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EDUCATION Elementary and Secondary Education: Provide for Charter School Status; Remove Certain Limitations Regarding Advance Capital Outlay Funding for Construction Projects to Consolidate or Reorganize Schools; Provide for Contents of Petition Charter; Provide for Approval of Charter Schools by Local and State School Boards; Provide for Operational Requirements of Charter Schools; Provide for Charter Renewals; Provide for Amendment and Termination of a Charter; Establish Duties of State Board of Education and Local School Board with Respect to Provision of Funds to Charter Schools; Establish an

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Office of Charter School Compliance and Provide for Its Responsibilities; Provide for Continuing Validity of Certain Charters in Effect on July 1, 1998

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EDUCATION

Elementary and Secondary Education: Provide for Charter School Status; Remove Certain Limitations Regarding Advance Capital Outlay Funding for Construction Projects to Consolidate or Reorganize Schools; Provide for Contents of Petition Charter; Provide for Approval of Charter Schools by Local and State School Boards; Provide for Operational Requirements of Charter Schools; Provide for Charter Renewals; Provide for Amendment and Termination of a Charter; Establish Duties of State Board of Education and Local School Board with Respect to Provision of Funds to Charter Schools; Establish an Office of Charter School Compliance and Provide for Its Responsibilities; Provide for Continuing Validity of Certain Charters in Effect on July 1, 1998

CODE SECTIONS: O.C.G.A. §§ 20-2-255 (repealed), -260 (amended), -2060 to -2071 (new)

BILL NUMBER: HB 353

ACT NUMBER: 891

GEORGIA LAWS: 1998 Ga. Laws 1080

SUMMARY: The Act provides a means for local schools to substitute an academic and/or vocational performance-based contract, called a “charter,” for state and local rules, regulations, policies, and procedures governing public schools. The Act allows private individuals, private organizations, or state or local public entities to establish a local school subject to a contractual charter between the state school board, the local board of education, and the charter petitioner. The terms of the charter must be approved by both the local and state boards of education. The charter status exempts the local school from certain state and local rules, regulations, policies, and procedures applicable to the public school system. The Act specifies the requirements of a charter petition, the qualifications of a charter petitioner, and the obligations of a charter school. In addition, the Act creates

an Office of Charter School Compliance within the Department of Education to prepare charter school guidelines, process charter school petitions, and administer charter school implementation in Georgia. Finally, the Act confirms that charter schools initiated under the previous Charter School Act of 1993 will remain valid until their charters expire according to their terms.

EFFECTIVE DATE: July 1, 1998¹

History

The Charter Public School movement is spreading rapidly across the United States.² Charter school legislation provides an opportunity to “help increase student achievement and graduation rates” by stressing: accountability to parents, educators, and school boards; performance-based criteria; and, freedom from certain state and local governance, which encourages experimentation with alternative educational methods and programs.³ The charter school concept endorses freedom of choice for parents and students, entrepreneurial opportunity for educators, and school accountability for students’ educational results.⁴

For many years, parents, teachers, and school officials have grappled with appropriate ways to stimulate change and offer flexibility and experimentation in the public educational system.⁵ Since the mid-1960s, some public school districts have offered options

1. 1998 Ga. Laws 1080, § 4, at 1090. The Act applies to all petitions filed on and after July 1, 1998. *See id.*; *see also* O.C.G.A. § 20-2-2071 (Supp. 1998) (addressing validity of petitions in effect prior to July 1, 1998).

2. *See* JOE NATHAN & JENNIFER POWER, CENTER FOR SCHOOL CHANGE, HUBERT H. HUMPHREY INSTITUTE OF PUBLIC AFFAIRS, POLICY-MAKERS’ VIEWS ON THE CHARTER SCHOOL MOVEMENT iv (1996) (referencing Executive Summary); JOE NATHAN, CENTER FOR SCHOOL CHANGE, HUBERT H. HUMPHREY INSTITUTE OF PUBLIC AFFAIRS, CHARTER PUBLIC SCHOOLS: A BRIEF HISTORY AND PRELIMINARY LESSONS 1 (1995); *Cautious Policy-Making Amid Maneuvering*, ATLANTA J. & CONST., Mar. 22, 1998, at G6. [hereinafter *Cautious Policy-Making*]. For more information regarding the history of the charter school movement, *see* NATHAN, *supra*.

3. NATHAN, *supra* note 2, at 4.

4. *See id.*

5. *See id.* at 1-2; Suzanne Fields, *More Evidence that Public Schools are Destroyed*, ATLANTA J., Mar. 2, 1998, at A6.

and “alternative schools” to public school children.⁶ Many alternative schools experienced adverse, complex relationships with the larger school districts in which they were located and were forced to close; however, some of these alternative schools are actively operating today.⁷ The financial difficulties and the connotation that only troubled youths attend alternative schools led many “innovative teachers and frustrated parents to consider new approaches.”⁸

In 1988, educator Ray Budde introduced the metaphor of a “charter” to the educational process.⁹ A charter was the deed provided “to early European explorers by kings and queens, to see what they could find. [Budde] proposed that school districts give local teachers the opportunity via contract or ‘charter’ to establish new kinds of schools.”¹⁰ The charter school concept makes innovation and change “an ongoing and valued part of the school community.”¹¹

Charter school legislation is adopted in a state to help increase student achievement, to provide opportunity for educational entrepreneurs, to expand the range of available schools, and to encourage the existing school systems to continue improving.¹² All charter school legislation contains certain common elements regarding the formation, approval, and implementation of charter schools in the state.¹³ The legislation permits the organizer or operator of the proposed charter school to approach a school board, or other authorizing body established by the General Assembly, and request their sponsorship.¹⁴ The charter schools are public and nonsectarian, cannot charge tuition, may not have admissions tests, and must follow health and safety regulations.¹⁵ The continued existence of the schools relies on the successful achievement of established criteria agreed

6. NATHAN, *supra* note 2, at 1. Alternative schools provide innovative alternatives to traditional public schools by piloting creative approaches to teaching, community outreach, advisory systems, and performance based graduation, which is based on the students’ demonstration of skill and knowledge rather than accumulation of academic credits. *See id.* at 1-2.

7. *See id.*

8. NATHAN & POWER, *supra* note 2, at 3.

9. *See* NATHAN, *supra* note 2, at 2.

10. *Id.*

11. *Id.* (quoting American Federation of Teachers president, Al Shanker, from a July 1988 column advocating charter school concept).

12. *See id.* at 1.

13. *See id.* at 4-5.

14. *See id.* at 4.

15. *See id.*

upon by the authorizing agency and educators.¹⁶ Students and faculty choose to attend the charter school, as opposed to being assigned to a particular school by virtue of living in a particular school district.¹⁷ A charter school is considered its own discrete entity within the public school district.¹⁸ Thus, in a school district with charter schools, state allocation of funds should follow the pupil, regardless of the school that pupil chooses to attend within the district.¹⁹

“[N]ationwide, strong charter school laws have spurred the formation of charter schools that target underprivileged populations (20 percent of all charter schools, according to the U.S. Department of Education). Charter schools have been formed by nonprofit groups, parents and even businesses”²⁰ In Detroit, for example, civil rights leader Rosa Parks is forming a charter school as an individual, a feat not permitted under prior Georgia law governing charter schools.²¹ As of April 1996, twenty-five states and the District of Columbia have adopted some form of charter school legislation, and several other states are considering such legislation.²²

Charter School Movement in Georgia

In Georgia, the movement towards public charter schools progressed cautiously.²³ In 1993, Georgia adopted its first charter school act.²⁴ The initial Charter School Act of 1993 only permitted

16. *See id.*

17. *See id.*

18. *See id.*

19. *See id.* at 5.

20. *Statistics Show Need to Revise Charter Law*, ATLANTA J., Mar. 13, 1998, at A14.

21. *See id.* In Georgia, the initial Charter Schools Act, and its amendments, only allowed local schools (as opposed to individuals and corporations) to choose to substitute an existing school (as opposed to creating a new school) for a charter school based upon a performance based contract between the school and the state and local boards of education. *See* 1993 Ga. Laws 1440, § 1, at 1441 (formerly found at O.C.G.A. § 20-2-255 (1993)).

22. *See* NATHAN & POWER, *supra* note 2, at 7. The states, along with the District of Columbia, that have adopted the charter school concept include: Minnesota in 1991; California in 1992; Colorado, Georgia, Massachusetts, New Mexico, and Wisconsin in 1993; Arizona, Hawaii, Kansas, and Michigan in 1994; Alaska, Arkansas, Delaware, Louisiana, New Hampshire, Rhode Island, Texas, and Wyoming in 1995; Connecticut, Florida, Illinois, New Jersey, North Carolina, South Carolina, and the District of Columbia in 1996. *See id.*

23. *See* Telephone Interview with Rep. Kathy Ashe, House District No. 46 (May 28, 1998) [hereinafter Ashe Interview].

24. *See* 1993 Ga. Laws 1440, § 1, at 1441-45 (formerly found at O.C.G.A. § 20-2-255 (1993)).

conversion of existing public schools to charter status²⁵ and required a two-thirds vote of the faculty and the families who attended charter school meetings to approve the charter.²⁶ If both groups approved the concept, the charter was then put before the local school board for approval and, finally, sent to the State Board of Education for discretionary approval.²⁷ A 1995 amendment to the original Act lowered the voting requirement for charter approval to a majority of faculty and families.²⁸ The 1995 amendment also increased the initial charter period from three to five years.²⁹ Subsequently, a 1996 amendment simply corrected errors and omissions in the Code and clarified certain elements of the charter school Act of 1993.³⁰

In January 1997, Representative Kathy Ashe introduced the Charter School Act of 1997, designed to expand the scope of Georgia's charter school movement.³¹ The Senate introduced a similar bill, but due to concerns over the bill's language and intent, neither bill passed during the 1997 legislative session.³² In 1998, both the Senate and the House re-introduced charter school legislation intended to expand the opportunity for creating charter schools in Georgia by allowing private individuals and groups to petition for charters.³³ Another significant adjustment under the 1998 legislation allowed charter schools to be created "from scratch," as opposed to using only existing school

25. *See id.* at 1442 (formerly found at O.C.G.A. § 20-2-255(c) (1993)); NATHAN, *supra* note 2, at 16.

26. *See* 1995 Ga. Laws 307, § 1, at 309 (formerly found at O.C.G.A. § 20-2-255(c) (1997)).

27. *See id.* (formerly found at O.C.G.A. § 20-2-255(c)-(d) (1997)); NATHAN, *supra* note 2, at 16.

28. *See* 1995 Ga. Laws 307, § 1, at 309 (formerly found at O.C.G.A. § 20-2-255(b)(1) (1997)).

29. *See id.* at 308.

30. *See* 1996 Ga. Laws 6 (formerly found at O.C.G.A. § 20-2-255 (1997)). The 1996 Amendment, part of an Act to correct errors and omissions in the Code, substituted "academic and or vocational performance based contract" with "academic or vocational performance based" contract, criteria, or objectives, *or* "academic and vocational performance based" contract, criteria, or objectives. *Id.*, § 20(7), at 12-13.

31. *See* Ashe Interview, *supra* note 23.

32. *See id.*

33. *Compare* 1993 Ga. Laws 1440, § 1, at 1441 (formerly found at O.C.G.A. § 20-2-255(a) (1993)) (stating intent of General Assembly to provide means whereby local schools may choose to *substitute* academic or vocational performance based contract for rules and regulations of state), *with* O.C.G.A. § 20-2-2061(2) (Supp. 1998) (allowing private individuals, private organizations, or state and local public entities to establish local school subject to a charter). The House reintroduced a substitute, as HB 353, as introduced, 1998 Ga. Gen. Assem., and the Senate reintroduced SB 70 into the 1998 session.

buildings.³⁴ During the 1998 legislative session, in a true bipartisan effort, HB 353 subsumed the Senate version of the bill and passed both the House and Senate by a large margin.³⁵

During the 1998 legislative session, Representatives considered four versions of HB 353; yet the bill's language changed only minimally from the bill's original version.³⁶ While much of the text from HB 353 mirrored SB 70 as introduced in 1997, some notable changes helped gain the General Assembly's approval. For example, SB 70 had proposed a seven-year renewal term for charter applications,³⁷ whereas HB 353 kept the renewal date at five years, which eased the application process for the renewal of charters.³⁸ SB 70 also had allowed charter school petitioners to target at-risk students without including offensive language in the bill.³⁹ The changes to HB 353 included, in a House floor substitute, an amendment to Code section 20-2-260 discussing the provision of capital outlay funds to local school systems under the "Quality Basic Education Act."⁴⁰ Another adjustment included an explicit allowance for the continuing validity of certain charters already in effect at the time of the implementation of the Act in July 1998.⁴¹

Ultimately, the General Assembly agreed to expand the types of entities that could apply for charter school status to include individuals, parents, and private corporations.⁴² According to Representative Kathy Ashe, author of HB 353, the new Charter Schools Act brings Georgia into the mainstream with many of the

34. Ashe Interview, *supra* note 23 (explaining that Charter Schools Act of 1998 allows public schools to open what are called "from scratch" charter schools).

35. *See id.*; Georgia House of Representatives Voting Record, HB 353 (Mar. 2, 1998) <http://www2.state.ga.us/Legis/1997_98/votes/vh98369.htm>. The vote in the House was 156 yeas, 4 nays, 20 not voting, and 0 excused. *See id.*

36. *Compare* HB 353, as introduced, 1997 Ga. Gen. Assem., *with* HB 353 (HCS), 1998 Ga. Gen. Assem., *and* HB 353 (HCFSA), 1998 Ga. Gen. Assem., *and* O.C.G.A. §§ 20-2-2060 to -2071 (Supp. 1998).

37. *See* SB 70, as introduced, 1997 Ga. Gen. Assem. (proposing seven-year renewal period in Code section 20-2-2064(d)).

38. *See* Record of Proceedings in the Senate Education Committee (Mar. 11, 1998) [hereinafter Record of Proceedings] (available in Georgia State University College of Law Library).

39. *See id.*

40. *See* HB 353 (HCSFA), 1998 Ga. Gen. Assem.

41. *See* O.C.G.A. § 20-2-2071 (Supp. 1998); Record of Proceedings, *supra* note 38.

42. *Compare* O.C.G.A. § 20-2-2061(2) (Supp. 1998), *with* 1993 Ga. Laws 1440, § 1, at 1441 (formerly found at O.C.G.A. § 20-2-255 (1993)). The 1998 Act officially repealed the Charter Schools Act of 1993 and its amendments, formerly found at O.C.G.A. § 20-2-255 (1997). *See* 1998 Ga. Laws 1080, § 1.

other progressive charter school states.⁴³ Supporters of the charter school concept, including Representative Ashe, view the 1998 law as the next natural step in the expansion of the charter school movement in Georgia.⁴⁴ The passage of the Charter Schools Act of 1998 serves to repeal Code section 2-2-255, relating to petitions for charter school status and open the door to start-up charters.⁴⁵

The effectiveness of the charter school concept remains speculative,⁴⁶ but supporters espouse such significant benefits as helping increase student achievement, providing opportunity for educational entrepreneurs, expanding the range of available schools, and encouraging the existing school systems to continue improving.⁴⁷ Georgia Department of Education data indicates that only twelve charter schools have been in effect long enough to provide test data.⁴⁸ A Georgia Department of Education report on the state's twelve charter schools established through 1997 "showed [that] virtually each one made some improvements on the Iowa Tests of Basic Skills during their first year."⁴⁹ Similarly, first-year reports on nine charter schools approved in 1996 reported an increase in test scores.⁵⁰ However, charter schools in their second year did not necessarily improve test scores across all test areas.⁵¹ Even so, Georgia's Superintendent of Schools, Linda Schrenko, stated that "student achievement is up."⁵² Ms. Schrenko comments that the new Charter Schools Act "opens a door that wasn't there before," by allowing

43. See Ashe Interview, *supra* note 23.

44. See *id.*

45. See 1998 Ga. Laws 1080.

46. See Telephone Interview with Dr. John Rhodes, Director of School Renewal for the Georgia Department of Education (June 2, 1998) [hereinafter Rhodes Interview] (stating that history is an insufficient measure of the effectiveness of the charter school concept on Georgia students). As of 1995, only three schools in Georgia had voted in favor of a charter school. See NATHAN, *supra* note 2, at 17. As of March 1998, preceding the passage of the new Charter Schools Act, 24 charter schools existed in Georgia. See Rhodes Interview, *supra*.

47. See NATHAN, *supra* note 2, at 1 (articulating ways charter schools can help educators and policymakers accomplish their educational goals).

48. See James Salzer, *Charter School Test Scores Mixed: After Progress During First Year of Program, Results at Special Institutions Wavering*, METROAUGUSTA, AUGUSTA CHRON. ONLINE (Mar. 8, 1998) <http://augustachronicle.com/stories/0300998/met_MNS-7007.001.shtml>.

49. *Id.*

50. See *id.*

51. See *id.*

52. *Id.*

company foundations and parents to start their own schools.⁵³ One charter school principal explained the benefits of having a charter school in the community as creating a “collaborative school” where “everyone—parents, children, teachers—feels an ownership—more so than with other public schools.”⁵⁴

Charter schools are viewed by many as “incubators for change,” promoting new concepts and ideas on a smaller, experimental scale before rolling the educational reform through the entire school system.⁵⁵ However, despite its strong public support, some education groups and legislators believe that the charter school concept threatens our public schools and will drain public school resources.⁵⁶ When legislators proposed the charter school idea, many “established education groups were wary.”⁵⁷ For example, despite a prohibition against discrimination, “according to Education Department data, the [twenty-one then existing] Charter Schools ha[d] a higher percentage of white students than the state average.”⁵⁸ Furthermore, the Georgia Association of Educators, the state’s second largest teachers’ group, was described as being “‘lukewarm’ about charter schools” because the current legislation allows for the use of noncertified teachers in charter schools.⁵⁹

Notwithstanding certain concerns, many parties are expressing interest in applying to create a charter school once the charters become available to non-existent public school operators in July 1998.⁶⁰ The hope is that “[i]n years to come, the experimentation

53. *Id.*

54. Susan Laccetti Meyers, *Charter Schools: Reinventing Education*, ATLANTA J. & CONST., Feb. 2, 1998 (interviewing Carolyn Jurick, Principal of Addison Elementary in northeast Cobb County, recipient of a charter in summer of 1995).

55. Ashe Interview, *supra* note 23.

56. *See* Telephone Interview with Rep. Tyrone Brooks, House District No. 54, President, Georgia Association of Black Elected Officials (May 28, 1998); Bill Shipp, *Bill Shipp's Georgia Weekly Newsletter on Government and Business* (Mar. 20, 1998) <<http://www.billshipp.com/index.shtml>>.

57. Charles Walston, *Legislature Approves Start-Up Charter Schools; Public Funds Available for Fledgling Concept*, ATLANTA J. & CONST., Mar. 14, 1998, at A1.

58. Salzer, *supra* note 48. James Salzer goes on to explain that the disparity in racial enrollment is largely due to the existence of current charter schools in Atlanta suburbs and far North Georgia, which have a smaller African-American population. *See id.*

59. Walston, *supra* note 57. In rebuttal to the concern over noncertified teachers, Linda Schrenko, Superintendent of Schools, predicts that most teachers working in charter schools will in fact be certified, despite the school’s ability to hire noncertified teachers. *See id.*

60. *See* Rhodes Interview, *supra* note 46. Dr. Rhodes indicated that 70 to 75 contacts or parties have inquired into charter school applications under the new law. *See id.*

inspired by the revised law should help improve the quality of education throughout Georgia.”⁶¹

HB 353

Introduction

The House first read HB 353 in January 1997, but it did not reach the Senate until March 1998.⁶² Representatives Kathy B. Ashe of the 46th District, Charlie Smith, Jr. of the 175th District, Dr. Brooks P. Coleman, Jr. of the 80th District, Tom Sherrill of the 62nd District, Sharon R. Trense of the 44th District, and others, introduced HB 353.⁶³ A substitute version of HB 353 was submitted in February 1998, which was subsequently amended in March 1998; the amendment version was enrolled on March 26, 1998.⁶⁴ Governor Zell Miller signed the Charter Schools Act of 1998 on April 20, 1998.⁶⁵

Some are on “fishing expeditions,” but some interested parties are quite serious and well prepared. *Id.*

61. *Cautious Policy-Making, supra* note 2.

62. *See* Georgia House of Representatives, *HB 353—Charter Schools Act of 1997; Enact, First Reader Summary* (visited on May 27, 1998) <http://www2.state.ga.us/Legis/1997_98/leg/fulltext/hb353.htm>.

63. *See id.*

64. *See id.*

House	Action	Senate
1/31/97	Read 1st Time	3/3/98
2/3/97	Read 2nd time	3/12/98
2/18/98	Favorably Reported	3/12/98
Sub	Committee Amend/Sub	Sub
3/2/98	Read 3rd time	3/13/98
3/2/98	Passed / Adopted	3/13/98
FSFA	Comm/Floor Amend/Sub	CS
3/19/98	Amend/Sub Agreed to	
4/1/98	Sent to Governor	
4/20/98	Signed by Governor	
891	Act/Veto Number	
7/1/98	Effective Date	

See id.

65. *See* 1998 Ga. Laws 1080, § 4, at 1090.

General Provisions

The Act repeals Code section 20-2-255, relating to a petition for charter school status.⁶⁶ The Act provides for charter schools and operates under the short title "Charter Schools Act of 1998."⁶⁷ In addition, the Act removes a certain limitation regarding advance capital outlay funding for construction projects to consolidate or reorganize schools.⁶⁸ The Act amends Code section 20-2-260, relating to the provision of capital outlay funds to local school systems under the "Quality Basic Education Act," by striking and replacing subsection (i) in its entirety so that each local school is no longer limited to one project per fiscal year.⁶⁹

Applicability to Private Entities

New Code section 20-2-2061 discusses the intent of the General Assembly to provide a means for local schools to substitute a binding academic and/or vocational-based contract, called a charter, for state and local rules, regulations, policies, and procedures governing public schools.⁷⁰ The academic and/or vocational performance-based charters are approved by both the state and local boards of education, who oversee the charter sponsors and measure the school's performance relative to the charter's objectives.⁷¹ The Georgia lawmakers also intended that "[p]rivate individuals, private organizations, or state or local public entities . . . may establish a local school which is subject to [a charter]."⁷² Thus, under the new law, these parties, in addition to existing schools, can now act as charter petitioners.⁷³ Furthermore, the Act explicitly excludes "home study programs or schools; sectarian or religious schools; private for profit schools; private educational institutions not established, operated, or governed by the State of Georgia; and existing private schools."⁷⁴

66. *See id.* § 1, at 1080.

67. *See* O.C.G.A. § 20-2-2060 (Supp. 1998).

68. *See id.* § 20-2-260(i).

69. *Compare id. with* 1985 Ga. Laws 1657, § 1 (formerly found at O.C.G.A. § 20-2-260(i) (1997)).

70. *See* O.C.G.A. § 20-2-2061 (Supp. 1998).

71. *See id.*

72. *Id.*

73. *See id.*

74. *Id.*

Defining "Charter Schools"

The Act defines "charter" as "an academic or vocational performance based contract or an academic and vocational performance based contract between the state board, a local board of education, and a charter petitioner, the terms of which are approved by the local board of education and by the state board."⁷⁵ A charter school shall be "a public, nonsectarian, nonreligious, nonprofit school, which is also not home based."⁷⁶ The charter school is subject to the "control and management of the local school board of the local school system in which the charter school is located, as provided in the charter and in a manner consistent with the [Georgia] Constitution."⁷⁷

Charter School Petition Requirements

Code section 20-2-2063 outlines the requirements of the petition to a local or state school board.⁷⁸ The petition shall describe a plan for improvement, which addresses how the charter petitioner "proposes to improve student learning and meet minimum state standards."⁷⁹ The petition must include verifiable academic and/or vocational performance based criteria used to measure the progress of the charter petitioner in meeting its proposed plan for improvement.⁸⁰

The petition must also describe how parents, guardians, faculty, students, and the community will be involved in the development and implementation of the charter school, as well as how those parties will be solicited to evaluate the effectiveness of the improvement plan.⁸¹ Other petition requirements include providing for: (1) the school's commitment to be subject to the control of the local school board and to be operated consistently with the Georgia Constitution; (2) a governing body consisting of a majority of parents and guardians not employed by the school; (3) personnel policies and procedures; (4) financial policies and procedures; and (5) the parameters of the charter

75. *Id.* § 20-2-2062.

76. *Id.* § 20-2-2065(1).

77. *Id.* § 20-2-2065(2). Representative Kathy Ashe stated that the constitutional issues surrounding the powers of the local school board were the biggest concerns expressed by the state legislators with respect to passing the bill. *See Ashe Interview, supra* note 23.

78. *See* O.C.G.A. § 20-2-2063 (Supp. 1998).

79. *Id.* § 20-2-2063(1).

80. *See id.* § 20-2-2063(2).

81. *See id.* § 20-2-2063(3)-(4).

school's compliance with the provisions of the Charter Schools Act and state and local rules.⁸² Finally, the petition must specify the proposed duration of the charter, which cannot exceed five years.⁸³

Charter School Approval

A charter petitioner must submit a petition to the school board of the local school system in which the proposed charter school would be located.⁸⁴ This petition request may occur only after the charter school petition has been "freely agreed to" by a majority of faculty and instructional staff and parents or guardians attending meetings called specifically to address the petition.⁸⁵ The local school board must, by a majority vote, approve or deny a properly submitted and complete petition no later than sixty days after its submission.⁸⁶ The state board may grant a charter once it is approved by a local board and has met all the preceding requirements.⁸⁷

The initial duration of a charter cannot exceed five years.⁸⁸ A charter can be renewed by the state board for an additional period not exceeding five years upon written request to the governing body of the charter school and to the local.⁸⁹ Once a charter is approved, it stays in effect until the charter expires according to its terms or is declared null and void by the state board after a majority of parents or guardians present at a public meeting vote to declare it such.⁹⁰ The state board may terminate a charter school, after providing sufficient due process, based on a number of grounds related to the school's failure to meet its educational, financial, or other agreed upon terms in the charter.⁹¹

Enrollment Requirements

The Act requires charter schools to enroll "any student who resides in the school district in which the charter school is located," so long as

82. *See id.* § 20-2-2063(5)-(6), (8)-(9), (11).

83. *See id.* § 20-2-2063(10).

84. *See id.* § 20-2-2064(a).

85. *Id.*

86. *See id.*

87. *See id.* § 20-2-2064(b).

88. *See id.* § 20-2-2064(c).

89. *See id.*

90. *See id.* §§ 20-2-2068, -2071.

91. *See id.* § 20-2-2068(b)(1).

a timely application is submitted and the school has capacity.⁹² Conversely, a student may withdraw from a charter school at any time and enroll in a school within the school district in which the student resides.⁹³ Students outside of the charter school's district may only enroll pursuant to a contractual relationship between the local school boards of the school system in which the child resides and the school system where the charter school is located.⁹⁴ Charter schools are prohibited from discriminating on any basis that is illegal for any other school system.⁹⁵

Protection Against "Unlawful Reprisal"

The Act protects charter school petitioners from "unlawful reprisal."⁹⁶ Unlawful reprisal consists of any "action taken by a local board of education or a school system employee as a direct result of a lawful petition to establish a charter school" when that behavior would not otherwise require adverse treatment.⁹⁷ Protection from unlawful reprisal extends to employees, as well as to educational programs.⁹⁸

Office of Charter School Compliance

The Act also establishes an Office of Charter School Compliance, within the Department of Education, to prepare charter school guidelines, distribute charter school petition information to inquiring parties, process all charter school petitions for consideration by the state board, administer any state or federal charter school implementation grant program, contract with an independent party to evaluate the performance of charter schools, and compile the necessary information to produce the required annual report for the General Assembly.⁹⁹

92. *Id.* § 20-2-2066(a)(1).

93. *See id.* § 20-2-2066(c).

94. *See id.* § 20-2-2066(a)(2).

95. *See id.* § 20-2-2066(b).

96. *Id.* § 20-2-2067.

97. *Id.*

98. *See id.* § 20-2-2067(1)-(2).

99. *See id.* § 20-2-2069.

Legislative Reporting

Code section 20-2-2070 requires the state board of education to report to the General Assembly no later than November 1 of each year on the status of the charter school program.¹⁰⁰

Validity of Charters Existing on July 1, 1998

Finally, the Act grants continuing effect and validity to any charter which was granted pursuant to Code section 20-2-255 and was in effect on July 1, 1998.¹⁰¹ Such a charter will be valid until the charter expires according to its terms.¹⁰²

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100. *See id.* § 20-2-2070.

101. *See id.* § 20-2-2071.

102. *See id.*