

House Bill 441

By: Representatives Fleming of the 121st, Harbin of the 122nd, Dudgeon of the 25th, Sims of the 123rd, Coleman of the 97th, 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 enact the "Flexibility for Student Achievement
3 Act"; to provide for definitions; to categorize high performing school systems; to establish
4 requirements; to provide for full flexibility for high performing school systems; to provide
5 for statutory construction; to provide for rules and regulations; to revise provisions relating
6 to waivers to improve student performance; to provide for related matters; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
11 secondary education, is amended by repealing Article 4, relating to increased flexibility for
12 local school systems, and inserting in lieu thereof the following:

13 "ARTICLE 4

14 20-2-80.

15 This article shall be known and may be cited as the 'Flexibility for Student Achievement
16 Act.'

17 20-2-81.

18 For purposes of this article, the term:

19 (1) 'CCRPI' means the College and Career Ready Performance Index established by the
20 State Board of Education for purposes of determining individual school and school
21 system ratings in accordance with Code Section 20-14-33.

22 (2) 'High performing school system' means a local school system which has a school
23 system rating greater than or equal to 80.

24 (3) 'Rating' means the individual school and school system ratings determined annually
 25 by the Office of Student Achievement pursuant to Code Section 20-14-33 and based on
 26 the CCRPI.

27 (4) 'State board' means the State Board of Education.

28 20-2-82.

29 (a)(1) Beginning in school year 2016-2017, each local school system shall be rated
 30 pursuant to this Code section.

31 (2) Initial school system ratings shall be based on the higher of:

32 (A) A two-year average of CCRPI scores for each school system, based on the
 33 2013-2014 and 2014-2015 CCRPI for individual schools and averaged to determine the
 34 school system rating; or

35 (B) The most recent CCRPI overall score for the school system.

36 (3) Subsequent ratings shall be based on the higher of:

37 (A) A three-year average of CCRPI scores for each school system, based on the
 38 previous three years CCRPI for individual schools and averaged to determine the
 39 school system rating; or

40 (B) The most recent CCRPI overall score for the school system.

41 (b) A high performing school system may elect, at any time, to seek a charter with the state
 42 board to establish the local school system as a charter system in accordance with Code
 43 Section 20-2-2063.2.

44 (c) On and after July 1, 2015, a school system that has a contract with the state board
 45 which was executed pursuant to the provisions of this article as they existed on June 30,
 46 2015, shall be entitled to continue to be subject to the rights and responsibilities contained
 47 in the contract between such school system and the state board through the expiration of
 48 the contract term; provided, however, that the state board may extend the term of any such
 49 contract to June 30, 2017, if the initial term of the contract expires between June 30, 2015,
 50 and such date; provided, further, that notwithstanding the provisions of Code Section
 51 20-2-84 as it existed on June 30, 2015, consequences for noncompliance shall not be
 52 imposed until the end of the five-year term of the contract, and in imposing any such
 53 consequences, the state board shall take into consideration whether the school system is a
 54 high performing school system. Upon termination or expiration of any such contract and
 55 extension, if applicable, such school system shall be subject to the provisions of this article.

56 20-2-83.

57 (a) A high performing school system shall be automatically exempt from the provisions
58 of this title and rules, regulations, policies, and procedures relating to schools, except as
59 otherwise provided by Code Section 20-2-84.

60 (b) A high performing school system shall retain such exemption for a period of three
61 years, regardless of whether the school system continues to meet the criteria to be a high
62 performing school system.

63 20-2-84.

64 (a) All high performing school systems shall be subject to:

65 (1) Federal, state, and local rules, regulations, court orders, and statutes relating to civil
66 rights; insurance; the protection of the physical health and safety of school students,
67 employees, and visitors; conflicting interest transactions; and the prevention of unlawful
68 conduct;

69 (2) Laws relating to unlawful conduct in or near a public school;

70 (3) The provisions of Part 3 of Article 2 of Chapter 14 of this title;

71 (4) The reporting requirements of Code Section 20-2-160, subsection (e) of Code Section
72 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;

73 (5) The requirement that a local board of education shall not charge tuition or fees to its
74 students except as may be authorized for local boards by Code Section 20-2-133;

75 (6) The provisions of Code Section 20-2-1050 requiring a brief period of quiet reflection;

76 (7) The provisions of Code Section 20-2-211.1, relating to fingerprint and criminal
77 background checks;

78 (8) The provisions of subsection (c) of Code Section 20-2-327, relating to individual
79 graduation plans;

80 (9) The expenditure requirements relating to school nurses pursuant to paragraph (5) of
81 subsection (a) of Code Section 20-2-186; and

82 (10) The annual performance evaluation requirements in Code Section 20-2-210.

83 (b) All high performing school systems shall be subject to periodic verification and
84 inspection by the Department of Education and the Office of Student Achievement to
85 confirm that such school systems are complying with the requirements of this article and
86 any flexibility and accountability measures approved by the state board pursuant to this
87 article or Code Section 20-2-2063.2.

88 20-2-84.1.

89 (a) Nothing in this article shall preclude the establishment of a charter school or the
 90 conversion of an existing school to a charter school within a high performing school
 91 system.

92 (b) Nothing in this article shall be construed to waive any obligations a local school system
 93 or the state board has with respect to any grant agreement or any federal reporting or
 94 monitoring requirements.

95 20-2-84.2.

96 The state board shall establish rules, regulations, and guidelines to effect the
 97 implementation of this article."

98 **SECTION 2.**

99 Said chapter is further amended by revising paragraph (2) of subsection (a) and paragraph
 100 (1) of subsection (b) of Code Section 20-2-211.1, relating to clearance certificates issued by
 101 the Professional Standards Commission, as follows:

102 "(2) 'Educator' means a teacher, school or school system administrator, or other education
 103 personnel who would, if not exempted pursuant to a charter under Article 31 or 31A of
 104 this chapter or ~~an increased flexibility contract~~ as a high performing school system under
 105 Article 4 of this chapter, be required to hold a professional educator certificate, license,
 106 or permit issued by the Professional Standards Commission and persons who have
 107 applied for but have not yet received such a certificate, license, or permit."

108 "(b)(1) On and after January 1, 2011, all educators employed by a local unit of
 109 administration shall hold a valid clearance certificate; provided, however, that an
 110 educator who possesses a professional educator certificate as of January 1, 2011, shall not
 111 be required to obtain a clearance certificate until his or her professional educator
 112 certificate is up for renewal. A local unit of administration may employ an educator who
 113 does not already hold a valid clearance certificate, provided the individual has applied for
 114 a clearance certificate, for a maximum of 20 days in order to allow for the receipt of the
 115 results of the criminal record check and issuance of the clearance certificate. The
 116 requirements of this Code section shall be in addition to professional educator certificate
 117 requirements unless such educator is employed by a school which is exempt from teacher
 118 certification requirements pursuant to a charter under Article 31 or 31A of this chapter
 119 or ~~an increased flexibility contract~~ as a high performing school system under Article 4 of
 120 this chapter."

SECTION 3.

121
122 Said chapter is further amended by revising Code Section 20-2-244, relating to waivers to
123 improve student performance, as follows:

124 "20-2-244.

125 (a) The State Board of Education is authorized to waive specifically identified state rules,
126 regulations, policies, and procedures, or provisions of this chapter, upon the request of a
127 local school board and in accordance with this Code section. The goal for each waiver
128 shall be improvement of student performance.

129 (b) The State Board of Education is not authorized to waive any federal, state, and local
130 rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection
131 of the physical health and safety of school students, employees, and visitors; conflicting
132 interest transactions; the prevention of unlawful conduct; any laws relating to unlawful
133 conduct in or near a public school; any reporting requirements pursuant to Code Section
134 20-2-320 or Chapter 14 of this title; the requirements of Code Section 20-2-211.1; ~~or~~ the
135 requirements in subsection (c) of Code Section 20-2-327; or the annual performance
136 evaluation requirements in Code Section 20-2-210. A school or school system that has
137 received a waiver shall remain subject to the provisions of Part 3 of Article 2 of Chapter
138 14 of this title, the requirement that it shall not charge tuition or fees to its students except
139 as may be authorized for local boards by Code Section 20-2-133, and shall remain open to
140 enrollment in the same manner as before the waiver request.

141 (c) The provisions of this Code section shall not apply to charter schools, as charter
142 schools are afforded flexibility pursuant to Articles 31 and 31A of this chapter.

143 (d) The board shall require a written application for a waiver that shall include, at a
144 minimum:

- 145 (1) Identification of the specific state rules, regulations, policies, and procedures, or
146 provisions of this chapter that are requested for waiver;
- 147 (2) A description of the policies and procedures the school or school system shall
148 substitute for the waived state rules, regulations, policies, and procedures, or provisions;
- 149 (3) A description of how the proposed waiver will improve student performance;
- 150 (4) A description of the students who will be affected by the proposed waiver, including
151 their estimated number, current performance, grade level, and any common demographic
152 traits;
- 153 (5) A list of schools by name that will be affected by the proposed waiver, and a
154 description of each school, including current performance, grade levels, and demographic
155 traits of the students of each such school;
- 156 (6) Methods for collection of data, and for measuring and evaluating any change in
157 student performance resulting from the proposed waiver;

158 (7) The period of time for which the proposed waiver is requested and the proposed
159 starting date; and

160 (8) A resolution from the local school board approving the waiver request.

161 (e) The State Board of Education may grant or deny a waiver request, or grant a waiver
162 request subject to specified modifications in the waiver request.

163 (f) A waiver may be granted in accordance with this Code section for any period of time
164 not to exceed five years. The State Board of Education shall require reports regarding the
165 effect of the waiver at least annually, and may require more frequent reports if necessary
166 to monitor the effect of the waiver effectively. The State Board of Education shall report
167 annually to the General Assembly regarding the waivers granted, the effect of each waiver,
168 and any recommendations for legislative changes generated by successful waivers.

169 (g) On and after July 1, 2008, except as provided for in subsection (h) of this Code section,
170 the State Board of Education shall not authorize any waivers or variances pursuant to this
171 Code section to any local school system for the following:

172 (1) Class size requirements in Code Section 20-2-182; provided, however, that the state
173 board shall be authorized to waive class size requirements pursuant to this Code section
174 on and after July 1, 2008, in the event that a local school system can demonstrate a
175 hardship pursuant to a waiver request;

176 (2) Expenditure controls in Code Section 20-2-171 and categorical allotment
177 requirements in Article 6 of this chapter;

178 (3) Certification requirements in Code Section 20-2-200; or

179 (4) Salary schedule requirements in Code Section 20-2-212.

180 A local school system which has received a waiver or variance pursuant to this Code
181 section prior to ~~entering into a contract~~ receiving flexibility pursuant to Article 4 of this
182 chapter shall be required to include such waiver or variance in such ~~contract~~ flexibility
183 request.

184 (h) The State Board of Education shall be authorized to provide a blanket waiver or
185 variance of the class size requirements in Code Section 20-2-182 for all local school
186 systems for a specified school year in the event that a condition of financial exigency
187 occurs, as determined by the state board. For purposes of this subsection, 'financial
188 exigency' means circumstances which cause a shortfall in state appropriations and local
189 revenue for operation of local school systems as compared with projected expenditures
190 over the same period and such shortfall would have a material adverse effect on the
191 operation of public schools. Subsections (c) and (f) of this Code section shall not apply to
192 blanket waivers or variances issued pursuant to this subsection."

193

SECTION 4.

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