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EDUCATION Elementary and Postsecondary Education: Amend the "Quality Basic Education Act"; Change Certain Provisions Relating to Determination of Enrollment by Institutional Programs; Authorize the Establishment of the Georgia Virtual School; Provide for Rules and Regulations; Provide for a Georgia Virtual School Grant Account; Provide for Statutory Construction; Provide for Related Matters; Provide an Effective Date; Repeal Conflicting Laws; and for Other Purposes

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EDUCATION

Elementary and Postsecondary Education: Amend the "Quality Basic Education Act"; Change Certain Provisions Relating to Determination of Enrollment by Institutional Programs; Authorize the Establishment of the Georgia Virtual School; Provide for Rules and Regulations; Provide for a Georgia Virtual School Grant Account; Provide for Statutory Construction; Provide for Related Matters; Provide an Effective Date; Repeal Conflicting Laws; and for Other Purposes

CODE SECTIONS:	O.C.G.A. §§ 20-2-160 (amended); 20-2-319.1 (new)
BILL NUMBER:	SB 33
ACT NUMBER:	154
GEORGIA LAWS:	2005 Ga. Laws 795
SUMMARY:	The Act authorizes the State Board of Education to establish a Georgia Virtual School where students may enroll in state-funded courses via the Internet. All Georgia students who are age 21 or younger are eligible to enroll, but the Act gives public school students priority. The Act also authorizes the State Board of Education to establish rules and regulations, including the processes for enrollment and reporting grades on students' transcripts. Students may register for courses in excess of the maximum number of courses allowed per year at a tuition rate the State Board of Education will establish. The Professional Standards Commission will certify all instructors. The Department of Education (DOE)

will establish a grant account to fund the Virtual School.

EFFECTIVE DATE:

May 4, 2005¹

History

Governor Sonny Perdue proposed the Georgia Virtual High School legislation as part of his education package aimed at improving education in Georgia.² Placing extremely low in national rankings, Georgia's education system desperately needs reform.³ Governor Perdue expects the Virtual High School "will use the best technology available to ensure students in every corner of this state have access to Advanced Placement classes."⁴ The Governor hopes that SAT scores will improve, and that the Virtual High School will better prepare Georgia students for college.⁵ The bill's proponents intended it, in part, to benefit rural Georgia students who do not have access to advanced level high school courses.⁶ Teachers certified in advanced subject matters are often unavailable to teach in rural areas.⁷

The story of Cliff Tippens, a Georgia high school student from Clinch County, inspired Governor Purdue to propose the Virtual High School aspect of his 2005 education package.⁸ At one of a series of education listening sessions held by the Governor, Tippens introduced himself to Governor Perdue as a good student who wanted to take challenging classes in order to prepare for college.⁹ But because of where Tippens lived, he did not have access to advanced placement (AP) courses and other advanced courses.¹⁰ Governor

1. See 2005 Ga. Laws 795, §3, at 797. The Act became effective upon approval by the Governor. *Id.*

2. *Governor Perdue Praises House Passage of Virtual High School*, THE WEEKLY, Feb. 17, 2005, available at http://www.theweekly.com/news/2005/February/17/High_schools.html [hereinafter *Perdue Praises*].

3. See Audio Recording of Senate Proceedings, Jan. 27, 2005 (remarks by Sen. Regina Thomas), http://www.georgia.gov/00/article/0,2086,4802_6107103_33091490,00.html [hereinafter *Senate Audio*].

4. *Perdue Praises*, *supra* note 2 (quoting a statement of Governor Perdue).

5. *Id.*

6. Senator Preston Smith, *Hometown Voices/Legislature 2005: 'Virtual High School Bill' Passes Senate*, HOMETOWN HEADLINES, Jan., 31, 2005, <http://www.hometownheadlines.com/columns/20050131preston.php>.

7. *Id.*

8. Governor Sonny Perdue, *State of the State Address*, Jan. 12, 2005, http://www.gov.state.ga.us/speeches/2005_speeches/Jan12_2005.shtml.

9. *Id.*

10. *Id.*

Perdue believes where bright students happen to reside in the state should not limit them.¹¹ The Georgia Virtual High School will provide students like Tippens access to over 60 online courses, including 15 AP courses and SAT preparation courses.¹²

Bill Tracking of SB 33

Consideration by the Senate

Senators Dan Moody, John Douglas, Don Balfour, George Hooks, and John Bulloch, of the 56th, 17th, 9th, 14th, and 11th districts, respectively, sponsored SB 33.¹³ The Senate first read the bill on January 24, 2005, and the Senate Education and Youth Committee favorably reported on the bill, by substitute, on January 25, 2005.¹⁴ The Senate read the bill for the second time on January 26, 2005, and for a third time on January 27, 2005.¹⁵ The Senate adopted the bill, as amended on the floor, on January 27, 2005.¹⁶

The Bill, As Introduced

SB 33, as introduced, simply referred to “students” in stating who was eligible to enroll.¹⁷ It gave no further clarification regarding who qualifies as a “student.”¹⁸ The bill also stated that students could “participate in [Georgia Virtual School] courses outside of regular school hours at a tuition rate to be established by the State Board of Education.”¹⁹ The original bill did not provide a preference for enrollment to public school students.²⁰ It also did not specify how many virtual courses a student could take in a school year.²¹

11. *Id.*

12. *Id.*

13. *See* SB 33, as introduced, 2005 Ga. Gen. Assem.

14. *See* State of Georgia Final Composite Status Sheet, SB 33, Jan. 24, 2005 (May 11, 2005); State of Georgia Final Composite Status Sheet, SB 33, Jan. 25, 2005 (May 11, 2005).

15. *See* State of Georgia Final Composite Status Sheet, SB 33, Jan. 26, 2005 (May 11, 2005); State of Georgia Final Composite Status Sheet, SB 33, Jan. 27, 2005 (May 11, 2005).

16. *See* State of Georgia Final Composite Status Sheet, SB 33, Jan. 27, 2005 (May 11, 2005).

17. *See* SB 33, as introduced, 2005 Ga. Gen. Assem.

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.*

Senate Committee Substitute

The Senate Committee on Education and Youth refined the bill by defining students as “[a]ny Georgia student who is age 21 or younger.”²² The Committee substitute also stated that students could take “a maximum of six courses per school year at no cost to the student.”²³ It further clarified the bill by stating that students could pay tuition (an amount established by the State Board of Education) “to participate in such courses in excess of the six courses allowed per year.”²⁴ The Committee substitute also mandated that the Professional Standards Commission certifies instructors in the Virtual School.²⁵

Senator Dan Moody, the bill’s co-sponsor, described the Committee substitute on the Senate floor on January 27, 2005.²⁶ He pointed out the main aspects of the bill: 1) it allows students to take classes over the Internet for credit towards graduation; 2) any Georgia student is eligible to enroll, no matter where he or she lives; 3) the Georgia Virtual School will be a Georgia public school; 4) students can communicate by email or telephone with their online teacher; 5) the Professional Standards Commission will certify online teachers; 6) the State Board of Education will be responsible for establishing all other rules and regulations; and, 7) the funding for the Virtual School corresponds with what would have been earned if the student had taken the course in a traditional classroom setting.²⁷ Senator Moody pointed out that on January 27, 1785, Georgia became the first state to charter a state university, and he stated that the passage of this bill is an opportunity for Georgia to think “outside the box” with respect to education.²⁸ Senator Moody also mentioned the “true bipartisan spirit” in support of the bill in Committee,

22. Compare SB 33, as introduced, 2005 Ga. Gen. Assem., with SB 33 (SCS), 2005 Ga. Gen. Assem.

23. Compare SB 33, as introduced, 2005 Ga. Gen. Assem., with SB 33 (SCS), 2005 Ga. Gen. Assem.

24. See SB 33 (SCS), 2005 Ga. Gen. Assem.

25. *Id.*

26. See Senate Audio, *supra* note 3 (remarks by Sen. Dan Moody).

27. *Id.*

28. *Id.*

demonstrating the Committee's desire to enhance student achievement throughout Georgia.²⁹

Floor Debate and Amendments

Though Senator Moody described the Committee meeting as cooperative and supportive, the Committee substitute generated some heated debate over the provision stating any Georgia student under age 21 is eligible to enroll in virtual classes.³⁰ Senator David Adelman of the 42nd district expressed concern about the fact that the only limitations for eligibility are that a person be from Georgia and age 21 or younger, particularly because there was no mechanism in the bill for deciding which students would get priority, and students may be competing for a limited number of spaces in the Virtual School.³¹ Senator Moody felt that the authority to make these kinds of decisions is best left to the State Board of Education.³² Though Senator Moody acknowledged that he had no "hardcore numbers on how many students" will participate, he believes the resources are in place so that every student will be able to take the classes they want to take.³³

Despite Senator Moody's confidence that every student interested in enrolling would be able to enroll, Senators advocating to give public school students priority persuaded Senator Moody to introduce an amendment providing the same.³⁴ Senator Don Thomas of the 54th district felt that granting priority to public school students was "discriminating in the other direction" because it denies people who choose not to send their children to public schools, yet pay a tremendous amount of taxes to fund education in the state, the opportunity for their children to enroll in virtual classes.³⁵

Senator Regina Thomas of the 2nd district felt that a significant problem with education is poor student performance in public schools.³⁶ She stated that non-public school students (those who are

29. *Id.*

30. *Id.*

31. *See id.* (remarks by Sen. David Adelman).

32. *See* Senate Audio, *supra* note 3 (remarks by Sen. Dan Moody).

33. *Id.*

34. *See* SB 33 (SCSFA2), 2005 Ga. Gen. Assem.

35. *See* Senate Audio, *supra* note 3 (remarks by Sen. Don Thomas).

36. *See id.* (remarks by Sen. Regina Thomas).

home-schooled or attend private and religious schools) are already doing well, as evidenced by test scores, and that the Senate should limit the bill to public school students because there was no guarantee that the state could adequately fund the program for all those who wished to participate.³⁷

The Senate adopted the amendment to the Committee substitute adding that public school students should receive priority for virtual classes by a vote of 37 to 18.³⁸ The Senate then unanimously passed the Committee substitute, as amended.³⁹

Consideration by the House

The House first read the bill on January 31, 2005, and it read the bill for a second time on February 1, 2005.⁴⁰ The House Education Committee favorably reported the bill, by substitute, on February 15, 2005.⁴¹

House Committee Substitute

The House Education Committee unanimously approved the bill, but only after the DOE and Governor's office staff assured the Committee that the DOE would help public schools with residual costs associated with administering virtual courses on campus, and the DOE would designate separate facilities for nonpublic school students to participate in online courses to relieve public schools of the burden of accommodating such students.⁴² The Committee wanted to ensure that public schools would not need to cover the additional administrative costs for private and home-schooled students to participate in the Virtual School, since those students do not enroll in public schools, and public schools receive no funding for

37. *Id.*

38. *See* Georgia Senate Voting Record, SB 33 (Jan. 27, 2005).

39. Georgia Senate Voting Record, SB 33 (Jan. 27, 2005).

40. *See* State of Georgia Final Composite Status Sheet, SB 33, Jan. 31, 2005 (May 11, 2005); State of Georgia Final Composite Status Sheet, SB 33, Feb. 1, 2005 (May 11, 2005).

41. *See* State of Georgia Final Composite Status Sheet, SB 33, Feb. 15, 2005 (May 11, 2005).

42. Herb Garrett, GCASE: REPORT FROM THE CAPITOL: DAY EIGHTEEN, Feb. 10, 2005, <http://www.g-case.org/committees/legislative.htm>.

those students.⁴³ Now the state is paying for private and home-schooled students to take these courses at technology centers.⁴⁴

The Committee made a change in amending the provision specifying the number of courses students would participate in from "six courses" per school year to "any maximum number of courses" per school year.⁴⁵

On February 17, 2005, the House passed the Committee substitute by a nearly unanimous vote, with only one vote against the bill and without adopting any floor amendments.⁴⁶ The Senate unanimously agreed to the House Committee substitute on February 22, 2005.⁴⁷ Governor Perdue signed it into law on May 4, 2005, effective as of that date.⁴⁸

Analysis

Soon students in high schools throughout Georgia will be able to receive online instruction for many upper-level and AP courses that would otherwise not be available at their schools.⁴⁹ Governor Perdue believes the Virtual School will be a "very efficient way of offering education" and that it is a "great value."⁵⁰ The Virtual School will allow students all across the state to enroll in courses.⁵¹ Many see the bill as an opportunity to bring more educational fairness to high school students, and that a school's lack of funding will now have less of an effect on what classes in which an individual student can enroll.⁵²

Some have expressed concern about how the DOE will choose instructors for online classes and how instructors will recognize when a student is struggling with the material.⁵³ The technology allows

43. See Telephone Interview with Rep. Brooks Coleman, House District No. 97 (June 8, 2005) [hereinafter Coleman Interview].

44. *Id.*

45. Compare SB 33 (SCSFA), 2005 Ga. Gen. Assem., with SB 33 (HCS), 2005 Ga. Gen. Assem.

46. Georgia House of Representatives Voting Record, SB 33 (Feb. 17, 2005).

47. Georgia Senate Voting Record, SB 33 (Feb. 22, 2005).

48. State of Georgia Final Composite Status Sheet, SB 33, May 4, 2005 (May 11, 2005).

49. See Governor Perdue visits BCHS, Virtually, MAINSTREETNEWS.COM, May 11, 2005, <http://www.mainstreetnews.com/2005/May/B0511A.html>.

50. *Id.* (quoting Governor Perdue).

51. Perdue Praises, *supra* note 2.

52. See Governor Perdue visits BCHS, Virtually, *supra* note 49.

53. *Id.*

students to enter a “smiley face” to show understanding, a “frowning face” to show confusion, and allows students to electronically “raise their hand” and ask questions in real time.⁵⁴ But no one knows how teachers with both regular students and online students will balance teaching responsibilities and how teachers will conduct tests through the system.⁵⁵

Overall, Representative Brooks Coleman, Chairman of the House Education Committee, foresees no major practical or legal obstacles for the bill and feels it is a positive change, especially for those students who were without access to advanced courses.⁵⁶ He feels that the Virtual School’s availability to all students, whether publicly, privately, or home-schooled, is also positive—since everyone pays taxes, everyone should have access.⁵⁷

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54. *Id.*

55. *Id.*

56. *See* Coleman Interview, *supra* note 43.

57. *Id.*