

House Bill 430 (COMMITTEE SUBSTITUTE)

By: Representatives Brockway of the 102nd, Jones of the 47th, Glanton of the 75th, Stovall of the 74th, and Nix of the 69th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
2 implement various recommendations from the Governor's Education Reform Commission
3 with respect to charter schools; to provide for the establishment of a code of principles and
4 standards of charter school authorizing; to provide for a facilities grant program for charter
5 schools; to define "unused facilities" for purposes of charter schools; to provide for related
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
10 adding a new Code section to Article 31 of Chapter 2, relating to charter schools, to read as
11 follows:

12 "20-2-2063.3.

13 (a) The State Board of Education and the State Charter Schools Commission shall jointly
14 establish a code of principles and standards of charter school authorizing to guide local
15 boards of education, the state board, and the State Charter Schools Commission in meeting
16 high-quality authorizing practices. The principles and standards established by the state
17 board shall include:

18 (1) Maintaining high standards for approving charter petitions;

19 (2) Establishing challenging academic, financial, and operational performance standards
20 for charter schools;

21 (3) Annually monitoring, evaluating, and reporting charter school progress in meeting
22 academic, financial, and operational performance standards;

23 (4) Upholding charter school autonomy in school governance, instructional program
24 implementation, personnel, and budgeting;

25 (5) Protecting students and holding charter schools accountable for their obligations to
26 all students; and

27 (6) Protecting the public interest and holding charter schools accountable for their
28 obligations of governance, management, and oversight of public funds.

29 (b)(1) The State Board of Education shall provide for the annual review of local boards
30 of education by an independent party for adherence to the principles and standards of
31 charter school authorizing practices adopted by the state board pursuant to subsection (a)
32 of this Code section. The State Board of Education shall ensure that any independent
33 party reviewing local boards of education pursuant to this paragraph has a demonstrated
34 history of evaluating charter school authorizers for quality authorizing practices.

35 (2) A charter school authorized by a local board of education that fails to meet the
36 principles and standards of charter school authorizing on its annual evaluation for two
37 consecutive years may petition to transfer its charter authorization to the State Charter
38 Schools Commission.

39 (3) In its discretion, the State Charter Schools Commission may approve a charter school
40 petitioning for authorization pursuant to paragraph (2) of this subsection for an initial
41 charter term of up to five years if, based on the charter school's prior performance, it is
42 likely to meet the commission's comprehensive performance framework if approved. If
43 the State Charter Schools Commission approves the transfer of a petitioning charter
44 school to its jurisdiction, the local board shall terminate the existing charter pursuant to
45 the terms of the charter and a new charter shall be established between the charter school
46 and the State Charter Schools Commission. If the State Charter Schools Commission
47 declines to authorize the charter school, the charter school shall continue to operate under
48 the terms of its charter with the local board of education. The requirements of Code
49 Section 20-2-2085 shall not apply to local charter schools petitioning for authorization
50 to the State Charter Schools Commission pursuant to paragraph (2) of this subsection.
51 On and after July 1, 2017, the terms of any charter entered into or renewed between a
52 local board and a local charter school shall include a provision for termination if the local
53 board fails to meet the principles and standards of charter school authorizing on its annual
54 evaluation for two consecutive years.

55 (c) The State Charter Schools Commission shall ensure that its adherence to the principles
56 and standards of charter school authorizing practices is annually reviewed by an
57 independent body that has a demonstrated history of evaluating charter school authorizers
58 for quality authorizing practices.

59 (d) The State Board of Education shall provide for or approve training for its staff and
60 local board of education members on the principles and standards of charter school
61 authorizers. The State Board of Education may incorporate training on the principles and
62 standards into the training programs for staff and local board of education members
63 adopted pursuant to Code Section 20-2-230. The annual evaluation of local boards of

64 education for adherence to the principles and standards of charter school authorizing
 65 conducted pursuant to this Code section shall detail the participation of the local board of
 66 education in training on the principles and standards of charter school authorizers."

67 **SECTION 2.**

68 Said title is further amended by revising subsection (b) of Code Section 20-2-2067.1, relating
 69 to amendment of terms of charter for charter schools, initial term of charter, and annual
 70 report, as follows:

71 "(b) The initial term of a charter, except for a charter system or a local charter school that
 72 has transferred its authorization to the State Charter Schools Commission pursuant to
 73 subsection (b) of Code Section 20-2-2063.3, shall be for a minimum of five years, unless
 74 the petitioner shall request a shorter period of time, and shall not exceed ten years. The
 75 local board and the state board, in accordance with Code Section 20-2-2064.1 and subject
 76 to the provisions of Code Section 20-2-2068.3, may renew a local charter, upon the request
 77 of the charter school, for the period of time specified in the request, not to exceed ten years.
 78 The state board may renew a state chartered special school, upon the request of the school,
 79 for the period of time specified in the request, not to exceed ten years. The initial term of
 80 a charter for a charter system shall not exceed five years. The state board may renew the
 81 charter of a charter system, upon the request of the local board, for the period of time
 82 specified in the request, not to exceed ten years."

83 **SECTION 3.**

84 Said title is further amended by revising subsections (b) and (c) and by adding a new
 85 subsection to Code Section 20-2-2068.1, relating to charter school funding, as follows:

86 "(b) QBE formula earnings, applicable QBE grants, applicable non-QBE state grants, and
 87 applicable federal grants earned by a local charter school shall be distributed to the local
 88 charter school by the local board; provided, however, that state equalization grant earnings
 89 shall be distributed as provided in subsection (c) of this Code section. QBE formula
 90 earnings shall include the salary portion of direct instructional costs, the adjustment for
 91 training and experience, the nonsalary portion of direct instructional costs, and earnings for
 92 psychologists and school social workers, school administration, facility maintenance and
 93 operation, media centers, additional days of instruction in accordance with Code Section
 94 20-2-184.1, and staff development. The local charter school shall report enrolled students
 95 in a manner consistent with Code Section 20-2-160; provided, however, that a local charter
 96 school shall approve all data, including enrollment data and certified personnel
 97 information, prior to a local board of education submitting any such data to the state board
 98 for purposes of funding.

99 (c) In addition to the earnings set out in subsection (b) of this Code section, local revenue
 100 shall be allocated to a local charter school on the same basis as for any local school in the
 101 local school system. In the case of a start-up charter school, local revenue earnings shall
 102 be calculated as follows:

103 (1) Determine the total amount of state and local five mill share funds earned by students
 104 enrolled in the local start-up charter school as calculated by the Quality Basic Education
 105 Formula pursuant to Part 4 of Article 6 of this chapter including any funds for
 106 psychologists and school social workers but excluding 5 percent of system-wide funds
 107 for central administration and excluding any categorical grants not applicable to the
 108 charter school;

109 (2) Determine the total amount of state and local five mill share funds earned by all
 110 students in the public schools of the local school system, including any charter schools
 111 that receive local revenue, as calculated by the Quality Basic Education Formula but
 112 excluding categorical grants and other non-QBE formula grants;

113 (3) Divide the amount obtained in paragraph (1) of this subsection by the amount
 114 obtained in paragraph (2) of this subsection; and

115 (4) Multiply the quotient obtained in paragraph (3) of this subsection by the school
 116 system's local revenue.

117 The product obtained in paragraph (4) of this subsection shall be the amount of local funds
 118 to be distributed to the local start-up charter school by the local board; provided, however,
 119 that nothing in this subsection shall preclude a charter petitioner and a local board of
 120 education from specifying in the charter a greater amount of local funds to be provided by
 121 the local board to the local start-up charter school if agreed upon by all parties to the
 122 charter. Local funds so earned shall be distributed to the local start-up charter school by
 123 the local board. Where feasible and where services are provided, funds for construction
 124 projects shall also be distributed to the local start-up charter school as earned. In all other
 125 fiscal matters, including applicable federal allotments, the local board shall treat the local
 126 start-up charter school no less favorably than other local schools located within the
 127 applicable school system and shall calculate and distribute the funding for the start-up
 128 charter school on the basis of its actual or projected enrollment in the current school year
 129 according to an enrollment counting procedure or projection method stipulated in the terms
 130 of the charter. A proportional share of federal funds, including but not limited to funds
 131 earned pursuant to Title I of the federal Elementary and Secondary Education Act and
 132 pursuant to the federal Individuals with Disabilities Education Act, shall be distributed by
 133 the local board to a local start-up charter school; provided, however, that by agreement
 134 between the local board and local start-up charter school, a proportional share may be
 135 provided through the provision of in-kind services by the local board for the local start-up

136 charter school. Further, the state board shall ensure that local start-up charter schools
 137 receive an equitable share of federal funds pursuant to Title II of the federal Elementary
 138 and Secondary Education Act and have the same access to state training and state guidance
 139 regarding availability and eligibility for federal funds that local school systems have."
 140 "(c.3) Each local board of education that has one or more local charter schools shall
 141 publish in a prominent location on its website the calculation of earnings to each local
 142 charter school made pursuant to subsections (a), (b), and (c) of this Code section, including
 143 but not limited to detailed accounting of federal funds earned and actually received by each
 144 local charter school. Such calculations shall be published as soon as practicable prior to
 145 the distribution of earnings to the local charter school by the local board. Such calculations
 146 may be published in conjunction with the financial and transparency information required
 147 to be published by local boards of education pursuant to Part 3A of Article 2 of Chapter 14
 148 of Title 20."

149 **SECTION 4.**

150 Said title is further amended by revising Code Section 20-2-2068.2, relating to facilities fund
 151 for charter schools, purposes for which funds may be used, upkeep of charter school
 152 property, and availability of unused facilities, as follows:

153 "20-2-2068.2.

154 (a) From moneys specifically appropriated for such purpose, the state board shall ~~create~~
 155 ~~a~~ disburse facilities ~~fund~~ grants for local charter schools, state chartered special schools,
 156 and state charter schools as defined in Code Section 20-2-2081 for the purpose of
 157 ~~establishing a per pupil, need-based facilities aid program~~ providing facility funding more
 158 comparable to traditional public schools in this state.

159 (b) A charter school or state charter school may receive ~~moneys from the~~ facilities ~~fund~~
 160 grants if the charter school or state charter school has received final approval from the State
 161 Charter Schools Commission or from the state board for operation during that fiscal year.

162 (c) A charter school's or state charter school's governing body may use ~~moneys from the~~
 163 facilities ~~fund~~ grants for the following purposes:

164 (1) Purchase of real property;

165 (2) Construction of school facilities, including initial and additional equipment and
 166 furnishings;

167 (3) Purchase, lease-purchase, or lease of permanent or relocatable school facilities;

168 (4) Purchase of vehicles to transport students to and from the charter school or state
 169 charter school; and

170 (5) Renovation, repair, and maintenance of school facilities that the school owns or is
 171 purchasing through a lease-purchase or long-term lease of three years or longer.

172 (d) The Department of Education shall specify procedures for submitting and approving
 173 grant requests for funding under this Code section and for documenting expenditures.

174 (e) Local boards are required to renovate, repair, and maintain the school facilities of
 175 charter schools in the district local school system to the same extent as other public schools
 176 in the district local school system if the local board owns the charter school facility, unless
 177 otherwise agreed upon by the petitioner and the local board in the charter. Subject to
 178 appropriations by the General Assembly, the state board shall disburse annual facilities
 179 grants to eligible applicants in an amount of \$100,000.00 or such other amount as
 180 determined by the state board. In the event that in any fiscal year, sufficient funds are not
 181 appropriated or available to make the full amount of grants to all eligible applicants, the
 182 grant award to each eligible applicant shall be reduced pro rata. Eligible applicants may
 183 receive one or more annual grants.

184 (f)(1) Prior to ~~releasing moneys from the~~ disbursing facilities ~~fund grants~~, the
 185 Department of Education shall ensure that the governing board of the local charter school
 186 and the local board shall enter into a written agreement that includes a provision for the
 187 reversion of any unencumbered funds and all equipment and property purchased with
 188 public education funds to the ownership of the local board in the event the local charter
 189 school terminates operations.

190 (2) Prior to ~~releasing moneys from the~~ disbursing facilities ~~fund grants~~, the Department
 191 of Education shall ensure that the governing board of the state chartered special school
 192 and the state board shall enter into a written agreement that includes a provision for the
 193 reversion of any unencumbered funds and all equipment and property purchased with
 194 public education funds to the ownership of the state board in the event the state chartered
 195 special school terminates operations.

196 (3) Prior to ~~releasing moneys from the~~ disbursing facilities ~~fund grants~~, the Department
 197 of Education shall ensure that the governing board of the state charter school and the
 198 State Charter Schools Commission shall enter into a written agreement that includes a
 199 provision for the reversion of any unencumbered funds and all equipment and property
 200 purchased with public education funds to the ownership of the State Charter Schools
 201 Commission in the event the state charter school terminates operations.

202 (g) The reversion of property in accordance with subsection (f) of this Code section is
 203 subject to the complete satisfaction of all lawful liens or encumbrances.

204 (h)(1) As used in this subsection, the term 'unused facilities' means educational facilities,
 205 as defined in Code Section 20-2-260, for which the local board of education has not
 206 housed students for the previous two consecutive school years.

207 (2) Each local board of education shall make its unused facilities available to local
 208 charter schools. The terms of the use of such a facility by the charter school shall be

209 subject to negotiation between the board and the local charter school and shall be
 210 memorialized as a separate agreement. A local charter school that is allowed to use such
 211 a facility under such an agreement shall not sell or dispose of any interest in such
 212 property without the written permission of the local board. A local charter school may
 213 not be charged a rental or leasing fee for the existing facility or for property normally
 214 used by the public school which became the local charter school. A local charter school
 215 that receives property from a local board may not sell or dispose of such property without
 216 the written permission of the local board.

217 (3) Prior to denying the use by a local charter school of an unused facility, the local
 218 charter school shall have the right to a hearing before the local board of education in
 219 accordance with Code Section 20-2-1160, including the right to appeal an adverse local
 220 board decision.

221 (i) No municipality, county, or other local political subdivision of this state may require
 222 the nonprofit corporation that holds the charter for a charter school that has passed the
 223 Department of Education facility inspection and holds a valid certificate of occupancy to
 224 obtain any other licensure to operate the school, including, but not limited to, a business
 225 license, professional license, or occupational tax certificate; provided, however, that any
 226 for profit vendor of the charter school shall be subject to any applicable local requirements
 227 relating to doing business in this state. Charter schools shall only be subject to ~~all~~
 228 ~~applicable~~ the zoning, planning, and building permitting requirements that apply to
 229 traditional public schools when constructing or renovating a facility."

230

SECTION 5.

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