

Senate Bill 133

By: Senators Miller of the 49th, Tippins of the 37th, Jeffares of the 17th, Sims of the 12th, Beach of the 21st and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 14 of Title 20 of the Official Code of Georgia Annotated, relating to the
2 Education Coordinating Council, so as to provide for the establishment of the Opportunity
3 School District; to provide for definitions; to authorize the Opportunity School District to
4 assume the supervision of public elementary and secondary schools that are failing; to
5 provide for a superintendent for the district; to provide criteria; to provide for rating of
6 schools; to provide for intervention models; to provide for opportunity schools seeking state
7 charter school status; to provide for successful opportunity schools to exit state supervision;
8 to provide for funding; to provide for applicability; to repeal a provision relating to
9 appropriate levels of intervention for failing schools; to provide for conforming amendments;
10 to provide for related matters; to provide for contingent effectiveness; to provide for
11 automatic repeal under certain conditions; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

14 Chapter 14 of Title 20 of the Official Code of Georgia Annotated, relating to the Education
15 Coordinating Council, is amended by adding a new article to read as follows:

16 style="text-align:center">"ARTICLE 3

17 20-14-100.

18 As used in this article, the term:

19 (1) 'Office' means the Office of Student Achievement.

20 (2) 'Opportunity school' means a public elementary or secondary school under the
21 supervision of the Opportunity School District.

22 (3) 'Opportunity School District' or 'OSD' means the state-wide district established
23 pursuant to this article.

24 (4) 'OSD Superintendent' means the superintendent of the Opportunity School District
25 appointed by the Governor pursuant to Code Section 20-14-102.

26 (5) 'Qualifying school' means a public elementary or secondary school that receives a
27 rating of F pursuant to Code Section 20-14-104 for a minimum of three consecutive
28 years.

29 (6) 'School on probation' means a public elementary or secondary school that receives
30 a rating of F pursuant to Code Section 20-14-104 for two consecutive years.

31 (7) 'School on warning' means a public elementary or secondary school that receives a
32 rating of F pursuant to Code Section 20-14-104 for one year.

33 (8) 'State charter school' means a school authorized by the State Charter Schools
34 Commission pursuant to Article 31A of Chapter 2 of this title.

35 20-14-101.

36 (a) The Opportunity School District is hereby created pursuant to the authority granted in
37 Article VIII, Section V, Paragraph VIII of the Georgia Constitution. The Opportunity
38 School District shall be authorized to assume the supervision, management, and operation
39 of public elementary and secondary schools which have been determined to be failing
40 pursuant to this article.

41 (b) The Opportunity School District shall be established within the Office of Student
42 Achievement.

43 20-14-102.

44 The Governor shall appoint a superintendent to serve as the executive officer of the
45 Opportunity School District. The OSD Superintendent shall serve at the pleasure of the
46 Governor and shall have such qualifications and salary as determined by the Governor.
47 The OSD Superintendent shall be an employee of the office but shall report directly to the
48 Governor.

49 20-14-103.

50 (a) The Opportunity School District shall be authorized to select up to 20 qualifying
51 schools to add to the OSD in any single school year. The Opportunity School District shall
52 have no more than 100 schools under its supervision at any given time.

53 (b) Selection of up to 20 qualifying schools to add to the OSD in any single school year
54 shall be based on an analysis of performance over the three-year period and other
55 considerations, including geographic clusters of qualifying schools, feeder patterns with
56 multiple eligible schools, availability of qualified partners, and community engagement and
57 support. The school selection process shall allow for parent and community input but the
58 final selection shall be in the sole discretion of the OSD Superintendent in determining
59 which schools are transferred.

60 (c) The OSD Superintendent shall have the sole discretion in determining the timing and
 61 sequencing of transferring qualifying schools to the OSD, which may take into
 62 consideration the capacity of the OSD in successfully overseeing each school.

63 (d) The OSD Superintendent is authorized to waive specifically identified State Board of
 64 Education rules, regulations, policies, and procedures, or provisions of Chapter 2 of this
 65 title for opportunity schools. The goal for each waiver shall be improvement of student
 66 performance. The OSD Superintendent is not authorized to waive any federal, state, and
 67 local rules, regulations, court orders, and statutes relating to civil rights; insurance; the
 68 protection of the physical health and safety of school students, employees, and visitors;
 69 conflicting interest transactions; the prevention of unlawful conduct; any laws relating to
 70 unlawful conduct in or near a public school; any reporting requirements pursuant to Code
 71 Section 20-2-320 or this chapter; the requirements of Code Section 20-2-211.1 relating to
 72 fingerprint and criminal background checks; state accountability requirements, including
 73 but not limited to teacher and leader evaluation pursuant to Code Section 20-2-210; or the
 74 requirements in subsection (c) of Code Section 20-2-327. A school that has received a
 75 waiver shall remain subject to the provisions of Part 3 of Article 2 of this chapter, the
 76 requirement that it shall not charge tuition or fees to its students except as may be
 77 authorized for local boards by Code Section 20-2-133, and shall remain open to enrollment
 78 in the same manner as before the waiver request.

79 (e) In the event that a qualifying school selected to be an opportunity school pursuant to
 80 this article is an existing charter school or is currently subject to any school level
 81 requirements included in a contract executed pursuant to Article 4 of Chapter 2 of this title,
 82 the authority of the OSD shall supersede any such charter or contract with respect to the
 83 qualifying school and the State Board of Education and affected local board of education
 84 shall take all necessary steps to modify or cancel any such charter or contract with respect
 85 to the qualifying school to effectuate this.

86 20-14-104.

87 The office shall annually, for purposes of this article, determine a rating of A, B, C, D, or F
 88 for each public elementary and secondary school in this state based on student
 89 achievement, achievement gap closure, and student progress. Such ratings shall be based
 90 on the state accountability system approved by the State Board of Education.

91 20-14-105.

92 (a) An opportunity school may be subject to any of the following intervention models, as
 93 determined by the OSD Superintendent:

94 (1) Direct management of the opportunity school by the OSD;

95 (2) Shared governance of the opportunity school by the OSD and the local board of
96 education pursuant to a contract in which the local board of education operates the school
97 and the OSD Superintendent has the authority to direct changes to be made at the school;
98 (3) Reconstitution of the school as a state charter school in which the OSD works in
99 collaboration with the State Charter Schools Commission to build capacity of petitioning
100 governing boards and charter school applications to establish a charter that will be
101 approved by the State Charter Schools Commission; or
102 (4) Closure of an opportunity school which is not enrolled at full capacity and
103 reassigning the students to a nonqualifying school within the local school system.
104 (b) The OSD Superintendent shall establish and implement a process for gaining
105 community feedback and input to inform his or her decision regarding the most appropriate
106 intervention model for a particular school.
107 (c)(1) For opportunity schools under the intervention models in paragraphs (2) and (3)
108 of subsection (a) of this Code section, school leadership teams shall be authorized to
109 make decisions about school finance, human capital, and curriculum and instruction for
110 the opportunity school; provided, however, that the OSD Superintendent may direct such
111 local school administrators to make certain decisions under the intervention model in
112 paragraph (2) of subsection (a) of this Code section. For such schools, the OSD
113 Superintendent and staff shall provide appropriate training and support to develop
114 effective leadership in such areas.
115 (2) For opportunity schools under the intervention model in paragraph (1) of
116 subsection (a) of this Code section, the OSD shall be authorized to have a direct role in
117 making decisions about school finance, human capital, and curriculum and instruction for
118 the opportunity school while developing the leadership capacity in such schools.
119 (d) An opportunity school may purchase services from the OSD, the local board of
120 education, or an education service provider for routine student support and operational
121 services for an opportunity school. The local board of education shall be required to
122 cooperate fully with the opportunity school, whether under the control of the OSD or the
123 State Charter Schools Commission, to make available at a reasonable cost all appropriate
124 services requested. Such services may include, but are not limited to, transportation,
125 cafeteria services, custodial services, alternative education, broadband, utilities, special
126 education services, test administration services, and student information services.
127 (e) The OSD Superintendent or state charter school governing board shall select and hire
128 the school leadership team for an opportunity school. Within the limits of the school
129 budget, staffing shall be determined by the school leadership team in accordance with
130 guidance from the OSD or state charter school governing board. The OSD or state charter
131 school governing board shall have the authority to decide whether any leader, teacher, or

132 staff member previously assigned to a qualifying school selected to become an opportunity
 133 school shall continue as an employee of the opportunity school. Any such employees
 134 retained shall become employees of the OSD or state charter school governing board and
 135 be under their control. Any teacher subject to Code Section 20-2-942 who is not given the
 136 option to continue as an employee for the opportunity school shall remain an employee of
 137 the local board of education. The local board of education may determine whether or not
 138 to continue the employment of any teacher who is not given the option to continue as an
 139 employee for the opportunity school, subject to Code Section 20-2-942.

140 (f)(1) Each opportunity school shall have a governing board that is involved in
 141 school-level governance of the school. The governing board shall be organized and
 142 operated as a nonprofit corporation under the laws of this state. The opportunity school
 143 shall be a public, nonsectarian, nonreligious, nonprofit school that is not home based,
 144 provided that a school's nonprofit status shall not prevent the school from contracting for
 145 the services of a for profit entity.

146 (2) The members of the governing board for an opportunity school shall meet the
 147 following qualifications:

148 (A) Must be a United States citizen;

149 (B) Must be a resident of Georgia; and

150 (C) Must not be an employee of the opportunity school.

151 20-14-106.

152 (a) For opportunity schools other than state charter schools, the OSD Superintendent shall
 153 set clear goals, empower and equip teachers and school leaders to meet the goals, and hold
 154 such teachers and school leaders accountable to meet the goals. The OSD Superintendent
 155 shall approve appropriate waivers for the qualifying school pursuant to subsection (d) of
 156 Code Section 20-14-103.

157 (b) For opportunity schools that become state charter schools, the State Charter Schools
 158 Commission shall set such goals and hold such teachers and school leaders accountable.

159 (c) The OSD Superintendent shall select or approve the school leadership team for
 160 opportunity schools, including the governing board members for opportunity schools which
 161 become state charter schools.

162 (d) The OSD Superintendent shall enter into an agreement with the school leadership team
 163 or the local board of education regarding specific goals for each opportunity school related
 164 to higher academic outcomes for students, quality careers for graduates, safe and positive
 165 learning environments for children, parent and community engagement, and the efficient
 166 and effective use of taxpayer dollars.

167 20-14-107.

168 (a) In an effort to ensure high quality charter petitions for opportunity schools seeking state
169 charter school status, the OSD Superintendent shall:

170 (1) Solicit, screen, and select or approve state charter school governing board members;
171 and

172 (2) Assist the state charter school governing board members in charter petition
173 development and review; provided, however, that such assistance shall conclude upon
174 approval by the State Charter Schools Commission of the opportunity school as a state
175 charter school.

176 (b) In an effort to provide opportunity schools seeking state charter school status with
177 necessary support, the State Charter Schools Commission shall solicit, screen, and select
178 education service providers, including independent consultants, education management
179 organizations, charter management organizations, and other support organizations, that can
180 partner with the state charter school governing boards to support or operate such state
181 charter schools.

182 (c) The State Charter Schools Commission shall establish a separate application cycle for
183 opportunity schools seeking state charter school status. Such application cycle shall allow
184 commission staff and commission members to evaluate the needs of an opportunity school,
185 match them with an education service provider, and work with both parties to ensure the
186 execution of a viable curricular model and educational program.

187 (d) Upon renewing a state charter, an opportunity school shall no longer be considered a
188 part of the OSD but shall be subject to the terms of its charter and the provisions of Article
189 31A of Chapter 2 of this title.

190 (e) If an opportunity school is not approved or renewed by the State Charter Schools
191 Commission as a state charter school, the school shall remain under or return to the
192 supervision of the OSD, and the OSD Superintendent shall employ one of the other
193 intervention models provided for in Code Section 20-14-105 for the school. If an initial
194 charter petition by an opportunity school to become a state charter school is denied by the
195 State Charter Schools Commission, the opportunity school may submit another charter
196 petition in a subsequent cycle.

197 20-14-108.

198 (a) Facilities of qualifying schools that are transferred to the supervision of the OSD as
199 opportunity schools shall come under the control of the OSD. The OSD Superintendent
200 may repurpose the facility for use by an education service provider to operate the
201 opportunity school. The OSD or the education service provider shall be responsible for
202 paying the pro-rata bond indebtedness of the school. The contents of the facility, including

203 but not limited to textbooks, technology, media resources, instructional equipment, and all
204 other resources shall remain with the facility and be available for use by the opportunity
205 school.

206 (b) The OSD or education service provider shall be responsible for the routine
207 maintenance and repair of the facilities and property, such that they are maintained in the
208 same manner prior to the school's transition to the OSD. The OSD or education service
209 provider shall be responsible for reasonable costs for all utilities at an opportunity school
210 as provided in subsection (d) of Code Section 20-14-105.

211 (c) The local board of education shall continue to be responsible for extensive repairs to
212 buildings or facilities considered capital expenses. Any fixtures, improvements, or tangible
213 assets added to a school building or facility by the OSD while the school is an opportunity
214 school shall remain with the school building or facility upon its return to the control of the
215 local board of education pursuant to Code Section 20-14-109.

216 20-14-109.

217 (a) An opportunity school shall remain under the supervision of the OSD for a minimum
218 of five consecutive years or, for a state charter school, for the term of the initial charter for
219 such school.

220 (b) An opportunity school shall remain under the supervision of the OSD for no more than
221 ten years. Renewal of a charter for an opportunity school shall result in the exit of the
222 school from the OSD. For other opportunity schools, the OSD Superintendent shall engage
223 the school, the school community, and the school's local board of education in a negotiation
224 to determine the best transition plan for the school to leave the supervision of the OSD.

225 (c) An opportunity school that becomes a state charter school shall work with the State
226 Charter Schools Commission to renew and continue an effective charter or, if ineffective
227 as a charter school, shall return to the governance of the OSD. If a successful state charter
228 school does not wish to remain under the authorization of the State Charter Schools
229 Commission for a subsequent charter term after demonstrating effective performance, the
230 State Charter Schools Commission and the OSD shall coordinate the development of a
231 transition plan back to the governance of the local board of education.

232 20-14-110.

233 (a) The OSD shall be treated as a single local education agency; provided, however, that
234 opportunity schools that are state charter schools shall be treated individually as single
235 local education agencies in accordance with Code Section 20-2-2090.

236 (b) The OSD shall be responsible for data reporting for all opportunity schools except state
 237 charter schools, which shall be subject to data reporting in accordance with Code Section
 238 20-2-2090.

239 20-14-111.

240 (a) Funding for an opportunity school shall be an amount equal to the sum of:

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

248 (2) A proportional share of state categorical grants, non-QBE state grants, state
 249 equalization grants, and all other state and federal grants; and

250 (3) An amount determined by OSD for each student enrolled in such school equal to a
 251 proportional share of local revenue from the local school system in which the school is
 252 located.

253 (b) The OSD may withhold up to 3 percent of the amount determined pursuant to
 254 subsection (a) of this Code section for each opportunity school for use in administering the
 255 duties required pursuant to this article; provided, however, that any amount withheld
 256 pursuant to this subsection shall be spent solely on expenses incurred by the OSD in
 257 performing the duties required by this article.

258 (c) The total allotment of state and federal funds to the local school system in which an
 259 opportunity school is located shall be calculated as otherwise provided in Article 6 of
 260 Chapter 2 of this title with an ensuing reduction equivalent to the amount of funds
 261 appropriated to the opportunity schools pursuant to paragraph (3) of subsection (a) of this
 262 Code section.

263 (d) The General Assembly may appropriate additional funds to be allocated among the
 264 opportunity schools within the OSD at the discretion of the OSD Superintendent for
 265 necessary and innovative purposes. In addition, private funds may be solicited and
 266 accepted by the OSD to support opportunity schools.

267 20-14-112.

268 The Department of Education shall provide school improvement services and technical
 269 assistance to qualifying schools not selected for intervention by the OSD Superintendent
 270 pursuant to this article and to schools on warning and schools on probation.

271 20-14-113.

272 This article shall be applicable beginning with school year 2017-2018."

273 **SECTION 2.**

274 Said chapter is further amended by repealing Code Section 20-14-41, relating to appropriate
275 levels of intervention for failing schools, master or management team, school improvement
276 team, annual reports, data revision, and hearings.

277 **SECTION 3.**

278 Code Section 20-2-84 of the Official Code of Georgia Annotated, relating to the
279 accountability, flexibility, and consequences components of contracts, is amended by
280 revising paragraph (1) of subsection (c) as follows:

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

284 **SECTION 4.**

285 Code Section 20-2-186 of the Official Code of Georgia Annotated, relating to the allocation
286 of funds for local systems to pay beginning salaries of superintendents, secretaries,
287 accountants, nurses, and certain other personnel, is amended by revising subsection (c) as
288 follows:

289 "(c) Notwithstanding any provision of this Code section to the contrary, no local system
290 shall earn funds under this Code section, except for funds for nurses, accountants, visiting
291 teachers, school psychologists, and secretaries, if the local board of education has not
292 implemented in a failing school within the system the interventions, ~~as defined in Code~~
293 ~~Section 20-14-41~~, that are prescribed by the State Board of Education or the office pursuant
294 to their respective authority."

295 **SECTION 5.**

296 Code Section 20-2-2068 of the Official Code of Georgia Annotated, relating to termination
297 of a charter for a charter school, is amended by revising subparagraph (a)(2)(A) as follows:

298 "(A) A failure to comply with any recommendation or direction of the state board with
299 respect to ~~Code Section 20-14-41~~ any intervention prescribed by the state board
300 pursuant to the charter;"

301 **SECTION 6.**

302 (a) This Act shall become effective on January 1, 2017, only if an amendment to the
303 Constitution is ratified at the November, 2016, general election expressly allowing the
304 General Assembly to authorize the establishment of an Opportunity School District to
305 provide for state intervention for failing schools.

306 (b) If such an amendment to the Constitution is not so ratified, then this Act shall not
307 become effective and shall stand repealed by operation of law on January 1, 2017.

308 **SECTION 7.**

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