

Senate Bill 440

By: Senators Thompson of the 14th, Black of the 8th, Martin of the 9th, Albers of the 56th, Harbin of the 16th 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 that certain individuals between ages  
3 21 and 35 may be eligible to enroll in a charter school that provides instruction only for  
4 over-age students; to provide for an exception to the maximum age of eligibility for  
5 enrollment; to authorize local boards of education or the State Charter Schools Commission  
6 to approve charter schools that serve only an over-age population; to provide for funding for  
7 such charter schools; to provide for an effective date and applicability; to provide for related  
8 matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**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 Code Section 20-2-150, relating to eligibility  
13 for enrollment, as follows:

14 "20-2-150.

15 (a) Except as otherwise provided by subsection (b) of this Code section, all children and  
16 youth who have attained the age of five years by September 1 shall be eligible for  
17 enrollment in the appropriate general education programs authorized in this part unless they  
18 attain the age of 20 by September 1, except as otherwise provided in subsection (b.1) of  
19 this Code section, or they have received high school diplomas or the equivalent. This shall  
20 specifically include students who have reenrolled after dropping out and who are married,  
21 parents, or pregnant. Special education students shall also be eligible for enrollment in  
22 appropriate education programs through age 21 or until they receive high school or special  
23 education diplomas or the equivalent; provided, however, that they were enrolled during  
24 the preceding school year and had an approved Individualized Education Program (IEP)  
25 which indicated that a successive year of enrollment was needed. Other students who have  
26 not yet attained age 21 by September 1 or received high school diplomas or the equivalent  
27 shall be eligible for enrollment in appropriate education programs; provided, however, that

28 they have not dropped out of school for one quarter or more. Each local unit of  
29 administration shall have the authority to assign students who are married, parents, or  
30 pregnant or who have reenrolled after dropping out one quarter or more to programs of  
31 instruction within its regular daytime educational program, provided that a local unit of  
32 administration may develop and implement special programs of instruction limited to such  
33 students within the regular daytime educational program or, at the option of the student, in  
34 an alternative program beyond the regular daytime program; provided, further, that such  
35 programs of instruction are designed to enable such students to earn course credit toward  
36 receiving high school diplomas. These programs may include instruction in prenatal care  
37 and child care. Each local unit of administration shall have the authority to provide  
38 alternative programs beyond the regular daytime educational program. Unless otherwise  
39 provided by law, the State Board of Education shall have the authority to determine the  
40 eligibility of students for enrollment. It is declared to be the policy of this state that general  
41 and occupational education be integrated into a comprehensive educational program which  
42 will contribute to the total development of the individual.

43 (b) A child who was a legal resident of one or more other states or countries for a period  
44 of two years immediately prior to moving to this state and who was legally enrolled in a  
45 public kindergarten or first grade, or a kindergarten or first grade accredited by a state or  
46 regional association or the equivalent thereof, shall be eligible for enrollment in the  
47 appropriate general or special education programs authorized in this part if such child will  
48 attain the age of five for kindergarten or six for first grade by December 31 and is  
49 otherwise qualified.

50 (b.1) An individual between ages 21 and 35 residing in this state who has not attained a  
51 high school diploma or a general educational development (GED) diploma, and who meets  
52 any eligibility criteria shall be eligible for enrollment in a local charter school established  
53 pursuant to subsection (e) of Code Section 20-2-2063 or a state charter school established  
54 pursuant to paragraph (3) of subsection (b) of Code Section 20-2-2084 that serves only  
55 over-age students, until he or she attains a high school diploma or a general educational  
56 development (GED) diploma or no longer resides in this state.

57 (c) All children enrolled for 20 school days or more in the public schools of this state prior  
58 to their seventh birthday shall become subject to all of the provisions of this article, the  
59 provisions of Code Sections 20-2-690 through 20-2-701, and the rules and regulations of  
60 the State Board of Education relating to compulsory school attendance even though they  
61 have not attained seven years of age.

62 (d) No child or youth shall be admitted to any public school of the state until the parent or  
63 guardian provides to the proper school authorities an official copy of that child's social  
64 security number which shall be incorporated into the official school records pertaining to

65 that child or youth. Each local unit of administration shall establish and implement a plan  
 66 for providing the public appropriate notice of the information required of every student  
 67 under its jurisdiction prior to the beginning of each school year. School authorities may  
 68 provisionally admit a child for whom an official social security number has not been  
 69 provided if the parent or guardian completes a postage-paid application for a social security  
 70 number at the time of enrollment. A parent or guardian who objects to the incorporation  
 71 of the social security number into the school records of a child may have the requirement  
 72 waived by signing a statement objecting to the requirement.

73 (e) A student whose parent or guardian is on active duty in the United States armed forces  
 74 and has received official military orders to transfer into or within this state shall be eligible  
 75 for enrollment, in the same manner and time as for students residing within the local school  
 76 system, in the public school of the attendance zone in which he or she will be residing or  
 77 in a public school authorized pursuant to Code Section 20-2-295, prior to physically  
 78 establishing residency within the local school system, upon presentation of a copy of the  
 79 official military orders to the local school system."

80 **SECTION 2.**

81 Said chapter is further amended in Code Section 20-2-2063, relating to charter petitions, by  
 82 adding a new subsection to read as follows:

83 "(e) The State Board of Education shall establish rules, regulations, policies, and  
 84 procedures to provide for charter petitions for start-up charter schools that serve only an  
 85 over-age population. Notwithstanding any law to the contrary, a start-up charter school  
 86 serving only an over-age population shall not be subject to the provisions of Part 3 of  
 87 Article 2 of Chapter 14 of this title."

88 **SECTION 3.**

89 Said chapter is further amended by revising subparagraph (a)(1)(A) of Code Section  
 90 20-2-2066, relating to admission, enrollment, and withdrawal of charter school students, as  
 91 follows:

92 "(1)(A) A start-up charter school shall enroll any student who, at the time of  
 93 enrollment, resides in the attendance zone specified in the charter and who submits a  
 94 timely application as specified in the charter unless the number of applications exceeds  
 95 the capacity of a program, class, grade level, or building. Except for educationally  
 96 disadvantaged students who may be provided an increased chance of admission through  
 97 a weighted lottery if permitted by the school's charter, all such applicants shall have an  
 98 equal chance of being admitted through a random selection process unless otherwise  
 99 prohibited by law; provided, however, that a start-up charter school may give

100 enrollment preference to applicants in any one or more of the following categories in  
101 the order of priority specified in the charter:

- 102 (i) A sibling of a student enrolled in the start-up charter school;
- 103 (ii) A sibling of a student enrolled in another local school designated in the charter;
- 104 (iii) A student whose parent or guardian is a member of the governing board of the  
105 start-up charter school or is a full-time teacher, professional, or other employee at the  
106 start-up charter school;
- 107 (iv) Students matriculating from a local school designated in the charter; and
- 108 (v) Children who matriculate from a pre-kindergarten program which is associated  
109 with the school, including, but not limited to, programs which share common facilities  
110 or campuses with the school or programs which have established a partnership or  
111 cooperative efforts with the school.

112 This subparagraph shall not apply to a start-up charter school that serves only an  
113 over-age population pursuant to subsection (e) of Code Section 20-2-2063."

114 **SECTION 4.**

115 Said chapter is further amended in Code Section 20-2-2068.1, relating to charter school  
116 funding, by adding a new subsection to read as follows:

117 "(j) This Code section shall not apply to a start-up charter school that serves only an  
118 over-age population pursuant to subsection (e) of Code Section 20-2-2063."

119 **SECTION 5.**

120 Said chapter is further amended by adding a new Code section to read as follows:

121 "20-2-2068.3.  
122 Beginning with the 2021-2022 school year, the State Board of Education shall annually  
123 determine the amount of funds needed for the operation of any start-up charter school that  
124 serves only an over-age population pursuant to subsection (e) of Code Section 20-2-2063.  
125 Such funds appropriated by the General Assembly shall be made available for the operation  
126 of such schools under rules and regulations prescribed by the State Board of Education."

127 **SECTION 6.**

128 Said chapter is further amended by revising Code Section 20-2-2084, relating to petitions for  
129 charter schools under the State Charter Schools Commission, as follows:

130 "20-2-2084.

131 (a) Petitions submitted to the commission shall be subject to rules and regulations  
132 established pursuant to this article.

133 (b) The commission shall be authorized to approve a petition for a state charter school that  
 134 meets the following requirements:

135 (1) Has a state-wide attendance zone; or

136 (2)(A) Has a defined attendance zone; and

137 (B) Demonstrates that it has special characteristics, such as a special population, a  
 138 special curriculum, or some other feature or features which enhance educational  
 139 opportunities, which may include the demonstration of a need to enroll students across  
 140 multiple communities or an alternative delivery system; provided, however, that the  
 141 petitioner shall demonstrate a reasonable justification for any proposed special  
 142 curriculum that has a narrow or limited focus; or

143 (3) Serves only an over-age population and may have a state-wide attendance zone or a  
 144 defined attendance zone.

145 (c)(1) For petitions for state charter schools with a state-wide attendance zone, the  
 146 petitioner shall submit such petition to the commission and concurrently to the local  
 147 board of education in which the school is proposed to be located for information  
 148 purposes; provided, however, that this shall not apply to a proposed state charter school  
 149 which will solely provide virtual instruction.

150 (2) For petitions for state charter schools with a defined attendance zone, the petitioner  
 151 shall concurrently submit such petition to the commission, to the local board of education  
 152 in which the school is proposed to be located, and to each local school system from which  
 153 the proposed school plans to enroll students. The commission shall not act on a petition  
 154 unless the local board of education in which the school is proposed to be located denies  
 155 the petition; provided, however, that such local board shall approve or deny the petition  
 156 no later than 90 days after its submission, as required pursuant to subsection (b) of Code  
 157 Section 20-2-2064, unless the petitioner requested an extension. Failure to approve or  
 158 deny such petition by such local board, in violation of Code Section 20-2-2064, shall be  
 159 deemed a denial for purposes of this paragraph. A local board that has denied a petition  
 160 for a state charter school shall be permitted to present to the commission in writing or in  
 161 person the reasons for denial and the deficiencies in such petition resulting in such denial.

162 (3)(A) For petitions for state charter schools with a state-wide attendance zone that  
 163 serve only an over-age population, the petitioner shall submit such petition to the  
 164 commission and concurrently to the local board of education in which the school is  
 165 proposed to be located for information purposes.

166 (B) For petitions for state charter schools with a defined attendance zone that serve  
 167 only an over-age population, the petitioner shall concurrently submit such petition to  
 168 the commission, to the local board of education in which the school is proposed to be  
 169 located, and to each local school system from which the proposed school plans to enroll

170 students. The commission shall not act on a petition unless the local board of education  
 171 in which the school is proposed to be located denies the petition; provided, however,  
 172 that such local board shall approve or deny the petition no later than 90 days after its  
 173 submission, as required pursuant to subsection (b) of Code Section 20-2-2064, unless  
 174 the petitioner requests an extension. Failure to approve or deny such petition by such  
 175 local board, in violation of Code Section 20-2-2064, shall be deemed a denial for  
 176 purposes of this paragraph. A local board that has denied a petition for a state charter  
 177 school serving only an over-age population shall be permitted to present to the  
 178 commission in writing or in person the reasons for denial and the deficiencies in such  
 179 petition resulting in such denial.

180 (C) Notwithstanding any law to the contrary, a state charter school serving only an  
 181 over-age population shall not be subject to the provisions of Part 3 of Article 2 of  
 182 Chapter 14 of this title.

183 ~~(3)~~(4) The commission may take into consideration any support or opposition by the  
 184 local board of education or local boards of education on the start-up charter school  
 185 petition when it votes to approve or deny a corresponding state charter school petition.

186 (d) A state charter school shall:

187 (1) Seek highly qualified, properly trained teachers and other qualified personnel for  
 188 such schools; provided, however, that such schools shall give preference to hiring an  
 189 individual who is a citizen or national of the United States over another individual who  
 190 is not a citizen or national of the United States if the two individuals are equally qualified,  
 191 unless a teacher is a foreign exchange teacher; provided, however, that prior to hiring an  
 192 individual other than a citizen or national of the United States or a protected individual  
 193 as defined in 8 U.S.C. Section 1324b, the school shall receive approval by the  
 194 commission and demonstrate that qualified teachers and other personnel were sought but  
 195 not available in such area which warrants hiring an individual other than a citizen or  
 196 national of the United States or a protected individual as defined in 8 U.S.C. Section  
 197 1324b, unless a teacher is a foreign exchange teacher; provided, further, that the  
 198 commission and the state charter school shall not construe this paragraph in a manner in  
 199 violation of 8 U.S.C. Section 1324b or other provisions of law; and

200 (2) Give preference in contracting and purchasing of services and materials to businesses  
 201 incorporated under the laws of this state or qualified to do business within this state and  
 202 having a regularly maintained and established place of business within this state, so long  
 203 as such businesses are otherwise similarly situated and qualified as compared to a  
 204 business from out of state.

205 (e)(1) The members of the governing board for the state charter school shall meet the  
 206 following qualifications:

- 207 (A) Must be a United States citizen;
- 208 (B) Must be a resident of Georgia; and
- 209 (C) Must not be an employee of the state charter school.
- 210 (2) No member of the governing board of the state charter school shall:
- 211 (A) Act in his or her official capacity in any matter where he or she, his or her
- 212 immediate family member, or a business organization in which he or she has an interest
- 213 has a material financial interest that would reasonably be expected to impair his or her
- 214 objectivity or independence of judgment;
- 215 (B) Solicit or accept or knowingly allow his or her immediate family member or a
- 216 business organization in which he or she has an interest to solicit or accept any gift,
- 217 favor, loan, political contribution, service, promise of future employment, or other thing
- 218 of value based upon an understanding that the gift, favor, loan, contribution, service,
- 219 promise, or other thing of value was given or offered for the purpose of influencing that
- 220 board member in the discharge of his or her duties as a board member;
- 221 (C) Use, or knowingly allow to be used, his or her position or any information not
- 222 generally available to the members of the public which he or she receives or acquires
- 223 in the course of and by reason of his or her position for the purpose of securing
- 224 financial gain for himself or herself, his or her immediate family member, or any
- 225 business organization with which he or she is associated; or
- 226 (D) Be an officer or serve on the board of directors of any organization that sells goods
- 227 or services to that state charter school.
- 228 As used in this paragraph, the term 'immediate family member' means a spouse, child,
- 229 sibling, or parent or the spouse of a child, sibling, or parent.
- 230 (f) The members of the governing board of each state charter school shall participate in
- 231 initial training for boards of newly approved state charter schools and annual training
- 232 thereafter conducted or approved by the commission pursuant to paragraph (12) of
- 233 subsection (b) of Code Section 20-2-2083.
- 234 (f.1) The principal, or its equivalent, ~~for~~ of a state charter school shall not serve
- 235 simultaneously as the chief financial officer, or its equivalent, for the state charter school.
- 236 (g) An individual that works at a state charter school or an individual that has
- 237 administrative oversight at a state charter school shall not serve on the board of directors
- 238 of an organization that sells goods or services to such state charter school."

239

**SECTION 7.**

240 Said chapter is further amended in Code Section 20-2-2089, relating to funding for state

241 charter schools, by adding a new subsection to read as follows:

242 "(f) This Code section shall not apply to state charter schools that serve only an over-age  
243 population pursuant to paragraph (3) of subsection (b) of Code Section 20-2-2084."

244 **SECTION 8.**

245 Said chapter is further amended in Article 31A, relating to state charter schools, by adding  
246 a new Code section to read as follows:

247 "20-2-2089.1.

248 Beginning with the 2021-2022 school year, the State Board of Education shall annually  
249 determine the amount of funds needed for the operation of any state charter school that  
250 serves only an over-age population pursuant to paragraph (3) of subsection (b) of Code  
251 Section 20-2-2084. Such funds appropriated by the General Assembly shall be made  
252 available for the operation of such schools under rules and regulations prescribed by the  
253 State Board of Education."

254 **SECTION 9.**

255 Said chapter is further amended by revising Code Section 20-2-2091, relating to rules and  
256 regulations for implementation of the article, as follows:

257 "20-2-2091.

258 The commission and the State Board of Education, as appropriate, shall adopt rules and  
259 regulations necessary to facilitate the implementation of this article. Except as otherwise  
260 provided in this article, any rules and regulations adopted by the State Board of Education  
261 pursuant to this article, to the extent practicable, shall be established in the same manner  
262 and subject to the same requirements as for state chartered special schools under Article  
263 31 of this chapter; provided, however, that the provisions of subsection (b) of Code  
264 Section 20-2-2066 shall not be applied to a state charter school that serves only an over-age  
265 population pursuant to paragraph (3) of subsection (b) of Code Section 20-2-2084."

266 **SECTION 10.**

267 This Act shall become effective upon its approval by the Governor or upon its becoming law  
268 without such approval.

269 **SECTION 11.**

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