

Senate Bill 133

By: Senators Miller of the 49th, Tippins of the 37th, Jeffares of the 17th, Sims of the 12th,
Beach of the 21st and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 14 of Title 20 of the Official Code of Georgia Annotated, relating to the
2 Education Coordinating Council, so as to provide for the establishment of the Opportunity
3 School District; to provide for definitions; to authorize the Opportunity School District to
4 assume the supervision of public elementary and secondary schools that are failing; to
5 provide for a superintendent for the district; to provide criteria; to provide for rating of
6 schools; to provide for intervention models; to provide for opportunity schools seeking state
7 charter school status; to provide for successful opportunity schools to exit state supervision;
8 to provide for funding; to provide for applicability; to repeal a provision relating to
9 appropriate levels of intervention for failing schools; to provide for conforming amendments;
10 to provide for related matters; to provide for contingent effectiveness; to provide for
11 automatic repeal under certain conditions; to repeal conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Chapter 14 of Title 20 of the Official Code of Georgia Annotated, relating to the Education
15 Coordinating Council, is amended by adding a new article to read as follows:

16 **"ARTICLE 3**

17 **20-14-100.**

18 **As used in this article, the term:**

19 **(1) 'Office' means the Office of Student Achievement.**

20 **(2) 'Opportunity school' means a public elementary or secondary school under the**
21 **supervision of the Opportunity School District.**

22 **(3) 'Opportunity School District' or 'OSD' means the state-wide district established**
23 **pursuant to this article.**

24 (4) 'OSD charter school' means an opportunity school authorized by the State Charter
25 Schools Commission pursuant to Article 31A of Chapter 2 of this title.

26 (5) 'OSD Superintendent' means the superintendent of the Opportunity School District
27 appointed by the Governor pursuant to Code Section 20-14-102.

28 (6) 'Qualifying school' means a public elementary or secondary school that earns a rating
29 of F pursuant to Code Section 20-14-104 for a minimum of three consecutive years.

30 (7) 'School on probation' means a public elementary or secondary school that earns a
31 rating of F pursuant to Code Section 20-14-104 for two consecutive years.

32 (8) 'School on warning' means a public elementary or secondary school that earns a
33 rating of F pursuant to Code Section 20-14-104 for one year.

34 20-14-101.

35 (a) The Opportunity School District is hereby created pursuant to the authority granted in
36 Article VIII, Section V, Paragraph VIII of the Georgia Constitution. The Opportunity
37 School District shall be authorized to assume the supervision, management, and operation
38 of public elementary and secondary schools which have been determined to be failing
39 pursuant to this article.

40 (b) The Opportunity School District shall be established within the Office of Student
41 Achievement.

42 20-14-102.

43 (a) The Governor shall appoint a superintendent, to be confirmed by the Senate, to serve
44 as the executive officer of the Opportunity School District. The OSD Superintendent shall
45 serve at the pleasure of the Governor and shall have such qualifications as set forth in
46 subsection (b) of Code Section 20-2-101 and salary as determined by the Governor. The
47 OSD Superintendent shall be an employee of the office but shall report directly to the
48 Governor.

49 (b) The OSD Superintendent shall develop guidelines and procedures for the operation of
50 the OSD. The OSD Superintendent shall annually provide a report to the General
51 Assembly on the selection, intervention chosen, and progress of the opportunity schools.

52 20-14-103.

53 (a) The Opportunity School District shall be authorized to select up to 20 qualifying
54 schools to add to the OSD in any single school year. The Opportunity School District shall
55 have no more than 100 schools under its supervision at any given time.

56 (b) Selection of up to 20 qualifying schools to add to the OSD in any single school year
57 shall be based on an analysis of performance over the three-year period with emphasis on

58 student growth and progress and other considerations, including geographic clusters of
59 qualifying schools, feeder patterns with multiple eligible schools, availability of qualified
60 partners, and community engagement and support. The school selection process shall
61 include a public hearing to allow for parent and community input but the final selection
62 shall be in the sole discretion of the OSD Superintendent in determining which schools are
63 transferred.

64 (c) The OSD Superintendent shall have the sole discretion in determining the timing and
65 sequencing of transferring qualifying schools to the OSD, which may take into
66 consideration the capacity of the OSD in successfully overseeing each school. Prior to
67 transferring any qualifying school to the OSD, the OSD Superintendent shall conduct an
68 evaluation of the school to determine the factors contributing to the school's performance
69 and shall conference with the school principal, local board of education members, and the
70 local school superintendent to share the findings of the evaluation and discuss options for
71 remediation in a joint effort between the OSD and the local school system. The OSD
72 Superintendent shall evaluate and identify the qualifying schools selected for intervention
73 no later than April 1 prior to the initial school year in which the OSD intervention model
74 will be implemented. The specific intervention model in subsection (a) of Code Section
75 20-14-105 most appropriate for each school shall be identified by the OSD Superintendent
76 no later than July 1 of the effective school year.

77 (d) The OSD Superintendent is authorized to waive specifically identified State Board of
78 Education rules, regulations, policies, and procedures, or provisions of Chapter 2 of this
79 title for opportunity schools. The goal for each waiver shall be improvement of student
80 performance. The OSD Superintendent is not authorized to waive any federal, state, and
81 local rules, regulations, court orders, and statutes relating to civil rights; insurance; the
82 protection of the physical health and safety of school students, employees, and visitors;
83 conflicting interest transactions; the prevention of unlawful conduct; any laws relating to
84 unlawful conduct in or near a public school; any reporting requirements pursuant to Code
85 Section 20-2-320 or this chapter; the requirements of Code Section 20-2-211.1 relating to
86 fingerprint and criminal background checks; state accountability requirements, including
87 but not limited to teacher and leader evaluation pursuant to Code Section 20-2-210; or the
88 requirements in subsection (c) of Code Section 20-2-327. A school that has received a
89 waiver shall remain subject to the provisions of Part 3 of Article 2 of this chapter, the
90 requirement that it shall not charge tuition or fees to its students except as may be
91 authorized for local boards by Code Section 20-2-133, and shall remain open to enrollment
92 in the same manner with the same attendance zone as before the waiver request.

93 (e) In the event that a qualifying school selected to be an opportunity school pursuant to
94 this article is an existing charter school or is currently subject to any school level

95 requirements included in a charter system contract or a contract executed pursuant to
 96 Article 4 of Chapter 2 of this title, the authority of the OSD shall supersede any such
 97 charter or contract with respect to the qualifying school and the State Board of Education
 98 and affected local board of education shall take all necessary steps to modify or cancel any
 99 such charter or contract with respect to the qualifying school to effectuate this.

100 20-14-104.

101 The office shall annually, for purposes of this article, determine a rating of A, B, C, D, or F
 102 for each public elementary and secondary school in this state based on student
 103 achievement, achievement gap closure, and student growth. Such ratings shall be based
 104 on the state accountability system approved by the State Board of Education.

105 20-14-105.

106 (a) An opportunity school may be subject to any of the following intervention models, as
 107 determined by the OSD Superintendent:

108 (1) Direct management of the opportunity school by the OSD;

109 (2) Shared governance of the opportunity school by the OSD and the local board of
 110 education pursuant to a contract in which the local board of education operates the school
 111 and the OSD Superintendent has the authority to direct changes to be made at the school;

112 (3) Reconstitution of the school as an OSD charter school in which the OSD works in
 113 collaboration with the State Charter Schools Commission to build capacity of petitioning
 114 governing boards and charter school applications to establish a charter that will be
 115 approved by the State Charter Schools Commission; or

116 (4) Closure of an opportunity school which is not enrolled at full capacity and
 117 reassigning the students to a nonqualifying school within the local school system. School
 118 closure shall be the intervention of last resort.

119 (b) The OSD Superintendent shall establish and implement a process for gaining
 120 community feedback and input to inform his or her decision regarding the most appropriate
 121 intervention model for a particular school.

122 (c)(1) For opportunity schools under the intervention models in paragraphs (2) and (3)
 123 of subsection (a) of this Code section, the school principal or OSD charter school
 124 governing board shall be authorized to make decisions about school finance, human
 125 capital, and curriculum and instruction for the opportunity school; provided, however,
 126 that the OSD Superintendent may direct school principals to make certain decisions under
 127 the intervention model in paragraph (2) of subsection (a) of this Code section. For such
 128 schools, the OSD Superintendent and staff shall provide appropriate training and support
 129 to develop effective leadership in such areas.

130 (2) For opportunity schools under the intervention model in paragraph (1) of
131 subsection (a) of this Code section, the OSD shall be authorized to have a direct role in
132 making decisions about school finance, human capital, and curriculum and instruction for
133 the opportunity school while developing the leadership capacity in such schools.

134 (3) For opportunity schools under the intervention models in paragraphs (1) and (2) of
135 subsection (a) of this Code section, the existing local school councils may remain in place
136 or may be reconstituted under the guidance of the opportunity school principal so long
137 as they still meet the requirements in Code Section 20-2-86 regarding the composition
138 of the council. The school council shall serve as an advisory board for the principal.

139 (4) For opportunity schools under the intervention model in paragraph (3) of
140 subsection (a) of this Code section, parents and advisory board members shall be eligible
141 for consideration to fill specific roles on the governing board.

142 (d) An opportunity school may purchase services from the OSD, the local board of
143 education, or an education service provider for routine student support and operational
144 services for an opportunity school. The local board of education shall be required to
145 cooperate fully with the opportunity school, whether under the control of the OSD or the
146 State Charter Schools Commission, to make available at a reasonable cost all appropriate
147 services requested. Such services may include, but are not limited to, transportation,
148 cafeteria services, custodial services, alternative education, broadband, utilities, special
149 education services, test administration services, and student information services.

150 (e) The OSD Superintendent or OSD charter school governing board shall select and hire
151 the school principal for an opportunity school. Within the limits of the school budget, the
152 school principal shall select staff members in accordance with guidance from the OSD or
153 OSD charter school governing board. Before finalizing staffing recommendations, the
154 principal, the OSD Superintendent, or the OSD charter school governing board shall
155 interview all staff members at the qualifying school and review student growth and
156 performance data for those staff members for whom it is available. The OSD or OSD
157 charter school governing board shall have the authority to decide whether any leader,
158 teacher, or staff member previously assigned to a qualifying school selected to become an
159 opportunity school shall continue as an employee of the opportunity school. Any such
160 employees retained shall become employees of the OSD or OSD charter school governing
161 board, on the principal's recommendation, and be under their control. Any teacher subject
162 to Code Section 20-2-942 who is not given the option to continue as an employee for the
163 opportunity school shall remain an employee of the local board of education. The local
164 board of education may determine whether or not to continue the employment of any
165 teacher who is not given the option to continue as an employee for the opportunity school,
166 subject to Code Section 20-2-942.

167 20-14-106.

168 (a) For opportunity schools other than OSD charter schools, the OSD Superintendent shall
 169 set clear goals, empower and equip teachers and school leaders to meet the goals, and hold
 170 such teachers and school leaders accountable to meet the goals. The OSD Superintendent
 171 shall approve appropriate waivers for the qualifying school pursuant to subsection (d) of
 172 Code Section 20-14-103.

173 (b) For opportunity schools that become OSD charter schools, the State Charter Schools
 174 Commission shall set such goals and hold such teachers and school leaders accountable.

175 (c) The OSD Superintendent shall select, approve, or remove the school principal for
 176 opportunity schools and the governing board members for opportunity schools which
 177 become OSD charter schools.

178 (d)(1) Each OSD charter school shall have a governing board that is involved in
 179 school-level governance of the school. The governing board shall be organized and
 180 operated as a nonprofit corporation under the laws of this state. The OSD charter school
 181 shall be a public, nonsectarian, nonreligious, nonprofit school that is not home based,
 182 provided that a school's nonprofit status shall not prevent the school from contracting for
 183 the services of a for profit entity.

184 (2) The members of the governing board for an OSD charter school shall come from the
 185 community and shall meet the following qualifications:

186 (A) Must be a United States citizen;

187 (B) Must be a resident of Georgia; and

188 (C) Must not be an employee of the opportunity school.

189 (3) The OSD Superintendent shall make the final selection of governing board members
 190 for OSD charter schools and shall ensure that the boards possess the financial, legal, and
 191 educational expertise needed to successfully run a school.

192 (e) The OSD Superintendent shall enter into an agreement with the school principal, the
 193 OSD charter school governing board, or the local board of education regarding specific
 194 goals for each opportunity school related to higher academic outcomes for students, quality
 195 careers for graduates, safe and positive learning environments for children, parent and
 196 community engagement, and the efficient and effective use of taxpayer dollars.

197 20-14-107.

198 (a) In an effort to ensure high quality charter petitions for opportunity schools seeking
 199 OSD charter school status, the OSD Superintendent shall:

200 (1) Solicit, screen, and select or approve OSD charter school governing board members;
 201 and

202 (2) Assist the OSD charter school governing board members in charter petition
203 development and review; provided, however, that such assistance shall conclude upon
204 approval by the State Charter Schools Commission of the opportunity school as an OSD
205 charter school.

206 (b) In an effort to provide opportunity schools seeking OSD charter school status with
207 necessary support, the State Charter Schools Commission shall solicit, screen, and select
208 education service providers, including independent consultants, education management
209 organizations, charter management organizations, and other support organizations, that can
210 partner with the OSD charter school governing boards to support or operate such OSD
211 charter schools.

212 (c) The State Charter Schools Commission shall establish a separate application cycle for
213 opportunity schools seeking OSD charter school status. Such application cycle shall allow
214 commission staff and commission members to evaluate the needs of an opportunity school,
215 match them with an education service provider, and work with both parties to ensure the
216 execution of a viable curricular model and educational program.

217 (d) Upon renewing a state charter, an OSD charter school shall no longer be considered
218 a part of the OSD but shall be subject to the terms of its charter and the provisions of
219 Article 31A of Chapter 2 of this title. The local board of education shall be required to
220 continue any and all facility use and service provision agreements previously in place with
221 the OSD regarding any such OSD charter school as long as the OSD charter school
222 continues to operate in that facility.

223 (e) If an opportunity school is not approved or renewed by the State Charter Schools
224 Commission as an OSD charter school, the school shall remain under or return to the
225 supervision of the OSD, and the OSD Superintendent shall reevaluate the school's
226 performance and determine the appropriate intervention pursuant to subsection (a) of Code
227 Section 20-14-105 for the school. If an initial charter petition by an opportunity school to
228 become an OSD charter school is denied by the State Charter Schools Commission, the
229 opportunity school may submit another charter petition in a subsequent cycle. If a renewal
230 charter petition by an opportunity school to continue as an OSD charter school is denied
231 by the State Charter Schools Commission at the end of its initial term, the governing board
232 of the school may not elect to seek approval from the local board of education as a local
233 charter school.

234 20-14-108.

235 (a) Facilities of qualifying schools that are transferred to the supervision of the OSD as
236 opportunity schools shall come under the control of the OSD. The OSD Superintendent
237 may assign the facility for use by an OSD charter school governing board to operate the

238 opportunity school. The OSD or the OSD charter school governing board shall be
239 responsible for paying the pro-rata bond indebtedness of the school. The contents of the
240 facility, including but not limited to textbooks, technology, media resources, instructional
241 equipment, and all other resources shall remain with the facility and be available for use
242 by the opportunity school. In the event that the OSD Superintendent closes a qualifying
243 school, the local board of education shall not use the facility to open a school with the same
244 grade span or attendance zone for three years.

245 (b) The OSD or OSD charter school governing board shall be responsible for the routine
246 maintenance and repair of the facilities and property, such that they are maintained in the
247 same manner prior to the school's transition to the OSD. The OSD or OSD charter school
248 governing board shall be responsible for reasonable costs for all utilities at an opportunity
249 school as provided in subsection (d) of Code Section 20-14-105.

250 (c) The local board of education shall continue to be responsible for extensive repairs, as
251 determined by the State Properties Commission, to buildings or facilities considered capital
252 expenses. Any fixtures, improvements, or tangible assets added to a school building or
253 facility by the OSD while the school is an opportunity school shall remain with the school
254 building or facility upon its return to the control of the local board of education pursuant
255 to Code Section 20-14-109.

256 20-14-109.

257 (a) An opportunity school shall remain under the supervision of the OSD for a minimum
258 of five consecutive years or, for an OSD charter school, for the term of the initial charter
259 for such school; provided, however, that if an opportunity school earns, for three
260 consecutive years, a rating above an F pursuant to Code Section 20-14-104, it shall be
261 removed from the OSD. If an opportunity school that becomes an OSD charter school that
262 subsequently earns a rating above an F for three consecutive years, it shall no longer be
263 subject to the oversight of the OSD but shall remain under the authority of the State Charter
264 Schools Commission and shall operate according to the terms of its charter.

265 (b) An opportunity school shall remain under the supervision of the OSD for no more than
266 ten years. Renewal of a charter for an opportunity school shall result in the exit of the
267 school from the OSD. For other opportunity schools, the OSD Superintendent shall engage
268 the school, the school community, and the school's local board of education in a negotiation
269 to determine the best transition plan for the school to leave the supervision of the OSD.

270 (c) An opportunity school that becomes an OSD charter school shall work with the State
271 Charter Schools Commission to renew and continue an effective charter or, if ineffective
272 as a charter school, shall return to the governance of the OSD. If a successful OSD charter
273 school does not wish to remain under the authorization of the State Charter Schools

274 Commission for a subsequent charter term after demonstrating effective performance, the
 275 State Charter Schools Commission and the OSD shall coordinate the development of a
 276 transition plan back to the governance of the local board of education, which may include,
 277 but is not limited to, approval by the local board of education as a local charter school.

278 20-14-110.

279 (a) The OSD shall be treated as a single local education agency; provided, however, that
 280 opportunity schools that are OSD charter schools shall be treated individually as single
 281 local education agencies in accordance with Code Section 20-2-2090. The State Charter
 282 Schools Commission shall annually provide an analysis of the performance of opportunity
 283 schools that are OSD charter schools. The commission shall work with the OSD
 284 Superintendent to determine additional assistance that may be needed to improve the
 285 performance of the school.

286 (b) The OSD shall be responsible for data reporting for all opportunity schools under the
 287 intervention model in paragraph (1) of subsection (a) of Code Section 20-14-105. The
 288 local board of education shall be responsible for data reporting for all opportunity schools
 289 under the intervention model in paragraph (2) of subsection (a) of Code Section 20-14-105.
 290 OSD charter schools shall be subject to data reporting in accordance with Code Section
 291 20-2-2090.

292 20-14-111.

293 (a) Funding for an opportunity school shall be an amount equal to the sum of:

294 (1) QBE formula earnings, QBE grants, and federal grants earned by the school based
 295 on the school's enrollment, school profile, and student characteristics. QBE formula
 296 earnings shall include the salary portion of direct instructional costs, the adjustment for
 297 training and experience, the nonsalary portion of direct instructional costs, and earnings
 298 for psychologists and school social workers, school administration, facility maintenance
 299 and operation, media centers, additional days of instruction in accordance with Code
 300 Section 20-2-184.1, and staff development;

301 (2) A proportional share of state categorical grants, non-QBE state grants, state
 302 equalization grants, and all other state and federal grants; and

303 (3) An amount determined by OSD for each student enrolled in such school equal to a
 304 proportional share of local revenue from the local school system in which the school is
 305 located.

306 (b) The OSD may withhold up to 3 percent of the amount determined pursuant to
 307 subsection (a) of this Code section for each opportunity school for use in administering the
 308 duties required pursuant to this article; provided, however, that any amount withheld

309 pursuant to this subsection shall be spent solely on expenses incurred by the OSD in
 310 performing the duties required by this article. For opportunity schools that are OSD charter
 311 schools, the 3 percent withheld shall be shared equally between the OSD and the State
 312 Charter Schools Commission for the initial term of the charter.

313 (c) The total allotment of state and federal funds to the local school system in which an
 314 opportunity school is located shall be calculated as otherwise provided in Article 6 of
 315 Chapter 2 of this title with an ensuing reduction equivalent to the amount of funds
 316 appropriated to the opportunity schools pursuant to paragraph (3) of subsection (a) of this
 317 Code section.

318 (d) Opportunity schools that become OSD charter schools and subsequently exit the OSD
 319 shall continue to be eligible for the same level of funding provided for in this Code section
 320 that they were eligible for while under the authority of the OSD.

321 (e) The General Assembly may appropriate additional funds to be allocated among the
 322 opportunity schools within the OSD at the discretion of the OSD Superintendent for
 323 necessary and innovative purposes. In addition, private funds may be solicited and
 324 accepted by the OSD to support opportunity schools.

325 20-14-112.

326 The Department of Education shall provide school improvement services and technical
 327 assistance to schools on warning, schools on probation, and qualifying schools not selected
 328 for intervention by the OSD Superintendent pursuant to this article which may include, but
 329 is not limited to, appointing a Department of Education school improvement team to:

330 (1) Conduct a comprehensive on-site evaluation of the school to determine the cause for
 331 the school's low performance and lack of progress that includes presentations by the
 332 chairperson of the local board of education, the school principal, a parent member of the
 333 local school council, and other school personnel;

334 (2) Recommend actions, including reallocation of resources and technical assistance,
 335 changes in school procedures or operations, professional learning focused on student
 336 achievement for instructional and administrative staff, intervention for individual
 337 administrators or teachers, instructional strategies based on scientifically based research,
 338 waivers from state statutes or rules, adoption of policies and practices to ensure all groups
 339 of students meet the state's proficiency level, extended instruction time for
 340 low-performing students, strategies for parental involvement, incorporation of a teacher
 341 mentoring program, smaller class size for low-performing students, or other actions the
 342 team considers appropriate;

343 (3) Assist in the development of an intensive school improvement plan focused on
 344 student achievement; and

345 (4) Monitor the progress of the school in implementing the intensive school
 346 improvement plan focused on student achievement.

347 20-14-113.

348 This article shall be applicable beginning with school year 2017-2018."

349 **SECTION 2.**

350 Said chapter is further amended by repealing Code Section 20-14-41, relating to appropriate
 351 levels of intervention for failing schools, master or management team, school improvement
 352 team, annual reports, data revision, and hearings.

353 **SECTION 3.**

354 Code Section 20-2-84 of the Official Code of Georgia Annotated, relating to the
 355 accountability, flexibility, and consequences components of contracts, is amended by
 356 revising paragraph (1) of subsection (c) as follows:

357 "(1) Interventions or sanctions for failure to meet identified levels of achievement or for
 358 not showing specified levels of progress ~~pursuant to Code Section 20-14-41, which may~~
 359 ~~be accelerated; and"~~

360 **SECTION 4.**

361 Code Section 20-2-186 of the Official Code of Georgia Annotated, relating to the allocation
 362 of funds for local systems to pay beginning salaries of superintendents, secretaries,
 363 accountants, nurses, and certain other personnel, is amended by revising subsection (c) as
 364 follows:

365 "(c) Notwithstanding any provision of this Code section to the contrary, no local system
 366 shall earn funds under this Code section, except for funds for nurses, accountants, visiting
 367 teachers, school psychologists, and secretaries, if the local board of education has not
 368 implemented in a failing school within the system the interventions, ~~as defined in Code~~
 369 ~~Section 20-14-41~~, that are prescribed by the State Board of Education or the office pursuant
 370 to their respective authority."

371 **SECTION 5.**

372 Code Section 20-2-2068 of the Official Code of Georgia Annotated, relating to termination
 373 of a charter for a charter school, is amended by revising subparagraph (a)(2)(A) as follows:

374 "(A) A failure to comply with any recommendation or direction of the state board with
 375 respect to ~~Code Section 20-14-41~~ any intervention prescribed by the state board
 376 pursuant to the charter;"

377

SECTION 6.

378 (a) This Act shall become effective on January 1, 2017, only if an amendment to the
379 Constitution is ratified at the November, 2016, general election expressly allowing the
380 General Assembly to authorize the establishment of an Opportunity School District to
381 provide for state intervention for failing schools.

382 (b) If such an amendment to the Constitution is not so ratified, then this Act shall not
383 become effective and shall stand repealed by operation of law on January 1, 2017.

384

SECTION 7.

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