

House Bill 1308

By: Representatives Silcox of the 53rd, Hilton of the 48th, Jones of the 47th, Rice of the 139th,
and Cox of the 28th

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 local and state charter schools and
3 charter school petitioners to have the right to lease, utilize, or buy unused facilities of a local
4 board of education, subject to conditions; to provide for such conditions; to provide for
5 construction; to revise a definition; to make conforming changes and to modernize certain
6 terms; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
10 secondary education, is amended in Part 1 of Article 11, relating to powers of local boards
11 relative to public school property and facilities, by revising Code Section 20-2-520, relating
12 to acquiring and disposing of school sites, building, repairing, renting, and furnishing
13 schoolhouses, as follows:

14 "20-2-520.

15 (a) ~~The county boards~~ Each local board of education shall have the power to purchase,
16 lease, or rent real property for use as school sites; build, repair, or rent ~~schoolhouses~~ school

17 buildings; purchase maps, globes, and school furniture; and make all arrangements
18 necessary to the efficient operation of the schools. ~~Such county boards~~ Local boards of
19 education are invested with the title, care, and custody of all ~~schoolhouses or school~~
20 buildings and other real and personal property, with the power to control such property in
21 such manner as they think will best serve the interests of the public schools; and when, in
22 the opinion of the ~~county board~~; local board of education, any ~~schoolhouse~~ school site or
23 building has become unnecessary or inconvenient, they may sell it in the name of the
24 ~~county board~~ local board of education, subject to the provisions of subsection (h) of Code
25 Section 20-2-2068.2; and the conveyance for any such sale shall be executed by the
26 president or secretary of the ~~county board~~ local board of education, according to the order
27 of the ~~county board~~ local board of education. ~~Such county boards~~ Each local board of
28 education shall have the power to receive any gift, grant, donation, or devise made for the
29 use of the public schools within the respective ~~counties~~ territorial limits of the local school
30 system; and all conveyances of real estate property which may be made to such a ~~county~~
31 ~~board~~ local board of education shall vest the property in such ~~county board~~ local board of
32 education and its successors in office. ~~Such county board~~ Each local board of education
33 may provide for the building of ~~schoolhouses~~ school buildings by a tax on all property
34 located in the ~~county and outside the~~ territorial limits of any independent the local school
35 system. The construction of all public school buildings must be approved by the ~~county~~
36 local school superintendent and ~~county board~~ local board of education and must be
37 according to the plans furnished by the ~~county school authorities~~ local school system and
38 the State Board of Education. All public school construction contracts in excess of
39 \$250,000.00 shall be publicly advertised and awarded through an open and competitive
40 process, regardless of the funding source.

41 (b) If a ~~schoolhouse~~ school building or school site has become unnecessary or
42 inconvenient, as provided by subsection (a) of this Code section, and if the state or the
43 county or municipality whose territorial boundaries include such ~~schoolhouse~~ school

44 building or school site needs such building or site for any governmental purpose, then the
 45 ~~county board~~ local board of education may sell or convey such ~~schoolhouse~~ building or site
 46 to the state or such county or municipality for such consideration and subject to such
 47 conditions, if any, as may be determined by such ~~county board~~ local board of education,
 48 subject to the provisions of subsection (h) of Code Section 20-2-2068.2.

49 (c) In addition to school property ~~and facilities~~ provided for in subsection (a) of this Code
 50 section, a ~~county board of education or an area~~ local board of education is authorized to
 51 expend educational funds available to it for the purpose of acquiring, improving, and
 52 selling real or personal property in connection with its secondary and postsecondary
 53 vocational education curricula or program."

54

SECTION 2.

55 Said chapter is further amended in Article 31, the "Charter Schools Act of 1998," by revising
 56 subsection (h) of Code Section 20-2-2068.2, relating to facilities grants for charter schools,
 57 purposes for which grants may be used, upkeep of charter school property, and availability
 58 of unused facilities, as follows:

59 "(h)(1) As used in this subsection, the term 'unused facilities' means real property of a
 60 local board of education, including educational facilities, as defined in Code
 61 Section 20-2-260, which are not in use or have not been used within the previous two
 62 school years by the local board of education ~~for the previous two years and which are not~~
 63 ~~included in the local school system's five-year educational facilities plan as an~~
 64 educational facility with at least 60 percent of such facility used for direct student
 65 instruction.

66 (2) Each local board of education shall make its unused facilities available to local
 67 charter schools and state charter schools. The terms of a ~~local~~ charter school's use or
 68 purchase of a facility owned by a local board of education shall be subject to negotiation
 69 between the local board and the ~~local~~ charter school and shall be memorialized as a

70 separate agreement. A ~~local~~ charter school that is allowed to use such a facility under
71 such an agreement shall not sell or dispose of any interest in such property without the
72 written permission of the local board of education. A local charter school may not be
73 charged a rental or leasing fee for the existing facility or for property normally used by
74 the public school which became the local charter school. ~~A local charter school that~~
75 ~~receives property from a local board may not sell or dispose of such property without the~~
76 ~~written permission of the local board.~~ If a local board of education and a state charter
77 school do not agree on terms for use of an unused facility after negotiations between the
78 parties, or if such parties dispute whether the facility is an unused facility as provided for
79 in paragraph (1) of this subsection, the charter school shall be permitted to submit a
80 written petition to the Office of Charter School Compliance requesting that the Office of
81 Charter School Compliance determine in writing whether the parties acted in good faith
82 during such negotiations. The Office of Charter School Compliance shall be authorized
83 to attempt to resolve any dispute between the parties to negotiate a contract to lease or
84 sell the unused facility

85 (3) Prior to denying the use by a local charter school of an unused facility, or if the local
86 board of education and the charter school dispute whether the facility is an unused facility
87 as provided for in paragraph (1) of this subsection, the local charter school shall have the
88 right to a hearing before the local board of education in accordance with Code Section
89 20-2-1160, including the right to appeal an adverse local board decision.
90 Notwithstanding any provision in Code Section 20-2-1160 to the contrary, the local
91 charter school shall be permitted to appeal the decision by a local board of education to
92 deny the use by a local charter school of an unused facility to the Office of Charter
93 School Compliance. Such appeal to the Office of Charter School Compliance shall not
94 be construed or applied to foreclose, waive, or otherwise prejudice any right of the local
95 charter school provided for in Code Section 20-2-1160.

96 (4)(A) A local or state charter school that either currently operates a charter school
97 with an attendance zone that includes an unused facility or a state charter school that
98 submits a petition pursuant to Code Section 20-2-2064 or 20-2-2084 to operate a charter
99 school with a proposed attendance zone that includes an unused facility shall be offered
100 the right to lease, utilize, or buy the unused facility by the local board of education.

101 (B) The right to lease, utilize, or buy an unused facility provided for in this subsection
102 shall:

103 (i) Include both the right of first offer and the right of first refusal;

104 (ii) Be exercisable by the charter school or charter school petitioner at any time and
105 notwithstanding the current use of the unused facility, except as provided in
106 paragraph (3) of this subsection; and

107 (iii) Be subject to the following conditions:

108 (I) The charter school petitioner submits the charter petition in a good faith effort
109 seeking approval of such charter petition with the intent to operate a charter school;

110 (II) The charter petition substantially complies with the rules, regulations, policies,
111 and procedures promulgated in accordance with Code Section 20-2-2063;

112 (III) The terms and conditions of the right to lease, utilize, or buy the unused
113 facility shall be subject to good faith negotiations by and between the charter school
114 or charter school petitioner and the local board of education;

115 (IV) The right of a charter school or charter school petitioner to lease, utilize, or
116 buy the unused facility shall automatically terminate upon the adoption of a
117 resolution by the local board of education to reopen the school previously operated
118 at the unused facility or to open a new school at the unused facility, provided that
119 the attendance zone of such reopened school or new school shall comprise at least
120 90 percent of the attendance zone of the school previously operated at the unused
121 facility. Upon the termination of the right of a charter school or charter school
122 petitioner to lease, utilize, or buy an unused facility under this paragraph, the charter

123 school or charter school petitioner shall be entitled to compensation by the local
124 board of education for the consideration provided by the charter school or charter
125 school petitioner in exchange for such right; and
126 (V) A charter school petitioner's right to lease, utilize, or buy the unused facility
127 shall automatically terminate upon the denial by all possible authorizers of the
128 charter school petition. Upon the termination of the right of a charter school or
129 charter school petitioner to lease, utilize, or buy an unused facility under this
130 paragraph, the charter school or charter school petitioner shall be entitled to
131 compensation by the local board of education for the consideration provided by the
132 charter school or charter school petitioner in exchange for such right."

133

SECTION 3.

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