

The Senate Education and Youth Committee offered the following substitute to HB 881:

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 provide for definitions; to establish the Georgia Charter Schools Commission; to provide for
4 its powers and duties; to provide for commission charter schools; to provide for cosponsors;
5 to provide for petitions and review; to provide for petitions from existing charter schools; to
6 provide for access to information for parents; to provide for an annual report; to provide for
7 debts of commission charter schools; to provide for funding for commission charter schools;
8 to provide for collaboration by the commission with the Department of Education; to provide
9 for rules and regulations; to provide for application of general charter school laws; to
10 provide for retention of administrative fees by a local board of education for newly approved
11 local charter schools; to provide for related matters; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

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

17 "ARTICLE 31A

18 20-2-2080.

19 (a) The General Assembly finds that:

- 20 (1) Charter schools are a critical component in this state's efforts to provide efficient and
21 high-quality schools within this state's uniform system of public education;
22 (2) Charter schools provide valuable educational options and learning opportunities
23 while expanding the capacity of this state's system of public education and empowering

1 parents with the ability to make choices that best fit the individual needs of their children;
2 and

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

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

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

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

16 20-2-2081.

17 As used in this article, the term:

18 (1) 'Commission' means the Georgia Charter Schools Commission established pursuant
19 to Code Section 20-2-2082.

20 (2) 'Commission charter school' means a charter school authorized by the commission
21 pursuant to this article whose creation is authorized as a special school pursuant to Article
22 VIII, Section V, Paragraph VII of the Constitution. A commission charter school shall
23 exist as a public school within the state as a component of the delivery of public
24 education within Georgia's K-12 education system.

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

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

30 The definitions set forth in Code Section 20-2-2062 shall be applicable to this article.

31 20-2-2082.

32 (a) The Georgia Charter Schools Commission is established as a state-level charter school
33 authorizing entity working in collaboration with the Department of Education. Startup
34 funds necessary to establish and operate the commission may be received by the State
35 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 at least bimonthly 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 petitions 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 20-2-2083.

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

35 (1) Approve or deny petitions for commission charter schools and renew, nonrenew, or
36 terminate commission charter school petitions in accordance with State Board of

1 Education rules and regulations established pursuant to this article. At its discretion, the
2 commission may preliminarily approve a charter petition for a commission charter school
3 before the petitioner has secured space, equipment, or personnel, if the petitioner
4 indicates such preliminary approval is necessary for it to raise working capital. The State
5 Board of Education may overrule the approval, denial, renewal, nonrenewal, or
6 termination of a commission charter school by the commission within 60 days of such
7 decision by the commission upon a vote of at least two-thirds of the members of the state
8 board; provided, however, that a commission charter school petitioner may re-apply to
9 the commission for approval or renewal after remedying any deficiencies cited by the
10 State Board of Education;

11 (2) Authorize cosponsors of commission charter schools; and

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

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

14 (1) Review charter school petitions for commission charter schools and assist in the
15 establishment of commission charter schools throughout this state. The commission shall
16 ensure that all charters for commission charter schools are consistent with state education
17 goals;

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

22 (3) Develop, promote, and require high standards of accountability for commission
23 charter schools. The commission shall ensure that each commission charter school
24 participates in the state's education accountability system. If a commission charter
25 school falls short of performance measures included in the approved charter, the
26 commission shall report such shortcomings to the Department of Education;

27 (4) Monitor and annually review the performance of cosponsors;

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

33 (6) Report to each local school system the number of students who reside in such school
34 system and are enrolled in a commission charter school;

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

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

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

8 (10) Review and recommend to the General Assembly any necessary revisions to
9 statutory requirements regarding standards and accountability for commission charter
10 schools;

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

14 (12) Collaborate with cosponsors for the purpose of providing the highest level of public
15 education to all students, including, but not limited to, low-income, low-performing,
16 gifted, and underserved student populations and to students with special needs. Such
17 collaborations shall:

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

22 (B) Assist in determining the feasibility of establishing commission charter schools for
23 students with disabilities;

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

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

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

1 20-2-2084.

2 (a) The commission shall begin accepting applications to act as cosponsors no later than
3 January 31, 2009. The commission shall review and evaluate all applications in accordance
4 with commission rules and regulations established pursuant to this article to encourage
5 technical assistance, academic support, curriculum review, financial assistance, or other
6 support from cosponsors.

7 (b) Cosponsors shall have no authority to authorize charter schools. Cosponsors may
8 partner with charter petitioners and the commission to provide community support for the
9 proposed charter school. This support may include technical assistance, academic support,
10 curriculum review, financial assistance, or other support as agreed to between the
11 cosponsor and the commission charter school.

12 (c) Upon approval of a cosponsor, the commission and the cosponsor shall enter into an
13 agreement that defines the cosponsor's rights and obligations.

14 20-2-2085.

15 (a) Charter school petitions submitted to the commission shall be subject to State Board
16 of Education rules and regulations established pursuant to this article and as otherwise
17 applicable to charter schools.

18 (b) A petitioner for a commission charter school shall submit a petition for a start-up
19 charter school to the local board of education in which the school is to be located and to
20 each local school system from which the commission charter school plans to enroll students
21 prior to or concurrently with a corresponding petition to the commission unless the
22 proposed commission charter school plans to enroll students from five or more counties;
23 provided, however, that the commission shall not act on the commission charter school
24 petition until the local board of education or local boards of education have had the
25 opportunity to approve or deny the petition for a start-up charter school in accordance with
26 State Board of Education rules and regulations. Local board of education approval or
27 denial of a start-up charter school petition shall not preclude the petitioner from seeking
28 authorization from the commission. A petitioner shall not be required to seek authorization
29 from the commission for a commission charter school if the local board of education or
30 local boards of education approve the petition for a start-up charter school; provided,
31 however, that such start-up charter school shall be governed by Article 31 of this chapter.
32 The commission shall take into consideration any support or opposition by the local board
33 of education or local boards of education on a start-up charter school petition when it votes
34 to approve or deny a corresponding commission charter school petition.

1 20-2-2086.

2 A petition may be submitted pursuant to this Code section by an existing charter school
3 approved by a local board of education or the State Board of Education provided that the
4 obligations of its charter with the local board of education or State Board of Education will
5 expire prior to entering into a new charter with the commission. A local board of education
6 or the State Board of Education in the case of a state chartered special school may agree
7 to rescind or waive the obligations of a current charter to allow a petition to be submitted
8 by an existing charter school pursuant to this Code section. An existing charter school that
9 is established as a commission charter school pursuant to this Code section shall be allowed
10 to continue the use of all facilities, equipment, and other assets it used prior to the
11 expiration or rescission of its charter with a local board of education.

12 20-2-2087.

13 The commission shall provide maximum access to information regarding commission
14 charter schools to all parents in this state. It shall maintain information systems, including,
15 but not limited to, a user-friendly Internet website, that will provide information and data
16 necessary for parents to make informed decisions. At a minimum, the commission shall
17 provide parents with information on its accountability standards, links to commission
18 charter schools throughout this state, and public education programs concerning
19 commission charter schools.

20 20-2-2088.

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

24 20-2-2089.

25 If a charter is not renewed or is terminated, the commission charter school shall be
26 responsible for all debts of such charter school. The local school system may not assume
27 the debt from any contract for services made between the governing body of the
28 commission charter school and a third party, except for a debt for which the local school
29 system has agreed upon in writing to assume responsibility.

30 20-2-2090.

31 (a) The Department of Education shall pay to each commission charter school through
32 appropriation of state and federal funds an amount equal to the sum of:

1 (1) QBE formula earnings, QBE grants, and federal grants earned by the commission
2 charter school based on the school's enrollment, school profile, and student
3 characteristics. QBE formula earnings shall include the salary portion of direct
4 instructional costs, the adjustment for training and experience, the nonsalary portion of
5 direct instructional costs, and earnings for psychologists and school social workers,
6 school administration, facility maintenance and operation, media centers, additional days
7 of instruction in accordance with Code Section 20-2-184.1, and staff development;

8 (2) A proportional share of state categorical grants, nonQBE state grants, state
9 equalization grants, and all other state and federal grants; and

10 (3) An amount determined by the commission for each student enrolled in such school
11 equal to a proportional share of local revenue from the local school system in which the
12 student attending the commission charter school resides; provided, however, that the
13 commission may reduce the amount calculated pursuant to this paragraph based on cost
14 factors it deems relevant, including but not limited to the commission charter school's
15 operational and capital costs, efficiency, and special programs offered by the school.

16 (b) The department may withhold up to 3 percent of the amount determined pursuant to
17 subsection (a) of this Code section for each commission charter school for use in
18 administering the duties required pursuant to Code Section 20-2-2083; provided, however,
19 that any amount withheld pursuant to this subsection shall be spent solely on expenses
20 incurred by the commission in performing the duties required by this article.

21 (c) The total allotment of state and federal funds to the local school system in which a
22 student attending a commission charter school resides shall be calculated as otherwise
23 provided in Article 6 of this chapter with an ensuing reduction equivalent to the amount of
24 state and federal funds appropriated to the commission charter schools pursuant to
25 subsection (a) of this Code section.

26 (d) For purposes of funding students enrolled in commission charter schools in the first
27 year of such charter school's operation and prior to the initial student count, the department
28 shall calculate and distribute the funding for the commission charter school on the basis of
29 its projected enrollment according to an enrollment counting procedure or projection
30 method stipulated in the terms of the charter. After the initial student count during the first
31 year of such commission charter school's operation and in all years of operation thereafter,
32 each commission charter school's student enrollment shall be based on the actual
33 enrollment in the current school year according to the most recent student count. Nothing
34 in this Code section shall be construed to require the department to conduct more than two
35 student counts per year.

1 20-2-2091.

2 The commission shall work in collaboration with the department on all matters related to
 3 charter authorizing and shall be assigned to the department for administrative purposes
 4 only, as prescribed in Code Section 50-4-3. For administrative purposes, including data
 5 reporting, student enrollment counting procedures, student achievement reporting, funding
 6 allocations, and related purposes as defined by the State Board of Education, commission
 7 charter schools should, consistent with department rules and regulations, be treated as
 8 contained within a single, state-wide local education agency. This local education agency
 9 shall be administered by the Department of Education, which shall ensure that commission
 10 charter schools receive the support required by this article, including, but not limited to,
 11 establishing procedures to ensure that commission charter schools receive the funding
 12 required by Code Section 20-2-2090.

13 20-2-2092.

14 The commission and the State Board of Education, as appropriate, shall adopt rules and
 15 regulations necessary to facilitate the implementation of this article. Except as otherwise
 16 provided in this article, any rules and regulations adopted by the State Board of Education
 17 pursuant to this article, to the extent practicable, shall be established in the same manner
 18 as for state chartered special schools under Article 31 of this chapter."

19 **SECTION 2.**

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

23 "(c.2) For newly approved local charter schools, including charter renewals, the local board
 24 of education may retain an amount of the charter school's per pupil share of state and local
 25 funding not to exceed 3 percent of the total funds earned by the charter school to reimburse
 26 the local school system for administrative services actually provided to the charter school."

27 **SECTION 3.**

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