

House Bill 318 (AS PASSED HOUSE AND SENATE)

By: Representatives Hilton of the 48th, Jones of the 47th, Dubnik of the 29th, Thomas of the 21st, Mainor of the 56th, 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 revise the eligibility criteria for certain capital
3 outlay grants for low-wealth school systems; to provide for the authority of the State Board
4 of Education to establish rules and regulations; to provide for the reestablishment of the
5 Office of Charter School Compliance under the State Charter Schools Commission; to
6 provide for the staffing of such office; to provide that staff of the Office of Charter School
7 Compliance shall report directly to the State Board of Education; to establish the Office of
8 District Flexibility; to provide for the respective staffing and responsibilities of the Office
9 of Charter School Compliance and the Office of District Flexibility; to provide for the
10 employment and administrative assignment of personnel to staff the State Charter Schools
11 Commission; to provide for conditions upon which the State Board of Education and local
12 boards of education may request letters of assurance from charter schools; to provide for
13 conditions upon which the Department of Education, the State Charter Schools Commission,
14 and local school systems may withhold or retain certain percentages of funding from charter
15 schools for providing administrative or other services to such charter schools; to provide for
16 the calculation of local funding for local charter schools during the first year of a local
17 charter school's operation, during the first year a local charter school offers a new grade, or
18 in an upcoming school year when a local charter school is projected to exceed certain student
19 growth metrics; to provide for construction and applicability; to amend Code Section
20 20-2-506 of the Official Code of Georgia Annotated, relating to definitions and authority to

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21 enter into multiyear lease, purchase, or lease purchase contracts, so as to revise definitions;
22 to provide for related matters; to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 **SECTION 1.**

25 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
26 secondary education, is amended by revising subsection (d) and adding two new subsections
27 to Code Section 20-2-262, relating to low-wealth capital outlay grants to local school systems
28 and criteria for eligibility, to read as follows:

29 ~~“(d) Local~~ Except as provided for in subsection (d.1) of this Code section and subject to
30 available funding, local school systems which meet the following criteria shall be eligible
31 for a low-wealth capital outlay grant:

32 (1)(A)(i) The amount of sales tax revenues per unit in the full-time equivalent student
33 count of the local school system is currently ranked in the bottom 25 percent of local
34 school systems for sales tax revenues per unit in the full-time equivalent student count
35 or was so ranked during any of the three most recently completed school years; and
36 (ii) The value of property per unit in the full-time equivalent student count of the
37 local school system is currently ranked in the bottom 25 percent of local school
38 systems for value of property per unit in the full-time equivalent student count or was
39 so ranked during any of the three most recently completed school years;

40 (B) For local school systems in which the amount of special purpose local option sales
41 tax revenues is ranked in the bottom 25 percent of eligible local school systems
42 receiving such sales tax revenues, such systems may submit a request to the department
43 for consideration; provided, however, that the local school system shall be required to
44 commit the equivalent of five years of such revenues for the project. The department
45 shall consider factors such as the high cost of a project, the local school system's ability

46 to manage the project on its own, and the needs of the local school system, in
47 determining whether to approve a project pursuant to this subparagraph; or

48 (C) For local school systems that are consolidating educational facilities that are more
49 than 35 years old in accordance with a local facilities plan, the amount of special
50 purpose local option sales tax revenues for a local school system over a five-year period
51 would not generate the required local contribution, as determined pursuant to
52 subsection (c) of this Code section;

53 (2) The local school system's millage rate for maintenance and operation is at least 12
54 mills or an equivalent millage thereof;

55 (3) A special purpose local option sales tax is in effect in the local school district or the
56 local school system has in place a millage rate for debt service on bonds, or both; and

57 (4) The local school system uses prototypical specifications as defined by the State
58 Board of Education for the project.

59 (d.1) If the Department of Education determines that a local school system's system-wide
60 eligible need has been met as a result of such local school system having received a capital
61 outlay grant pursuant to subparagraph (d)(1)(B) or (d)(1)(C) of this Code section, then such
62 local school system shall not be eligible to receive another capital outlay grant pursuant to
63 subparagraph (d)(1)(B) or (d)(1)(C) of this Code section for a period of ten years from the
64 date such grant was received."

65 "(g) The State Board of Education shall establish rules and regulations to implement the
66 provisions of this Code section. Such rules shall provide for, but shall not be limited to,
67 the following:

68 (1) The prioritization of eligible local school systems in the event that available funds
69 are not sufficient to cover the full amount of capital outlay grants provided for in this
70 Code section. In such event, eligible local school systems with lesser amounts of special
71 purpose local option sales tax revenues shall be prioritized over eligible local school
72 systems with higher amounts of such revenues; and

73 (2) The manner and method by which the Department of Education shall determine
 74 whether a local school system's system-wide eligible need has been met as a result of
 75 such local school system having received a capital outlay grant pursuant to
 76 subparagraph (d)(1)(B) or (d)(1)(C) of this Code section."

77 **SECTION 2.**

78 Said chapter is further amended in by revising subsection (f) of Code Section 20-2-2063.1,
 79 relating to Charter Advisory Committee Established, members, and duties, as follows:

80 "(f) The committee shall work in cooperation with the Office of Charter School
 81 Compliance, as established pursuant to subsection (a) of Code Section 20-2-2069."

82 **SECTION 3.**

83 Said chapter is further amended by revising subsections (c) and (e) of Code Section
 84 20-2-2063.2, relating to charter systems, as follows:

85 "(c) Prior to approval or denial of a charter petition for a charter system, the state board
 86 shall receive and give all due consideration to the recommendation and input from the
 87 Office of District Flexibility established in subsection (b) of Code Section 20-2-2069
 88 ~~Charter Advisory Committee established in Code Section 20-2-2063.1.~~ The state board
 89 shall approve the charter if the state board finds, after receiving input from the ~~Charter~~
 90 ~~Advisory Committee~~ Office of District Flexibility, that the petition complies with the rules,
 91 regulations, policies, and procedures promulgated pursuant to Code Section 20-2-2063 and
 92 the provisions of this title, is in the public interest, and promotes school level governance.
 93 A charter for a charter system shall include the interventions, sanctions, and loss of
 94 governance consequences contained in Code Section 20-14-41. A charter for a charter
 95 system shall require that the local school system has not been designated as a high-risk
 96 local school system by the Department of Audits and Accounts pursuant to Code Section
 97 20-2-67, or if it has been designated as a high-risk local school system, the charter shall

98 require that the local school system has a written corrective action plan in place and that
99 local school system board members and appropriate personnel participate in required
100 training to address the deficiencies."

101 "(e)(1) Subject to appropriations by the General Assembly or other available funding, the
102 state board, after receiving input and recommendations from the ~~Charter Advisory~~
103 ~~Committee~~, Office of District Flexibility shall disburse planning grants to local school
104 systems which desire to become charter systems. Such grants will be disbursed in
105 accordance with any applicable guidelines, policies, and requirements established by the
106 state board.

107 (2) Subject to specific appropriations by the General Assembly for this purpose, the state
108 board shall disburse implementation grants in the amount of \$125,000.00 or such other
109 amount as determined by the state board to each charter system. The state board shall be
110 authorized to approve up to five petitions for charter systems during fiscal year 2008, and
111 may approve up to a maximum number of petitions in following years as may be
112 established pursuant to board rules and as subject to availability of funding for
113 implementation grants."

114 **SECTION 4.**

115 Said chapter is further amended by revising subsection (a) of Code Section 20-2-2065,
116 relating to waiver of provisions of this title, requirements for operating, and control and
117 management, as follows:

118 "(a)(1) Except as provided in this article or in a charter, a charter school, or for charter
119 systems, each school within the system, shall not be subject to the provisions of this title
120 or any state or local rule, regulation, policy, or procedure relating to schools within an
121 applicable school system regardless of whether such rule, regulation, policy, or procedure
122 is established by the local board, the state board, or the Department of Education;
123 provided, however, that the state board may establish rules, regulations, policies, or

124 procedures consistent with this article relating to charter schools; and provided, further,
 125 that the state board and local boards may request letters of assurance from charter
 126 schools, subject to the following conditions:

127 (A) No provision contained in such requested letter of assurance shall supersede or be
 128 applied or construed to supersede the charter school's charter, constitute an addendum
 129 to such charter, or supersede any aspect of state or federal law; and

130 (B) The charter school shall have a minimum of 30 days from the date such letter of
 131 assurance is requested to provide a written response.

132 (2) A waiver granted pursuant to this Code section for a charter system shall apply to
 133 each system charter school within the system. In exchange for such a waiver, the charter
 134 school agrees to meet or exceed the performance based goals included in the charter and
 135 approved by the local board or, for the charter system, the system agrees to meet or
 136 exceed the system-wide performance based goals included in the charter and approved
 137 by the state board, including but not limited to raising student achievement. For a charter
 138 system, the charter shall delineate the performance based goals that the system and each
 139 school will be expected to meet as well as the criteria by which a system charter may be
 140 revoked in addition to those contained in Code Section 20-2-2068."

141 **SECTION 5.**

142 Said chapter is further amended by revising subsections (c.2), (d), and (i) of Code Section
 143 20-2-2068.1, relating to charter school funding, as follows:

144 "(c.2) For newly approved local charter schools, including charter renewals, the local board
 145 of education may retain an amount of the charter school's per pupil share of state and local
 146 funding not to exceed 3 percent of the total funds earned by the charter school to reimburse
 147 the local school system for administrative services actually provided to the charter school,
 148 subject to the following conditions:

149 (1) Any funds retained pursuant to this subsection shall be spent solely and directly on
150 expenses incurred by the local school system in performing the duties required by this
151 article and State Board of Education rules and regulations with respect to local charter
152 schools;

153 (2) The local school system shall itemize and assign a value to such administrative
154 services actually provided to the local charter school; and

155 (3) The unspent portion of such retained funds shall be refunded to the local charter
156 school no later than June 30 each year."

157 "(d)(1) Effective July 1, 2012, except as otherwise provided in paragraph (2) of this
158 subsection, the department shall pay to each state chartered special school through
159 appropriation of state funds an amount equal to the sum of:

160 (A)(i) QBE formula earnings and QBE grants earned by the state chartered special
161 school based on the school's enrollment, school profile, and student characteristics.
162 For purposes of this subparagraph, the term 'QBE formula earnings' means funds
163 earned for the Quality Basic Education Formula pursuant to Code Section 20-2-161,
164 including the portion of such funds that are calculated in accordance with Code
165 Section 20-2-164. QBE formula earnings shall include the salary portion of direct
166 instructional costs, the adjustment for training and experience, the nonsalary portion
167 of direct instructional costs, and earnings for psychologists and school social workers,
168 school administration, facility maintenance and operation, media centers, additional
169 days of instruction in accordance with Code Section 20-2-184.1, and staff
170 development, as determined by the department; and

171 (ii) A proportional share of earned state categorical grants, non-QBE state grants,
172 transportation grants, school nutrition grants, and all other state grants, except state
173 equalization grants, as determined by the department;

174 (B) The state-wide average amount of the total revenues less federal revenues less state
175 revenues other than equalization grants per full-time equivalent for all school systems;

176 provided, however, that, if the average amount of the total revenues less federal
177 revenues less state revenues other than equalization grants per full-time equivalent for
178 the local school systems that comprise the attendance zone of the state chartered special
179 school is less than the state-wide average amount of the total revenues less federal
180 revenues less state revenues other than equalization grants per full-time equivalent for
181 all school systems, the state chartered special school shall receive the greater of:

182 (i) The average amount of the total revenues less federal revenues less state revenues
183 other than equalization grants per full-time equivalent for the local school systems
184 that comprise the attendance zone of the state chartered special school; or

185 (ii) The average amount of the total revenues less federal revenues less state revenues
186 other than equalization grants per full-time equivalent for the lowest five school
187 systems ranked by assessed valuation per weighted full-time equivalent count, as
188 determined by the department; and

189 (C)(i) For brick-and-mortar state chartered special schools, the state-wide average
190 total capital revenue, excluding local revenue bonds, per full-time equivalent, as
191 determined by the department or the capital revenue per full-time equivalent for the
192 local school system where the brick-and-mortar state chartered special school is
193 located, whichever is greater; and

194 (ii) For state chartered special schools that offer virtual instruction, an amount equal
195 to 25 percent of the state-wide average total capital revenue per full-time equivalent
196 if such school provides computer hardware, software, associated technical equipment,
197 and ongoing maintenance required and necessary for its students to participate in such
198 virtual instruction.

199 (2) In the event that a state chartered special school offers virtual instruction, the amount
200 of funds received pursuant to subparagraph (B) of paragraph (1) of this subsection shall
201 be equal to two-thirds of such calculated amount; provided, however, that this two-thirds

202 amount may be increased by any amount up to the originally calculated amount in the
203 discretion of the department if relevant factors warrant such increase.

204 (3) For purposes of this subsection, the terms:

205 (A) 'Assessed valuation' is defined as 40 percent of the equalized adjusted property tax
206 digest reduced by the amount calculated pursuant to subsection (g) of Code Section
207 20-2-164.

208 (B) 'Assessed valuation per weighted full-time equivalent count' is defined as the
209 assessed valuation for the most recent year available divided by the weighted full-time
210 equivalent count for the year of the digest.

211 (4) The department may withhold up to 3 percent of the amount determined pursuant to
212 paragraphs (1) and (2) of this subsection for each state chartered special school for use
213 in administering the duties required pursuant to this article with respect to state chartered
214 special schools; ~~provided, however,~~ subject to the following conditions:

215 (A) Any that any amount withheld pursuant to this subsection paragraph shall be spent
216 solely and directly on expenses incurred by the department in performing the duties
217 required by this article with respect to state chartered special schools;

218 (B) The department shall itemize and assign a value to each such duty performed; and

219 (C) The unspent portion of the amount withheld shall be refunded to the state chartered
220 special school no later than June 30 each year.

221 (5) No deduction shall be made to any state funding which a local school system is
222 otherwise authorized to receive pursuant to this chapter as a direct result or consequence
223 of the enrollment in a state chartered special school of a specific student or students who
224 reside in the geographical area of the local school system.

225 (6) Funding for state chartered special schools pursuant to this subsection shall be subject
226 to appropriations by the General Assembly and such schools shall be treated consistently
227 with all other public schools in this state, pursuant to the respective statutory funding
228 formulas and grants.

229 (7) The local board shall not be responsible for the fiscal management, accounting, or
230 oversight of the state chartered special school. The state chartered special school shall
231 report enrolled students in a manner consistent with Code Section 20-2-160. Any data
232 required to be reported by the state chartered special school shall be submitted directly
233 by the school to the appropriate state agency. Where feasible, the state board shall treat
234 a state chartered special school no less favorably than other public schools within the
235 state with respect to the provision of funds for transportation and building programs."

236 "(i)(1) For purposes of funding students enrolled in a local charter school in the first year
237 of such school's operation, in the first year that an existing local charter school offers a
238 new grade level, or in an upcoming year in which student growth in the existing local
239 charter school is projected to exceed 2 percent if authorized by the charter, and prior to
240 the initial student count, the state board shall calculate and the Department of Education
241 shall distribute the funding for the local charter school on the basis of its projected
242 enrollment according to an enrollment counting procedure or projection method
243 stipulated in the terms of the charter. Such initial funding shall include the adjustments
244 in each program for training and experience. No later than July 1 of each year, the state
245 board shall notify the Department of Education and the Office of Planning and Budget
246 of the funding estimates calculated pursuant to this subsection for any new local charter
247 schools, any new grade levels offered by existing local charter schools, or any existing
248 local charter schools with projected student growth exceeding 2 percent. After the initial
249 student count during the first year of such local charter school's operation, newly offered
250 grade level, or projected student growth exceeding 2 percent and in all years of operation
251 thereafter, each local charter school's student enrollment shall be based on the actual
252 enrollment in the current school year according to the most recent student count.

253 (2) Local boards shall provide state and local funding to local charter schools pursuant
254 to this subsection based on actual student enrollment; provided, however, that a local
255 charter school shall not be entitled to local funding greater than the amount calculated

256 based on the school-wide total enrollment cap as provided in the school's charter. A local
 257 charter school that exceeds the enrollment cap provided for in such school's charter by
 258 no more than 2 percent shall not be deemed to have exceeded the enrollment cap
 259 provisions of such charter.

260 (3) Nothing in this Code section shall be construed to require the Department of
 261 Education to conduct more than two student counts per year."

262 **SECTION 6.**

263 Said chapter is further amended by revising subsection Code Section 20-2-2069, relating to
 264 Office of Charter School Compliance, as follows:

265 "20-2-2069.

266 (a) There is established within the ~~Department of Education~~ State Charter Schools
 267 Commission an Office of Charter School Compliance, which shall be staffed with
 268 personnel as provided for in subsection (d.1) of Code Section 20-2-2082, who shall report
 269 directly to the State Board of Education for purposes of this subsection. The ~~the~~
 270 responsibilities of ~~which~~ such office shall be to:

- 271 (1) Prepare charter school ~~and charter system~~ guidelines to be approved by the state
 272 board;
- 273 (2) Distribute charter school ~~and charter system~~ petition information to inquiring parties;
- 274 (3) Process all charter school ~~and charter system~~ petitions and coordinate with the
 275 Charter Advisory Committee established pursuant to Code Section 20-2-2063.1 to
 276 facilitate its review and recommendations to the state board;
- 277 (4) Administer any state or federal charter school implementation grant program;
- 278 (5) Contract with an independent party to evaluate the performance of charter schools
 279 ~~and charter systems~~, as such performance relates to fulfilling the terms of their charters;
 280 and

281 (6) Compile information necessary to produce the annual report required by Code
282 Section 20-2-2070; and

283 (7) Assist local school systems as charter school authorizers as challenges arise, support
284 local school systems as needed to implement best practices in charter school
285 authorization, and regularly engage with local school systems to promote charter school
286 authorization at the local level.

287 (b) There is established within the Department of Education an Office of District
288 Flexibility, the responsibilities of which shall be to:

289 (1) Prepare charter system guidelines to be approved by the state board;

290 (2) Distribute charter system petition information to inquiring parties;

291 (3) Process all charter system petitions and coordinate with the Charter Advisory
292 Committee established pursuant to Code Section 20-2-2063.1 to facilitate its review and
293 recommendations to the state board;

294 (4) Administer any state or federal charter school implementation grant program;

295 (5) Contract with an independent party to evaluate the performance of charter systems,
296 as such performance relates to fulfilling the terms of their charters; and

297 (6) Compile information necessary to produce the annual report required by Code
298 Section 20-2-2070."

299 **SECTION 7.**

300 Said chapter is further amended in Code Section 20-2-2082, relating to State Charter Schools
301 Commission, members, and operations, by revising subsections (a) and (d) and by adding a
302 new subsection to read as follows:

303 "(a) The State Charter Schools Commission is established as a state-level authorizing
304 entity working in collaboration with the Department of Education under the authority of
305 the State Board of Education. ~~Start-up funds~~ Funds necessary to establish and operate the
306 commission, including, but not limited to, funds to employ commission staff personnel,

307 may be received by the State Board of Education in addition to such other funds as may be
308 appropriated by the General Assembly. The department shall assist in securing federal and
309 other institutional grant funds to establish the commission."

310 "(d) The commission shall determine the manner in which it reviews state charter school
311 petitions and may, in its discretion, use existing department personnel to conduct such
312 review.

313 (d.1)(1) The commission shall be authorized to employ staff personnel as necessary to
314 accomplish commission objectives, including, but not limited to, reviewing state charter
315 school petitions, staffing the Office of Charter School Compliance as provided for in
316 subsection (a) of Code Section 20-2-2069, and performing such other duties as provided
317 by law; provided, however, that such personnel shall be assigned to the department for
318 administrative purposes only, as provided in Code Section 50-4-3.

319 (2) Nothing in this subsection or in subsection (a) of Code Section 20-2-2069 shall be
320 construed or applied to provide the commission with any role in or responsibility for the
321 oversight of local charter schools."

322 **SECTION 8.**

323 Said chapter is further amended by revising subsection (b) of Code Section 20-2-2089,
324 relating to funding for state charter schools, as follows:

325 "(b) The department may withhold up to 3 percent of the amount determined pursuant to
326 subsection (a) of this Code section for each state charter school for use in administering the
327 duties required pursuant to Code Section 20-2-2083; ~~provided, however, that any, subject~~
328 to the following conditions:

329 (1) Any amount withheld pursuant to this subsection shall be spent solely and directly
330 on expenses incurred by the commission in performing the duties required by this article;

331 (2) The commission shall itemize and assign a value to each such duty performed; and

332 (3) The unspent portion of the amount withheld shall be refunded to the state charter
333 school no later than November 1 each year."

334 **SECTION 9.**

335 Code Section 20-2-506 of the Official Code of Georgia Annotated, relating to definitions and
336 authority to enter into multiyear lease, purchase, or lease purchase contracts, is amended by
337 revising subsections (a) and (b) as follows:

338 "(a) As used in this Code section, the term:

339 (1) 'Energy cost savings measure' means a facility alteration, a training program
340 incidental to the contract, or an equipment purchase to be used in building a retrofit,
341 addition, or renovation or in new construction which reduces energy or water
342 consumption, wastewater production, or operating costs, or is designed to generate
343 revenue, and includes, but is not limited to, any one of the following:

344 (A) Insulating the building structure or structures within the building, including
345 caulking or weather-stripping;

346 (B) Installing storm windows or doors, multiglazed windows or doors, heat absorbing
347 or heat reflective glazed and coated window or door systems, or other window or door
348 systems designed to reduce energy consumption;

349 (C) Installing automated or computerized energy control systems;

350 (D) Modifying or replacing heating, ventilating, or air-conditioning systems;

351 (E) Replacing or modifying lighting fixtures to increase the energy efficiency of the
352 lighting system;

353 (F) Improving indoor air quality to conform to the applicable state or local building
354 code requirements;

355 (G) Installing energy recovery systems;

356 (H) Installing cogeneration systems that produce steam or forms of energy such as heat
357 and electricity for use primarily within a building or complex of buildings;

358 (I) Life safety measures that provide long-term operating cost reductions and are in
359 compliance with state and local codes, and building operation programs that reduce
360 operating costs; and

361 (J) Any other measure not otherwise defined in this Code section which is designed to
362 reduce energy or water consumption, reduce wastewater production, avoid capital costs,
363 or achieve similar efficiency gains by the county, independent, or area school system.

364 (2) 'Guaranteed energy ~~saving~~ savings performance contract' means a contract for the
365 implementation of one or more energy cost savings measures providing that all payments
366 except obligations on termination of the contract before its expiration are to be made over
367 time and the energy cost savings are guaranteed to the extent necessary to make payments
368 for the contract.

369 (b) Except as otherwise provided in this Code section, each county, independent, or area
370 school system in this state shall be authorized to enter into multiyear lease, purchase, or
371 lease purchase contracts of all kinds for the acquisition of goods, materials, real and
372 personal property, services, and supplies, provided that any such contract shall contain
373 provisions for the following:

374 (1) The contract shall terminate absolutely and without further obligation on the part of
375 the school system at the close of the calendar year in which it was executed and at the
376 close of each succeeding calendar year for which it may be renewed as provided in this
377 Code section;

378 (2) The contract may provide for automatic renewal unless positive action is taken by the
379 school system to terminate such contract, and the nature of such action shall be
380 determined by the school system and specified in the contract;

381 (3) The contract shall state the total obligation of the school system for the calendar year
382 of execution and shall further state the total obligation which will be incurred in each
383 calendar year renewal term, if renewed;

384 (4) The total combined annual payments for contracts under this Code section and
385 contracts of such school system under Article IX, Section III, Paragraph I of the
386 Constitution in any calendar year, excluding guaranteed energy savings performance
387 contracts, shall not exceed an amount equal to 7.5 percent of the total local revenue
388 collected for maintenance and operation of the school system in the most recently
389 completed fiscal year; provided, however, that the foregoing limitation shall not apply to
390 contracts with other public educational entities, including school systems in this state, for
391 the education of students; and

392 (5) For each guaranteed energy savings performance contract, a school system shall
393 document the historical energy cost of each structure affected for a period of at least one
394 year prior to the date of the contract and shall document the monthly energy cost and
395 monthly energy savings of each affected structure for the life of the contract."

396

SECTION 10.

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