

The Senate Education and Youth Committee offered the following substitute to HB 1209:

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; to provide for a
4 local school system to remain under current requirements; to provide for public input; to
5 provide for submission of a proposed contract; to provide for negotiations; to provide for a
6 recommendation by the Office of Student Achievement; to provide for state board approval;
7 to provide for contract requirements; to provide for accountability, flexibility, and
8 consequences components of the contract; to provide for certain laws which may be waived;
9 to provide for loss of governance consequences; to provide for duties of the Office of Student
10 Achievement; to provide for exceptions for charter systems; to provide for rules, regulations,
11 and guidelines; to change certain provisions relating to appointment of local school
12 superintendents; to change certain provisions relating to waivers to improve student
13 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:

SECTION 1.

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

"ARTICLE 4

20
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 and defined consequences through

1 a contract with the State Board of Education. Such contract shall include a framework of
2 accountability, flexibility, and consequences in accordance with this article.

3 (b) A local school system may elect not to request increased flexibility in exchange for
4 increased accountability and defined consequences and opt to remain under all current
5 laws, rules, regulations, policies, and procedures, and such local school system shall:

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

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

12 20-2-81.

13 (a) Each local school system which elects to request increased flexibility shall clearly
14 delineate in a proposed contract the following for measuring the improvement of the
15 performance of its schools:

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

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

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

21 (b) Prior to the submission of such contract to the state board for approval, a local board
22 of education shall schedule and hold a public information meeting for the purpose of
23 providing notice of the proposed contract to be submitted to the state board for approval.
24 The public information meeting shall be advertised in a local newspaper of general
25 circulation which shall be the same newspaper in which other legal announcements of the
26 local board of education are advertised.

27 (c) The local school system shall submit the proposed contract to the department in
28 accordance with time frames established by the department.

29 20-2-82.

30 (a) The local school system and the department shall enter into negotiations on the
31 appropriate terms of the contract, including the accountability, flexibility, and
32 consequences components of the contract in accordance with Code Section 20-2-84, in
33 consultation with the Office of Student Achievement.

34 (b) The flexibility requested by a local school system pursuant to subsection (b) of Code
35 Section 20-2-84 shall result in consequences in accordance with subsection (c) of Code

1 Section 20-2-84 and Code Section 20-2-84.1 for noncompliance with the accountability
2 requirements established pursuant to subsection (a) of Code Section 20-2-84.

3 (c) The department, in consultation with the Office of Student Achievement, shall make
4 a recommendation to the state board on whether the proposed terms of the contract should
5 be approved by the state board.

6 (d)(1) The state board shall have the authority to approve or deny approval of the
7 proposed terms of the contract but shall give all due consideration to the recommendation
8 and input from the Office of Student Achievement.

9 (2) In the event that the state board denies approval of the proposed terms of the contract,
10 the local board of education shall work with the department, in consultation with the
11 Office of Student Achievement, for further revisions and resubmission to the state board.

12 (e) The state board shall be authorized to approve a waiver or variance request of
13 specifically identified state rules, regulations, policies, and procedures or provisions of this
14 chapter upon request by a local school system in accordance with subsection (b) of Code
15 Section 20-2-84. The goal for each waiver and variance shall be improvement of student
16 performance. The state board shall not be authorized to waive or approve variances on any
17 federal, state, and local rules, regulations, court orders, and statutes relating to civil rights;
18 insurance; the protection of the physical health and safety of school students, employees,
19 and visitors; conflicting interest transactions; the prevention of unlawful conduct; any laws
20 relating to unlawful conduct in or near a public school; or any reporting requirements
21 pursuant to Code Section 20-2-320 or Chapter 14 of this title. A local school system that
22 has received a waiver or variance shall remain subject to the provisions of Part 3 of Article
23 2 of Chapter 14 of this title, the requirement that it shall not charge tuition or fees to its
24 students except as may be authorized for local boards by Code Section 20-2-133, and shall
25 remain open to enrollment in the same manner as before the waiver request.

26 20-2-83.

27 (a) Upon approval of a local school system's proposed contract, the state board shall enter
28 into such contract with the local school system.

29 (b) The terms of the contract shall include, but not be limited to, accountability, flexibility,
30 and consequences components as negotiated pursuant to subsection (a) of Code Section
31 20-2-82 and in accordance with Code Section 20-2-84.

32 (c) Each contract shall be for a term of five years. The terms of the contract may provide
33 for automatic extension of such contract if a local school system has met its accountability
34 requirements.

1 (d) The terms of a contract may be amended during the term of the contract only if
 2 warranted due to unforeseen circumstances and upon approval of the state board and the
 3 local board of education.

4 20-2-84.

5 (a) The accountability component of the contract provided in Code Section 20-2-83 shall
 6 include performance goals and measures in one or more of the following student
 7 achievement categories, including both total scores and any needed targeted subgroups:

8 (1) High school graduation rates;

9 (2) SAT or ACT performance;

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

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

14 (b) The flexibility component of the contract provided in Code Section 20-2-83 shall
 15 include the waiver or variance of any one or more of the following areas as requested by
 16 the local school system and as approved by the state board:

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

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

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

21 (4) Salary schedule requirements in Code Section 20-2-212; and

22 (5) State curriculum requirements established pursuant to Code Sections 20-2-140,
 23 20-2-142, 20-2-143, 20-2-144, and 20-2-145.

24 (c) The consequences component of the contract provided in Code Section 20-2-83 shall
 25 include:

26 (1) Interventions or sanctions for failure to meet identified levels of achievement or for
 27 not showing specified levels of progress pursuant to Code Section 20-14-41, which may
 28 be accelerated; and

29 (2) Loss of governance of one or more nonperforming schools by the local school system
 30 in accordance with Code Section 20-2-84.1.

31 Consequences shall be incurred upon noncompliance of a local school system with the
 32 accountability component of its contract; provided, however, that if a local school system
 33 has been in compliance with the accountability component of its contract for at least three
 34 consecutive years, consequences shall not be invoked upon the fifth year of the contract,
 35 and such school system may request an extension of its contract and corresponding
 36 flexibility from the state board.

1 20-2-84.1.

2 (a) The State Board of Education shall, as provided for in the contract entered into with
3 a local school system pursuant to Code Section 20-2-83, mandate the loss of governance
4 of one or more of its nonperforming schools as a consequence of failure pursuant to
5 paragraph (2) of subsection (c) of Code Section 20-2-84. Such loss of governance shall
6 include one or more of the following:

7 (1) Conversion of a school to charter status with independent school level governance
8 and a governance board with strong parental involvement;

9 (2) Operation of a school by a successful school system, as defined by the Office of
10 Student Achievement, and pursuant to funding criteria established by the state board;

11 (3) Operation of a school by a private entity, nonprofit or for profit, pursuant to a request
12 for proposals issued by the department; or

13 (4) Providing the parents of the students in a nonperforming school with a scholarship
14 to attend another public or private school if they are accepted for enrollment in that
15 school in an amount equal to the state portion of funds provided to the local school
16 system on behalf of the student.

17 (b) Loss of governance shall be invoked upon the fifth year of the contract if the school
18 system is in noncompliance as set out in the terms of the contract.

19 20-2-84.2.

20 (a) The Office of Student Achievement shall revise the single state-wide accountability
21 system established pursuant to paragraph (1) of subsection (a) of Code Section 20-14-26
22 for submission to the state board for approval to integrate the requirements of this article,
23 to the greatest extent practicable, including, but not limited to, the loss of governance
24 consequences provided for in Code Section 20-2-84.1.

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

30 20-2-84.3.

31 (a) No more than five local school systems in the first calendar year may enter into a
32 contract with the State Board of Education pursuant to this article.

33 (b) No later than June 30, 2013, each local school system shall either notify the department
34 of its intention to request increased flexibility pursuant to this article or shall comply with
35 subsection (b) of Code Section 20-2-80.

1 20-2-84.4.

2 The department may offer other funding options for local school systems which choose to
3 enter into a contract pursuant to this article and may also offer other funding options for
4 charter systems.

5 20-2-84.5.

6 Except as otherwise provided in Code Section 20-2-84.4, this article shall not apply to a
7 local school system which has become a charter system pursuant to Code Section
8 20-2-2063.2 or which is in the process of applying to become a charter system.

9 20-2-84.6.

10 The State Board of Education shall be authorized to establish rules, regulations, and
11 guidelines to effect the implementation of this article."

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) On and after July 1, 2008, the State Board of Education shall not authorize any waivers
2 or variances pursuant to this Code section to any local school system for the following:

3 (1) Class size requirements in Code Section 20-2-182; provided, however, that the state
4 board shall be authorized to waive class sizes pursuant to this Code section in the event
5 that a local school system can demonstrate a hardship pursuant to a waiver request;

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

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

9 (4) Salary schedule requirements in Code Section 20-2-212; and

10 (5) State curriculum requirements established pursuant to Code Sections 20-2-140,
11 20-2-142, 20-2-143, 20-2-144, and 20-2-145.

12 A local school system which has received a waiver or variance pursuant to this Code
13 section prior to entering into a contract pursuant to Article 4 of this chapter shall be
14 required to include such waiver or variance in such contract."

15 **SECTION 4.**

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