d) Prior to the submission of a local board of education's proposed strategic plan to the
22 department, a local board of education shall schedule and hold a public hearing for the
23 purpose of providing an opportunity for full discussion and public input on the strategic
24 plan, including formal, written comments or suggestions regarding the local school
25 system's flexibility requests and performance goals. The public hearing shall be advertised
26 in a local newspaper of general circulation which shall be the same newspaper in which
27 other legal announcements of the local board of education are advertised.

28 (e) The local school system shall submit the proposed strategic plan to the department in
29 accordance with time frames established by the department. The department shall review
30 the proposed strategic plan for adherence to the requirements of this article and conduct an
31 initial review of the appropriateness of the flexibility and performance measures requested.

32 (f) After the initial review provided for in subsection (e) of this Code section, the
33 department shall return the school system's proposed strategic plan to the local board of
34 education with the department's suggestions. The local board of education may revise the
35 strategic plan based on the department's comments.

1 (g) After the department's initial review and the local board of education's opportunity to
2 incorporate the department's recommendations, the local school system shall re-submit the
3 strategic plan to the department.

4 (h) Once the strategic plan has been finalized between the department and the local board
5 and prior to the submission of the plan to the state board for approval, a local board of
6 education shall schedule and hold a second public hearing for the purpose of providing
7 notice of the final proposed strategic plan to be submitted to the state board for approval.
8 The public hearing shall be advertised in a local newspaper of general circulation which
9 shall be the same newspaper in which other legal announcements of the local board of
10 education are advertised.

11 (i) The state board shall have the authority to approve or deny approval of a proposed
12 strategic plan.

13 (j) The state board shall be authorized to approve a waiver or variance request of
14 specifically identified state rules, regulations, policies, and procedures or provisions of this
15 chapter upon the inclusion of such request in the local school system's proposed strategic
16 plan and in accordance with subsection (b) of Code Section 20-2-83. The goal for each
17 waiver and variance shall be improvement of student performance. The state board shall
18 not be authorized to waive or approve variances on any federal, state, and local rules,
19 regulations, court orders, and statutes relating to civil rights; insurance; the protection of
20 the physical health and safety of school students, employees, and visitors; conflicting
21 interest transactions; the prevention of unlawful conduct; any laws relating to unlawful
22 conduct in or near a public school; or any reporting requirements pursuant to Code Section
23 20-2-320 or Chapter 14 of this title. A local school system that has received a waiver or
24 variance shall remain subject to the provisions of Part 3 of Article 2 of Chapter 14 of this
25 title, the requirement that it shall not charge tuition or fees to its students except as may be
26 authorized for local boards by Code Section 20-2-133, and shall remain open to enrollment
27 in the same manner as before the waiver request.

28 (k) A local school system which elects not to request increased flexibility in exchange for
29 increased accountability but which opts to remain under all current laws, rules, and
30 regulations shall be required to:

31 (1) Conduct a public hearing for the purpose of providing public notice that such local
32 school system is opting for the status quo. The public hearing shall be advertised in a
33 local newspaper of general circulation which shall be the same newspaper in which other
34 legal announcements of the local board of education are advertised; and

35 (2) Sign a statement on a form provided by the state board that such local school system
36 is opting for the status quo.

1 20-2-82.

2 (a) Upon approval of a strategic plan, the state board shall enter into a contract with the
3 local school system which shall incorporate such strategic plan.

4 (b) The terms of the contract shall include, but not be limited to, accountability, flexibility,
5 and consequences components in accordance with Code Section 20-2-83.

6 (c) The state board shall provide that increased flexibility requested by a local school
7 system pursuant to subsection (b) of Code Section 20-2-83 shall result in increased
8 accountability pursuant to subsection (a) of Code Section 20-2-83 and potential
9 consequences pursuant to subsection (c) of Code Section 20-2-83.

10 (d) Each contract shall be for a term of three years. The state board may provide for
11 automatic renewal of a contract if a local school system is in compliance with its
12 accountability requirements.

13 20-2-83.

14 (a) The accountability component of the contract provided in Code Section 20-2-82 shall
15 include one or more of the following student achievement measures, including both total
16 scores and any needed targeted subgroups:

17 (1) High school graduation rates;

18 (2) SAT or ACT performance;

19 (3) State standardized test data, which may include criterion-referenced competency
20 tests, the Georgia High School Graduation Test, end-of-course assessments, or a
21 combination thereof; and

22 (4) Advanced placement or international baccalaureate participation and performance.

23 (b) The flexibility component of the contract provided in Code Section 20-2-82 shall
24 include the waiver or variance of any one or more of the following areas as requested by
25 the local school system and as approved by the state board in the local school system's
26 strategic plan:

27 (1) Class size requirements in Code Section 20-2-182;

28 (2) Expenditure controls in Code Section 20-2-171 and categorical allotment
29 requirements in Article 6 of this chapter;

30 (3) Certification requirements in Code Section 20-2-200;

31 (4) State curriculum requirements established pursuant to Code Sections 20-2-140,
32 20-2-142, 20-2-143, 20-2-144, and 20-2-145; and

33 (5) Any other requirements or provisions of this chapter as identified by the local school
34 system and approved by the state board in the local school system's strategic plan.

35 (c) The consequences component of the contract provided in Code Section 20-2-82 may
36 include one or more of the following:

- 1 (1) Restructuring of local school system leadership staff;
 2 (2) Reconstitution of local school system;
 3 (3) Loss of governance of one or more nonperforming schools by the local school system
 4 in accordance with Code Section 20-2-84; and
 5 (4) Acceleration of interventions or sanctions for failure to meet identified levels of
 6 achievement or for not showing specified levels of progress pursuant to Code Section
 7 20-14-41.
- 8 (d) All reasonable efforts shall be made by the department and the state board to ensure
 9 that the flexibility requested, accountability incurred, and consequences levied are
 10 relatively equal in magnitude.

11 20-2-84.

12 The State Board of Education shall be authorized, if provided for in the contract entered
 13 into with a local school system pursuant to Code Section 20-2-82, to mandate the loss of
 14 governance of one or more of its nonperforming schools as a consequence of failure
 15 pursuant to paragraph (3) of subsection (c) of Code Section 20-2-83. Such loss of
 16 governance may include, but shall not be limited to:

- 17 (1) Conversion of a school to charter status with the appointment of the charter
 18 governing board members to be made by the Governor;
 19 (2) Operation of a school by a successful school system, as defined by the Office of
 20 Student Achievement; or
 21 (3) Operation of a school by a private entity, nonprofit or for profit, pursuant to a request
 22 for proposals issued by the department.

23 20-2-84.1.

24 The Office of Student Achievement shall monitor each local school system's progress
 25 toward meeting its performance goals in its strategic plan and shall the notify the
 26 department if a local school system is not in compliance with its performance goals. The
 27 department shall provide support and guidance to school systems not meeting their yearly
 28 progress goals.

29 20-2-84.2.

30 The department shall determine a phase-in schedule for the implementation of this article
 31 with respect to local school systems. For the 2008-2009 school year, the department shall
 32 select no more than 15 local school systems to either begin the strategic plan process or opt
 33 for the status quo and shall phase in the remaining local school systems so that all local
 34 school systems shall have a strategic plan and contract in place or have signed a statement

1 indicating their election to maintain the status quo by the 2013-2014 school year, except
2 as otherwise provided for in Code Section 20-2-84.3.

3 20-2-84.3.

4 This article shall not apply to a local school system which has become a charter system
5 pursuant to Code Section 20-2-2063.2 or which is in the process of applying to become a
6 charter system.

7 20-2-84.4.

8 The State Board of Education and the Office of Student Achievement, as appropriate, shall
9 be authorized to establish rules, regulations, and guidelines to effect the implementation
10 of this article and shall, to the extent practicable, integrate the requirements of this article
11 with existing procedures, data collection methods, and policy."

12 **SECTION 2.**

13 Said chapter is further amended by revising Code Section 20-2-101, relating to appointment
14 of local school superintendents, as follows:

15 "20-2-101.

16 (a) Superintendents of each school system shall be employed by the local board of
17 education under written contracts for a term of not less than one year and not more than
18 three years. Any provision of any such contract which provides for an extension of the
19 duration of employment thereunder, whether automatic or contingent upon the occurrence
20 of one or more events, shall be void if that extension would result in employment under the
21 contract, as so extended, for a period which exceeds three years. ~~Those provisions of any~~
22 ~~local Act which authorize employment contracts with a school superintendent which are~~
23 ~~of a duration which exceeds that authorized by this subsection, which local Act became~~
24 ~~effective before, at the time of, or after April 15, 1993, are repealed. Any contract entered~~
25 ~~into pursuant to the provisions of a local Act repealed by the terms of the preceding~~
26 ~~sentence of this subsection shall not be affected by such repeal for the duration of that~~
27 ~~contract as specified immediately before April 15, 1993, as long as that contract was valid~~
28 ~~at such time.~~

29 (b) No person shall be eligible to be appointed or employed as superintendent of schools
30 of any county or independent school system unless such person is of good moral character,
31 has never been convicted of any crime involving moral turpitude, and possesses acceptable
32 business or management experience as specified by the Professional Standards
33 Commission or the minimum valid certificate or a letter of eligibility for said certificate
34 required by the Professional Standards Commission.

1 (c) Superintendents shall have such additional qualifications as may be prescribed by local
 2 law or policies of the local board for that school district, not inconsistent with the
 3 provisions of this chapter.

4 ~~(d) This Code section shall not apply to any elected school superintendent in office on
 5 January 1, 1993, during the term of office for which that person was elected.~~

6 ~~(e) At any time during the 12 months immediately preceding the expiration of an
 7 appointed or elected school superintendent's contract or term of office, or when a vacancy
 8 in the office of school superintendent occurs, the local board may appoint and employ a
 9 successor in accordance with the above provisions of this Code section, notwithstanding
 10 that the terms of some or all of the board members will expire before the employment of
 11 the superintendent so appointed and employed begins. Where a local board of education
 12 decides to appoint and employ the incumbent elected superintendent of the school district
 13 as the superintendent for a term beginning during 1996 or thereafter, or to renew the
 14 contract of any appointed superintendent, the board shall not be required to comply with
 15 the notice and announcement provisions of subsection (d) of Code Section 20-2-211 or any
 16 local policy adopted pursuant thereto.~~

17 (e) A local school superintendent may concurrently serve as a principal, teacher, or in
 18 another staff position as directed by the local board in its sole discretion and in accordance
 19 with the terms of the contract between the superintendent and the local board. A local
 20 school superintendent may also serve concurrently as superintendent of one or more local
 21 school systems in accordance with the terms of his or her respective contracts and upon
 22 approval by each affected local school system.

23 (f) No substantive or procedural right regarding employment or termination of
 24 employment of a superintendent by a local school system shall be created by this Code
 25 section. Rather, the terms and conditions of employment of a school superintendent by a
 26 local school system shall be determined exclusively by the contract between those parties
 27 and may include, without being limited to, the conditions under and procedures by which
 28 that contract may be terminated prior to the end of the term of that contract."

29 SECTION 3.

30 Said chapter is further amended by revising Code Section 20-2-244, relating to waivers to
 31 improve student performance, as follows:

32 "20-2-244.

33 (a) The State Board of Education is authorized to waive specifically identified state rules,
 34 regulations, policies, and procedures, or provisions of this chapter, upon the request of a
 35 local school board and in accordance with this Code section. The goal for each waiver shall
 36 be improvement of student performance.

1 (b) The State Board of Education is not authorized to waive any federal, state, and local
2 rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection
3 of the physical health and safety of school students, employees, and visitors; conflicting
4 interest transactions; the prevention of unlawful conduct; any laws relating to unlawful
5 conduct in or near a public school; or any reporting requirements pursuant to Code Section
6 20-2-320 or Chapter 14 of this title. A school or school system that has received a waiver
7 shall remain subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, the
8 requirement that it shall not charge tuition or fees to its students except as may be
9 authorized for local boards by Code Section 20-2-133, and shall remain open to enrollment
10 in the same manner as before the waiver request.

11 (c) The provisions of this Code section shall not apply to charter schools.

12 (d) The board shall require a written application for a waiver that shall include, ~~as~~ at a
13 minimum:

14 (1) Identification of the specific state rules, regulations, policies, and procedures, or
15 provisions of this chapter that are requested for waiver;

16 (2) A description of the policies and procedures the school or school system shall
17 substitute for the waived state rules, regulations, policies, and procedures, or provisions;

18 (3) A description of how the proposed waiver will improve student performance;

19 (4) A description of the students who will be affected by the proposed waiver, including
20 their estimated number, current performance, grade level, and any common demographic
21 traits;

22 (5) A list of schools by name that will be affected by the proposed waiver, and a
23 description of each school, including current performance, grade levels, and demographic
24 traits of the students of each such school;

25 (6) Methods for collection of data, and for measuring and evaluating any change in
26 student performance resulting from the proposed waiver;

27 (7) The period of time for which the proposed waiver is requested and the proposed
28 starting date; and

29 (8) A resolution from the local school board approving the waiver request.

30 (e) The State Board of Education may grant or deny a waiver request, or grant a waiver
31 request subject to specified modifications in the waiver request.

32 (f) A waiver may be granted in accordance with this Code section for any period of time
33 not to exceed five years. The State Board of Education shall require reports regarding the
34 effect of the waiver at least annually, and may require more frequent reports if necessary
35 to monitor the effect of the waiver effectively. The State Board of Education shall report
36 annually to the General Assembly regarding the waivers granted, the effect of each waiver,
37 and any recommendations for legislative changes generated by successful waivers.

1 (g) A local school system which has entered into a contract with the State Board of
2 Education pursuant to Article 4 of this chapter shall not be eligible for a waiver pursuant
3 to this Code section. A local school system which has received a waiver pursuant to this
4 Code section prior to entering into such contract shall be required to include such waiver
5 in its strategic plan established pursuant to Code Section 20-2-81. On and after August 1,
6 2013, the State Board of Education shall not authorize any waivers pursuant to this Code
7 section to any local school system."

8 **SECTION 4.**

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