

House Bill 654

By: Representatives Setzler of the 35th, Ehrhart of the 36th, Casas of the 103rd, Jerguson of the 22nd, Jacobs of the 80th, 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 the establishment of grant programs
3 by local school systems; to provide for a short title; to provide for legislative findings; to
4 provide for definitions; to authorize local boards of education to make available to its
5 students grants to attend participating schools; to provide for the amount of the grants and
6 the method of providing payments; to provide for student eligibility; to provide for eligibility
7 requirements for participating schools; to provide for administration and reporting; to provide
8 for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
12 secondary education, is amended by revising Article 14, which is reserved, as follows:

13 "ARTICLE 14

14 20-2-640.

15 This article shall be known and may be cited as the 'Locally Initiated Funding for
16 Educational-Choice (LIFE) Act.'

17 20-2-641.

18 The General Assembly finds that:

19 (1) All children merit educational alternatives which will allow them to learn in a setting
20 and manner which is most appropriate to their development;

21 (2) Parents are best equipped and have a fundamental right to make decisions for their
22 children, including the educational setting that will best serve their children's interests and
23 educational needs;

24 (3) The grant program established in this article pursuant to Article VIII, Section VII of
 25 the Constitution of Georgia is for the valid secular purpose of tailoring a student's
 26 education to that student's specific needs and enabling families to make genuine and
 27 independent private choices to direct available resources to the setting most appropriate
 28 to their child;

29 (4) Children, parents, and families are the primary beneficiaries of the grant program
 30 authorized in this article, and any benefit to private schools, sectarian or otherwise, is
 31 purely incidental; and

32 (5) It is well within the scope of public education for local boards of education to utilize
 33 privately delivered educational services, including private schools of this state, to provide
 34 publicly funded education to students.

35 20-2-642.

36 As used in this article, the term:

37 (1) 'Department' means the Georgia Department of Education.

38 (2) 'Eligible student' means a student who is a Georgia resident enrolled in a Georgia
 39 secondary or primary public school or eligible to enroll in a qualified kindergarten
 40 program.

41 (3) 'Grant' means a grant awarded pursuant to this article.

42 (4) 'Grant program' means a grant program established by a local board of education
 43 pursuant to this article.

44 (5) 'Grant student' means a student who receives a grant pursuant to this article.

45 (6) 'Local board of education' means the elected board of education of any county or
 46 independent school system in existence in this state.

47 (7) 'Local school system' means any county or independent school system in existence
 48 in this state.

49 (8) 'Parent' means a biological parent, legal guardian, custodian, or other person with
 50 legal authority to act on behalf of a child.

51 (9) 'Participating school' means a nonpublic, sectarian or nonsectarian, primary school
 52 or secondary school that has notified the department of its intention to participate in a
 53 grant program and that complies with the eligibility requirements provided in Code
 54 Section 20-2-646.

55 (10) 'Resident school system' means the public school system in which the student would
 56 be enrolled based on his or her residence.

57 (11) 'State board' means the State Board of Education.

58 20-2-643.

59 (a) Pursuant to the provisions of this article, a local board of education may by official act
60 establish a grant program that shall be available to all eligible students residing in the
61 geographic boundaries of the local school system. Such grant program shall be established
62 for the purpose of providing such eligible students a public education grant to be expended
63 by the parent of the eligible student for the purpose of paying or otherwise defraying the
64 cost of tuition at a participating school.

65 (b) Grants provided pursuant to this article shall be available, upon application, to all
66 eligible students living in the attendance zone of the local school system without respect
67 to race, disability, family income, or otherwise as provided by the antidiscrimination
68 provisions of 42 U.S.C. Section 2000d.

69 (c) Any such grant program shall remain in effect until the local board of education by
70 official act discontinues the grant program pursuant to the provisions of this article.
71 However, notwithstanding the elimination of a grant program, any grant student shall
72 remain eligible to receive a grant until he or she graduates high school or becomes
73 ineligible to attend a secondary school due to age, pursuant to the laws of this state.

74 (d) Any grant program in effect on April 1 of a given year shall be deemed to be in effect
75 through the final day of the following school year.

76 (e) In opting to establish a grant program, no requirement in addition to those provided in
77 this article may be prescribed by local boards of education or the State Board of Education
78 as a condition of the grant program regarding student eligibility, participating schools,
79 levels of funding, curriculum, testing, or the number of students who may participate in the
80 grant program.

81 (f) Consistent with a local school system's responsibility for management and control of
82 a grant program, local school systems may enter into intergovernmental agreements with
83 the department or any other local school systems to assist in the administration of grant
84 programs established pursuant to this article.

85 20-2-644.

86 (a) Grant funding shall be made directly to the parent of the eligible child in a manner
87 consistent with the provisions of this article.

88 (b) The amount of funding to be paid by the local school system for each grant student
89 shall be as follows:

90 (1) The total of state and local funds expended by the local school system in the previous
91 fiscal year divided by the total full-time equivalent students in the local school system in
92 the previous fiscal year. Such cost totals shall include all staff salaries and benefits,
93 operations and maintenance, technology, textbooks, student transportation, food services,

94 contract services, and annualized depreciation costs for capital outlay of the local school
95 system;
96 (2) Grant funding shall not include any federal funds, and local school systems shall
97 retain all such funds; and
98 (3) Local school systems may retain up to 3 percent of grant funds allocated pursuant to
99 this article for administrative costs necessary for the effective management and control
100 of the grant program.

101 (c) For purposes of state funding pursuant to Code Section 20-2-161, grant students shall
102 be counted in the enrollment of their resident school system; provided, however, that grant
103 students shall not be included as enrolled for purposes of state or federal accountability
104 requirements, including, but not limited to, the federal Elementary and Secondary
105 Education Act, as amended by the No Child Left Behind Act of 2001 (P.L. 107-110).

106 (d) Upon proper documentation provided by the parent, the local school system shall make
107 quarterly grant payments to the parents of grant students on dates established by the
108 department during each academic year in which the grant program is in effect. The initial
109 payment shall be made upon evidence of admission to the participating school, and
110 subsequent payments shall be made on evidence of continued enrollment and attendance
111 at the participating school.

112 (e) Payment to the parents shall be made by individual warrant made payable to the
113 student's parent and mailed by the local school system to the participating school of the
114 parent's choice, and the parent shall restrictively endorse the warrant to the participating
115 school for deposit into the account of such participating school.

116 (f) A person, on behalf of a participating school, shall not accept a power of attorney from
117 a parent to sign a warrant, and a parent of a grant student shall not give a power of attorney
118 designating a person, on behalf of a participating school, as the parent's attorney in fact.

119 (g) If the participating school requires partial payment of tuition prior to the start of the
120 academic year to reserve space for grant students admitted to the school, that partial
121 payment may be paid by the local school system prior to the first quarterly payment of the
122 year in which the grant is awarded, up to a maximum of \$1,000.00, and deducted from
123 subsequent grant payments. If a student decides not to attend the participating school, the
124 partial reservation payment shall be returned to the local school system by the participating
125 school. Only one reservation payment per grant student may be made per year.

126 20-2-645.

127 (a) Local school systems shall annually notify not later than 60 days prior to the beginning
128 of each school year the parents of all students enrolled in the local school system the grant
129 options available to their children under this article.

130 (b) For an eligible student to obtain a grant pursuant to this article, the eligible student's
 131 parent shall provide to the local school system proof of the eligible student's eligibility to
 132 receive the grant, proof of acceptance to a participating school, and a signed affidavit
 133 certifying that the parent, upon receipt of the grant, assumes full financial responsibility for
 134 his or her child attending the participating school and full responsibility to comply with the
 135 rules and policies of the participating school.

136 (c) There shall be no requirement for the parent to provide advance notice of his or her
 137 intent to obtain a grant for his or her child to enroll in a participating school. However, any
 138 student who obtains a grant after the start of the school year shall receive a pro rata grant
 139 amount, calculated based on the number of instructional days remaining in the school year
 140 divided by the total number of annual instructional days of the participating school.

141 (d) Students enrolled in a school operated by the Department of Juvenile Justice shall not
 142 be eligible for a grant program established pursuant to this article.

143 (e) For students with disabilities, acceptance of a grant shall have the same effect as a
 144 parental refusal to consent to services pursuant to the Individuals with Disabilities
 145 Education Act, 20 U.S.C.A. Section 1400, et seq.

146 (f) The establishment of a grant program or the issuance of a grant pursuant to this article
 147 shall not be construed to imply that a local school system did not provide a free and
 148 appropriate public education for a student or constitute a waiver or admission by the state.

149 (g) Any grant directed to a participating school is so directed wholly as a result of the
 150 genuine and independent private choice of the parent.

151 (h) Any parent who fails to comply with the provisions of this article and department
 152 regulations relating to the grant program shall be subject to forfeiting the grant.

153 (i) The department shall be authorized to promulgate rules to implement the provisions of
 154 this article.

155 20-2-646.

156 (a) To be eligible to enroll a grant student pursuant to this article, a participating school
 157 shall:

158 (1) Have a physical location in Georgia where the grant students attend classes and
 159 provide students with direct physical contact with the participating school's teachers;

160 (2) Be accredited or in the process of becoming accredited by one or more entities listed
 161 in subparagraph (A) of paragraph (6.1) of Code Section 20-3-519;

162 (3) Comply with the antidiscrimination provisions of 42 U.S.C. Section 2000d and the
 163 federal Civil Rights Act of 1964;

164 (4) Comply with all provisions of Code Section 20-2-690 and any other state law
 165 applicable to private schools;

- 166 (5) Provide reports to the parent and the local school system on the grant student's
167 attendance and academic performance pursuant to Code Section 20-2-647; and
- 168 (6) Employ or contract with teachers who hold a bachelor's degree or higher degree or
169 have at least three years of experience in education or health and annually provide to the
170 parents the relevant credentials of the teachers who will be teaching their students.
- 171 (b) A home school operating under the provisions of Code Section 20-2-690 shall not be
172 eligible to enroll grant students.
- 173 (c) Residential treatment facilities licensed or approved by the state shall not be eligible
174 to enroll grant students.
- 175 (d) Neither the provisions of this article nor the creation of a grant program pursuant to this
176 article shall be construed to expand the regulatory authority of the state, its officers, or any
177 local board of education to impose any additional regulation of nonpublic schools beyond
178 those reasonably necessary to enforce the requirements of this article.
- 179 (e) A participating school intending to enroll grant students shall apply to the department
180 by June 30 of the school year preceding the school year in which it intends to enroll grant
181 students. The application shall specify the grade levels being offered and the services the
182 participating school has available for students with disabilities.
- 183 (f) The state board shall approve a participating school's application to enroll grant
184 students if such school meets the eligibility requirements of this article. The state board
185 shall make available to local school systems and the public a list of participating schools.
- 186 (g) The state board shall adopt rules to administer the grant program regarding eligibility
187 and participation of participating schools, including, but not limited to, timelines that will
188 maximize student and private school participation, the calculation and distribution of grants
189 to eligible students and participating schools, and the application and approval procedures
190 for eligible students and participating schools. The department shall develop and utilize
191 a compliance form for completion by participating schools. The department shall be
192 authorized to require any pertinent information as it deems necessary from participating
193 schools for the purpose of implementing the grant program. Participating schools shall be
194 required to complete such forms and certify their accuracy.
- 195 (h) No liability shall arise on the part of the state or of any local school system based on
196 the award or use of a grant awarded pursuant to this article.
- 197 (i) The department may bar a school from participation in a grant program if the
198 department determines that such school has intentionally and substantially misrepresented
199 information or failed to refund to a local school system any grant overpayments in a timely
200 manner.

201 20-2-647.

202 (a) At least once per school year, participating schools shall administer for each grant
203 student in grades three through 12 either a nationally norm-referenced test or a criterion
204 referenced competency test designated by the participating school as a measure of student
205 achievement. The scores on each student's test shall be made available to the student's
206 parent and the local school system. Aggregated scores of all grant students by subject and
207 by grade shall be made available to the public for each participating school.

208 (b) Attendance records and test scores of grant students participating in assessments
209 pursuant to subsection (a) of this Code section shall not be applied to the system averages
210 of the local school system for data reported for federal or state requirements.

211 (c) The Office of Student Achievement, in conjunction with the department, shall provide
212 the General Assembly and make available to the public not later than December 1 of each
213 year a report regarding all grant programs from the previous fiscal year.

214 (d) For the purpose of reporting to the state the number of full-time equivalent students
215 enrolled for allocation of QBE funding, all grant students within a local school system shall
216 be reported by the local school system in the same manner as if they were attending a
217 public school within the local school system."

218 **SECTION 2.**

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