

## COMMITTEE OF CONFERENCE 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 strategic plans; to provide for submission of a proposed contract; to provide for  
 6 negotiations; to provide for contract requirements; to provide for accountability, flexibility,  
 7 and consequences components of the contract; to provide for certain laws which may be  
 8 waived; to provide for loss of governance consequences; to provide for duties of the Office  
 9 of Student Achievement; to provide for implementation; to provide for other funding options;  
 10 to provide for exceptions for charter systems; to provide for rules, regulations, and  
 11 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:

16 **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 "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 and defined consequences through

1 a contract with the State Board of Education. Such contract shall establish a framework  
2 of 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 pursuant to this  
14 article shall develop a five-year strategic plan which sets out the school system's vision and  
15 mission for improving the performance of its schools and shall clearly delineate in a  
16 proposed contract the following for measuring the improvement and performance of its  
17 schools:

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

20 (2) Performance goals for each school, including both improvement and achievement;  
21 and

22 (3) Performance measures and benchmarks for each school for evaluating improvement  
23 and achievement and monitoring progress toward yearly performance goals.

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

26 (c) The department shall provide an electronic template accessible through the Internet for  
27 local school systems to input their proposed contracts. The template shall be designed to  
28 include the information contained in subsection (a) of this Code section.

29 (d) Prior to the submission of a proposed contract to the department, a local board of  
30 education shall schedule and hold a public hearing for the purpose of providing an  
31 opportunity for full discussion and public input on the strategic plan and proposed contract,  
32 including formal, written comments or suggestions regarding the local school system's  
33 flexibility requests and performance goals and their impact on each school. The public  
34 hearing shall be advertised in a local newspaper of general circulation which shall be the  
35 same newspaper in which other legal announcements of the local board of education are  
36 advertised.

1 (e) The local school system shall submit the proposed contract to the department in  
2 accordance with time frames established by the department.

3 20-2-82.

4 (a) The local board of education and the department shall enter into negotiations on the  
5 appropriate terms of the contract, including the accountability, flexibility, and  
6 consequences components of the contract in accordance with Code Section 20-2-84, in  
7 consultation with the Office of Student Achievement. The accountability, flexibility, and  
8 consequences components may vary between schools and clusters.

9 (b) The flexibility requested by a local school system pursuant to subsection (b) of Code  
10 Section 20-2-84 shall result in consequences in accordance with subsection (c) of Code  
11 Section 20-2-84 and Code Section 20-2-84.1 for noncompliance with the accountability  
12 requirements established pursuant to subsection (a) of Code Section 20-2-84.

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

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

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

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

1 20-2-83.

2 (a) Upon approval of a proposed contract of a local school system which has requested  
3 flexibility, the state board shall enter into such contract with the local board of education.

4 (b) The terms of the contract shall include, but not be limited to, accountability, flexibility,  
5 and consequences components as negotiated pursuant to subsection (a) of Code Section  
6 20-2-82 and in accordance with Code Section 20-2-84.

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

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

13 20-2-84.

14 (a) The accountability component of the contract provided in Code Section 20-2-83 shall  
15 include at least one of the student achievement measures in paragraphs (1) through (4) of  
16 this subsection, including both total 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;

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

24 (5) Any other accountability measures included pursuant to Part 3 of Article 2 of Chapter  
25 14 of this title.

26 (b) The flexibility component of the contract provided in Code Section 20-2-83 shall  
27 include the waiver or variance of at least one of the areas in paragraphs (1) through (4) of  
28 this subsection as requested by the local school system:

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

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

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

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

34 (5) Any other requirements or provisions of this chapter as identified by the local school  
35 system and approved by the state board except as provided in subsection (e) of Code  
36 Section 20-2-82.

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

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

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

8 Consequences shall be incurred upon noncompliance of a local school system with the  
9 accountability component of its contract; provided, however, that if a local school system  
10 has been in compliance with the accountability component of its contract for at least three  
11 consecutive years, consequences shall not be invoked upon the fifth year of the contract,  
12 and such school system may request an extension of its contract and corresponding  
13 flexibility from the state board. The schedule of interventions or sanctions, including loss  
14 of governance, for failure to meet identified levels of achievement or specified levels of  
15 progress shall be mutually agreed upon in the contract. If the Office of Student  
16 Achievement recommends to the state board that loss of governance not be included in a  
17 contract with respect to a high performing school, the contract may provide alternate terms  
18 with respect to that school.

19 20-2-84.1.

20 (a) The State Board of Education shall, as provided for in the contract entered into with  
21 a local school system pursuant to Code Section 20-2-83, mandate the loss of governance  
22 of one or more of its nonperforming schools as a consequence of failure pursuant to  
23 paragraph (2) of subsection (c) of Code Section 20-2-84. Such loss of governance may  
24 include, but shall not be limited to:

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

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

29 (3) Operation of a school by a private entity, nonprofit or for profit, pursuant to a request  
30 for proposals issued by the department.

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

1 20-2-84.2.

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

7 (b) The Office of Student Achievement shall monitor each local school system's progress  
8 toward meeting its performance goals in its contract and shall the notify the department if  
9 a local school system is not in compliance with such performance goals. The department  
10 shall provide support and guidance to school systems not meeting their yearly progress  
11 goals.

12 20-2-84.3.

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

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

18 20-2-84.4.

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

22 20-2-84.5.

23 Except as otherwise provided in Code Section 20-2-84.4, this article shall not apply to a  
24 local school system which has become a charter system pursuant to Code Section  
25 20-2-2063.2 or which is in the process of applying to become a charter system.

26 20-2-84.6.

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

29 **SECTION 2.**

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

1 "20-2-101.

2 (a) Superintendents of each school system shall be employed by the local board of  
3 education under written contracts for a term of not less than one year and not more than  
4 three years. Any provision of any such contract which provides for an extension of the  
5 duration of employment thereunder, whether automatic or contingent upon the occurrence  
6 of one or more events, shall be void if that extension would result in employment under the  
7 contract, as so extended, for a period which exceeds three years. ~~Those provisions of any  
8 local Act which authorize employment contracts with a school superintendent which are  
9 of a duration which exceeds that authorized by this subsection, which local Act became  
10 effective before, at the time of, or after April 15, 1993, are repealed. Any contract entered  
11 into pursuant to the provisions of a local Act repealed by the terms of the preceding  
12 sentence of this subsection shall not be affected by such repeal for the duration of that  
13 contract as specified immediately before April 15, 1993, as long as that contract was valid  
14 at such time.~~

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

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

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

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

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

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

### 13 SECTION 3.

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

16 "20-2-244.

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

21 (b) The State Board of Education is not authorized to waive any federal, state, and local  
 22 rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection  
 23 of the physical health and safety of school students, employees, and visitors; conflicting  
 24 interest transactions; the prevention of unlawful conduct; any laws relating to unlawful  
 25 conduct in or near a public school; or any reporting requirements pursuant to Code Section  
 26 20-2-320 or Chapter 14 of this title. A school or school system that has received a waiver  
 27 shall remain subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, the  
 28 requirement that it shall not charge tuition or fees to its students except as may be  
 29 authorized for local boards by Code Section 20-2-133, and shall remain open to enrollment  
 30 in the same manner as before the waiver request.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (1) Class size requirements in Code Section 20-2-182; provided, however, that the state  
 26 board shall be authorized to waive class size requirements pursuant to this Code section  
 27 on and after July 1, 2008, in the event that a local school system can demonstrate a  
 28 hardship pursuant to a waiver request;

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

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

32 (4) Salary schedule requirements in Code Section 20-2-212.

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

1 **SECTION 4.**

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