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

To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to prohibit the waiver of the early intervention program requirements in local school system flexibility contracts; to provide for additional QBE funding for each full-time equivalent student within a local charter school; to provide for a maximum amount of such funding available to each local charter school; to provide for direct allocation of appropriated funds to local charter schools by the State Board of Education; to provide an additional opportunity for existing charter schools to elect to participate in a health insurance plan for teachers and employees; to provide that certain employees of state charter schools shall be included in the definition of "public school employee" for purposes of the health insurance plan for public school employees; to require that new and renewed charters for charter schools and charter systems shall be subject to early intervention program requirements; to provide for the allocation and distribution of federal funds by local school systems to local charter schools; to require local boards of education to provide local charter schools with educational facilities; to provide for multiple effective dates; to provide for related matters; to repeal conflicting laws; to revise a definition; and for other purposes.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

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

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

"20-2-165.1. In addition to the amounts earned by a charter system or a local charter school pursuant to subsection (b) of Code Section 20-2-161, a charter system or a local charter school shall earn 3.785 percent of the base amount established pursuant to subsection (a) of Code Section 20-2-161 for each full-time equivalent student in each school within the charter system or each full-time equivalent student within the local charter school; provided, however, that no individual charter system or local charter school shall receive more than $4.5 million in a fiscal year. The State Board of Education shall directly allocate the amount of appropriated funds calculated pursuant to this Code section to each local charter school. Funds appropriated pursuant to this Code section shall be used in accordance with recommendations of the school level governing body established by the charter or to advance student achievement goals and school level governance training objectives pursuant to the charter."

SECTION 3.

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

"(4) 'Public school teacher,' 'teacher,' and 'employee' mean and include any person employed not less than half time in a professionally certificated capacity or position in the public school systems of this state. The terms also mean and include 'Public school teacher,' 'teacher,' and 'employee' also mean librarians and other personnel employed not less than 30 hours per week by regional and county libraries; 'Public school teacher,' 'teacher,' and 'employee' also mean personnel employed by the high school program of..."
Georgia Military College: and 'Public school teacher,' 'teacher,' and 'employee' also mean any professionally certificated person who has acquired ten years or more of creditable service and who is being paid retirement benefits by the Teachers Retirement System of Georgia, Chapter 3 of Title 47, or by any other public school teacher retirement system in this state. Such terms shall 'Public school teacher,' 'teacher,' and 'employee' also mean and include any person employed not less than half time and compensated in a professionally certificated capacity or position in a charter school in this state established pursuant to either Article 31 or Article 31A of this chapter if such charter school elects to participate in the health insurance plan established pursuant to this subpart upon initial approval of its charter or, if such charter school is an existing charter school, elects upon renewal of its charter, upon notice by the health insurance plan provided in this part, or upon the expiration of its current health care plan or by no later than December 31, 2009, to participate in the health insurance plan established pursuant to this subpart. Such terms 'Public school teacher,' 'teacher,' and 'employee' shall not be deemed to include any emergency or temporary employee. Notwithstanding this definition or any other provision of this subpart, the board may, by regulation, make available to employees who work 17 1/2 hours or more per week such benefits as are required to be made available to such employees by regulations of the United States Internal Revenue Service or any other federal authority."

**SECTION 4.**

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

"(3) 'Public school employee' means an 'employee' as defined in paragraph (20) of Code Section 47-4-2. Such term 'Public school employee' also means and includes classroom aides, paraprofessionals, and noncertified administrative and clerical personnel. It is specifically provided, however, that the such term 'public school employee' shall not
include any emergency or temporary employee or any other employee who works in a position otherwise covered by such term less than 60 percent of the time required to carry out the duties of such position. Such term also means and includes 'Public school employee' also means any person, other than an employee in a professionally certificated capacity or position, employed not less than half time and compensated in a charter school in this state established pursuant to either Article 31 or Article 31A of Chapter 2 of Title 20 this chapter if such charter school elects to participate in the health insurance plan established pursuant to this subpart upon initial approval of its charter or, if such charter school is an existing charter school, elects upon renewal of its charter, upon notice by the health insurance plan provided in this part, or upon the expiration of its current health care plan to participate in the health insurance plan established pursuant to this subpart. Notwithstanding this definition or any other provision of this subpart, the board may, by regulation, make available to employees who work 17 1/2 hours or more per week such benefits as are required to be made available to such employees by regulations of the United States Internal Revenue Service or any other federal authority."

SECTION 5.

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

"(13) Subject to the provisions of Code Section 20-2-211.1 relating to fingerprint and criminal background checks; and
(14) Subject to the provisions of subsection (c) of Code Section 20-2-327 relating to individual graduation plans; and
(15) Subject to the provisions of Code Section 20-2-153 relating to the early intervention program."
SECTION 6.

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

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

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

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

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

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

The product obtained in paragraph (4) of this subsection shall be the amount of local funds to be distributed to the local start-up charter school by the local board; provided, however, that nothing in this subsection shall preclude a charter petitioner and a local board of education from specifying in the charter a greater amount of local funds to be provided by the local board to the local start-up charter school if agreed upon by all parties to the charter. Local funds so earned shall be distributed to the local start-up charter school by
the local board. Where feasible and where services are provided, funds for construction
projects shall also be distributed to the local start-up charter school as earned. In all other
fiscal matters, including applicable federal allotments, the local board shall treat the local
start-up charter school no less favorably than other local schools located within the
applicable school system and shall calculate and distribute the funding for the start-up
charter school on the basis of its actual or projected enrollment in the current school year
according to an enrollment counting procedure or projection method stipulated in the terms
of the charter. The Department of Education shall implement procedures that ensure that
each local charter school receives from its local school system the proportionate amount of federal funds for
which such local charter school is eligible under each federal program, including, but not
limited to, funds earned pursuant to Title I, Title II, and Title III of the federal Elementary
and Secondary Education Act and pursuant to the federal Individuals with Disabilities
Education Act. The local school system shall distribute to each local charter school the proportionate amount of federal funds for
which the local start-up charter school is eligible may be provided through the provision of in-kind services
by the local school system. A local charter school and a local board of education may
mutually collaborate and agree upon specific ways for some or all of the charter school's
proportionate amount of federal funds to be provided by the local school system through
in-kind services, with the terms of such mutual agreement to be included in the charter.
Local charter schools shall use any federal funds received pursuant to this subsection for
the purposes of the federal program for which they were earned."

SECTION 7.

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

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

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

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

SECTION 8.

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

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

SECTION 9.

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