

## Senate Bill 59

By: Senators Albers of the 56th, Payne of the 54th, Miller of the 49th, Gooch of the 51st, Hufstetler of the 52nd and others

**AS PASSED**

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 prohibit the waiver of the early intervention  
3 program requirements in local school system flexibility contracts; to provide for additional  
4 QBE funding for each full-time equivalent student within a local charter school; to provide  
5 for a maximum amount of such funding available to each local charter school; to provide for  
6 direct allocation of appropriated funds to local charter schools by the State Board of  
7 Education; to provide an additional opportunity for existing charter schools to elect to  
8 participate in a health insurance plan for teachers and employees; to provide that certain  
9 employees of state charter schools shall be included in the definition of "public school  
10 employee" for purposes of the health insurance plan for public school employees; to require  
11 that new and renewed charters for charter schools and charter systems shall be subject to  
12 early intervention program requirements; to provide for the allocation and distribution of  
13 federal funds by local school systems to local charter schools; to require local boards of  
14 education to provide local charter schools with educational facilities; to provide for multiple  
15 effective dates; to provide for related matters; to repeal conflicting laws; to revise a  
16 definition; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

19 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
20 secondary education, is amended by revising Code Section 20-2-82, effective July 1, 2021,  
21 relating to contract terms for local school systems requesting flexibility, as follows:

22 "(e) The state board shall be authorized to approve a waiver or variance request of  
23 specifically identified state rules, regulations, policies, and procedures or provisions of  
24 this chapter upon the inclusion of such request in the local school system's proposed  
25 contract and in accordance with subsection (b) of Code Section 20-2-84. The goal for  
26 each waiver and variance shall be improvement of student performance. The state board  
27 shall not be authorized to waive or approve variances on any federal, state, and local  
28 rules, regulations, court orders, and statutes relating to civil rights; insurance; the  
29 protection of the physical health and safety of school students, employees, and visitors;  
30 conflicting interest transactions; the prevention of unlawful conduct; any laws relating  
31 to unlawful conduct in or near a public school; the early intervention program provided  
32 for in Code Section 20-2-153; any reporting requirements pursuant to Code Section  
33 20-2-320 or Chapter 14 of this title; the requirements of Code Section 20-2-210; the  
34 requirements of Code Section 20-2-211.1; or the requirements in subsection (c) of Code  
35 Section 20-2-327. A local school system that has received a waiver or variance shall  
36 remain subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, the  
37 requirement that it shall not charge tuition or fees to its students except as may be  
38 authorized for local boards by Code Section 20-2-133, and shall remain open to  
39 enrollment in the same manner as before the waiver request."

40

**SECTION 2.**

41 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
 42 secondary education, is amended by revising Code Section 20-2-165.1, relating to charter  
 43 system earnings for each full-time equivalent student and use of funds, as follows:

44 "20-2-165.1.

45 In addition to the amounts earned by a charter system or a local charter school pursuant to  
 46 subsection (b) of Code Section 20-2-161, a charter system or a local charter school shall  
 47 earn 3.785 percent of the base amount established pursuant to subsection (a) of Code  
 48 Section 20-2-161 for each full-time equivalent student in each school within the charter  
 49 system or each full-time equivalent student within the local charter school; provided,  
 50 however, that no individual charter system or local charter school shall receive more than  
 51 \$4.5 million in a fiscal year. The State Board of Education shall directly allocate the  
 52 amount of appropriated funds calculated pursuant to this Code section to each local charter  
 53 school. Funds appropriated pursuant to this Code section shall be used in accordance with  
 54 recommendations of the school level governing body established by the charter or to  
 55 advance student achievement goals and school level governance training objectives  
 56 pursuant to the charter."

57

**SECTION 3.**

58 Said chapter is further amended in Code Section 20-2-880, relating to definitions regarding  
 59 health insurance plan for public school teachers, by revising paragraph (4) as follows:

60 "(4) 'Public school teacher,' 'teacher,' and 'employee' mean and include any person  
 61 employed not less than half time in a professionally certificated capacity or position in  
 62 the public school systems of this state. The terms also mean and include ~~'Public school~~  
 63 ~~teacher,' 'teacher,' and 'employee' also mean~~ librarians and other personnel employed not  
 64 less than 30 hours per week by regional and county libraries; ~~'Public school teacher,'~~  
 65 ~~'teacher,' and 'employee' also mean~~ personnel employed by the high school program of

66 Georgia Military College; and ~~'Public school teacher,' 'teacher,' and 'employee'~~ also mean  
 67 any professionally certificated person who has acquired ten years or more of creditable  
 68 service and who is being paid retirement benefits by the Teachers Retirement System of  
 69 Georgia, Chapter 3 of Title 47, or by any other public school teacher retirement system  
 70 in this state. Such terms shall ~~'Public school teacher,' 'teacher,' and 'employee'~~ also mean  
 71 and include any person employed not less than half time and compensated in a  
 72 professionally certificated capacity or position in a charter school in this state established  
 73 pursuant to either Article 31 or Article 31A of this chapter if such charter school elects  
 74 to participate in the health insurance plan established pursuant to this subpart upon initial  
 75 approval of its charter or, if such charter school is an existing charter school, elects upon  
 76 renewal of its charter, upon notice by the health insurance plan provided in this part, or  
 77 upon the expiration of its current health care plan ~~or by no later than December 31, 2009,~~  
 78 ~~to participate in the health insurance plan established pursuant to this subpart.~~ Such terms  
 79 ~~'Public school teacher,' 'teacher,' and 'employee'~~ shall not be deemed to include any  
 80 emergency or temporary employee. Notwithstanding this definition or any other  
 81 provision of this subpart, the board may, by regulation, make available to employees who  
 82 work 17 1/2 hours or more per week such benefits as are required to be made available  
 83 to such employees by regulations of the United States Internal Revenue Service or any  
 84 other federal authority."

85

#### SECTION 4.

86 Said chapter is further amended in Code Section 20-2-910, relating to definitions regarding  
 87 health insurance plan for public school employees, by revising paragraph (3) as follows:

88 "(3) 'Public school employee' means an 'employee' as defined in paragraph (20) of Code  
 89 Section 47-4-2. Such term ~~'Public school employee'~~ also means and includes classroom  
 90 aides, paraprofessionals, and noncertified administrative and clerical personnel. It is  
 91 specifically provided, however, that ~~the~~ such term ~~'public school employee'~~ shall not

92 include any emergency or temporary employee or any other employee who works in a  
 93 position otherwise covered by such term less than 60 percent of the time required to carry  
 94 out the duties of such position. Such term also means and includes ~~'Public school~~  
 95 ~~employee'~~ also means any person, other than an employee in a professionally certificated  
 96 capacity or position, employed not less than half time and compensated in a charter  
 97 school in this state established pursuant to either Article 31 or Article 31A of Chapter 2  
 98 ~~of Title 20 this chapter~~ if such charter school elects to participate in the health insurance  
 99 plan established pursuant to this subpart upon initial approval of its charter or, if such  
 100 charter school is an existing charter school, ~~elects~~ upon renewal of its charter, upon notice  
 101 by the health insurance plan provided in this part, or upon the expiration of its current  
 102 health care plan ~~to participate in the health insurance plan established pursuant to this~~  
 103 ~~subpart~~. Notwithstanding this definition or any other provision of this subpart, the board  
 104 may, by regulation, make available to employees who work 17 1/2 hours or more per  
 105 week such benefits as are required to be made available to such employees by regulations  
 106 of the United States Internal Revenue Service or any other federal authority."

107

#### SECTION 5.

108 Said chapter is further amended in Code Section 20-2-2065, relating to waiver of provisions  
 109 of this title, requirements for operating, and control and management of schools under the  
 110 Charter Schools Act of 1988, by revising paragraphs (13) and (14) of subsection (b) and  
 111 adding a new paragraph to read as follows:

112 "(13) Subject to the provisions of Code Section 20-2-211.1 relating to fingerprint and  
 113 criminal background checks; ~~and~~

114 (14) Subject to the provisions of subsection (c) of Code Section 20-2-327 relating to  
 115 individual graduation plans; and

116 (15) Subject to the provisions of Code Section 20-2-153 relating to the early intervention  
 117 program."

118

**SECTION 6.**

119 Said chapter is further amended in Code Section 20-2-2068.1, relating to charter school  
120 funding, by revising subsection (c) as follows:

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

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

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

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

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

139 The product obtained in paragraph (4) of this subsection shall be the amount of local funds  
140 to be distributed to the local start-up charter school by the local board; provided, however,  
141 that nothing in this subsection shall preclude a charter petitioner and a local board of  
142 education from specifying in the charter a greater amount of local funds to be provided by  
143 the local board to the local start-up charter school if agreed upon by all parties to the  
144 charter. Local funds so earned shall be distributed to the local start-up charter school by

145 the local board. Where feasible and where services are provided, funds for construction  
146 projects shall also be distributed to the local start-up charter school as earned. In all other  
147 fiscal matters, including applicable federal allotments, the local board shall treat the local  
148 start-up charter school no less favorably than other local schools located within the  
149 applicable school system and shall calculate and distribute the funding for the start-up  
150 charter school on the basis of its actual or projected enrollment in the current school year  
151 according to an enrollment counting procedure or projection method stipulated in the terms  
152 of the charter. ~~The Department of Education shall implement procedures that ensure that~~  
153 ~~each local charter school receives from its local school system the~~ The local school system  
154 shall distribute to each local charter school the proportionate amount of federal funds for  
155 which such local charter school is eligible under each federal program, including, but not  
156 limited to, funds earned pursuant to Title I, Title II, and Title III of the federal Elementary  
157 and Secondary Education Act and pursuant to the federal Individuals with Disabilities  
158 Education Act. ~~The local school system shall distribute funds to a local start-up charter~~  
159 ~~school; provided, however, that by agreement between the local school system and the~~  
160 ~~local start-up charter school, the proportionate amount of federal funds for which the local~~  
161 ~~start-up charter school is eligible may be provided through the provision of in-kind services~~  
162 ~~by the local school system~~ a local charter school and a local board of education may  
163 mutually collaborate and agree upon specific ways for some or all of the charter school's  
164 proportionate amount of federal funds to be provided by the local school system through  
165 in-kind services, with the terms of such mutual agreement to be included in the charter.  
166 Local charter schools shall use any federal funds received pursuant to this subsection for  
167 the purposes of the federal program for which they were earned."

168

**SECTION 7.**

169 Said chapter is further amended in Code Section 20-2-2068.2, relating to facilities grants for  
170 charter schools, purposes for which grants may be used, upkeep of charter school property,  
171 and availability of unused facilities, by revising subsection (h) as follows:

172 "(h)(1) As used in this subsection, the term 'unused facilities' means real property of a  
173 local board of education, including educational facilities, as defined in Code Section  
174 20-2-260, which have not been used by the local board of education for the previous two  
175 years and which are not included in the local school system's five-year educational  
176 facilities plan.

177 (2) Each local board of education shall make its unused facilities available to local  
178 charter schools. The terms of ~~the~~ a local charter school's use of ~~such~~ a facility ~~by the~~  
179 ~~charter school~~ owned by a local board of education shall be subject to negotiation  
180 between the local board and the local charter school and shall be memorialized as a  
181 separate agreement. A local charter school that is allowed to use such a facility under  
182 such an agreement shall not sell or dispose of any interest in such property without the  
183 written permission of the local board. A local charter school may not be charged a rental  
184 or leasing fee for the existing facility or for property normally used by the public school  
185 which became the local charter school. A local charter school that receives property from  
186 a local board may not sell or dispose of such property without the written permission of  
187 the local board.

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

192

## SECTION 8.

193 (a) This Act shall become effective on July 1, 2021, except as otherwise provided in  
194 subsection (b) of this section.



195 (b) Code Section 20-2-165.1, as amended by this Act, shall become effective on July 1,  
196 2022.

197

**SECTION 9.**

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