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## EDUCATION Elementary and Secondary School Education Spending: Amend Title 20 of the Official Code of Georgia to Require Local School Systems to Spend a Minimum Amount of Operating Funds on Direct Classroom Expenditures; Provide a Short Title; Provide for Definitions; Provide for Incremental Compliance; Provide for Waivers; Provide for the Submission of Budget and Expenditure Information; Provide for Rules and Regulations; Change Certain Provisions Relating to Expenditure Controls for Fiscal Years 2007 and 2008; Provide for Related Matters;

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## EDUCATION

***Elementary and Secondary Education Spending: Amend Title 20 of the Official Code of Georgia to Require Local School Systems to Spend a Minimum Amount of Operating Funds on Direct Classroom Expenditures; Provide a Short Title; Provide for Definitions; Provide for Incremental Compliance; Provide for Waivers; Provide for the Submission of Budget and Expenditure Information; Provide for Rules and Regulations; Change Certain Provisions Relating to Expenditure Controls for Fiscal Years 2007 and 2008; Provide for Related Matters; Provide for an Effective Date; Repeal Conflicting Laws; and for Other Purposes***

CODE SECTIONS:	O.C.G.A. §§ 20-2-171 (new), 20-2-172 (new)
BILL NUMBER:	SB 390
ACT NUMBER:	446
GEORGIA LAWS:	2006 Ga. Laws 56
SUMMARY:	The Act requires schools to spend 65% of all funds on direct classroom expenditures. Direct classroom expenditures are defined as expenditures for activities related to student-teacher interaction including, but not limited to, teacher compensation; educational materials and supplies; classroom-related activities such as field trips, physical education, music, and arts; and tuition paid to out-of-state school districts and private institutions for special needs students. School districts not meeting the 65% requirement must increase their direct classroom expenditures by a minimum of two percent per fiscal year and each fiscal year thereafter until they reach the 65% level. The Act also provides one-year renewable

achievement or hardship waivers for schools not in compliance with the 65% spending requirement.

EFFECTIVE DATE:

July 1, 2006<sup>1</sup>

### *History of SB 390*

On April 5, 2006, Governor Perdue signed into law the “Classrooms First For Georgia Act,” setting a statewide threshold requirement that schools spend at least 65% of education funding on “direct classroom expenditures,” as defined by the Act.<sup>2</sup> Governor Perdue became interested in the 65% direct classroom expenditure requirement after columnist George Will endorsed it in an article in which he dubbed the spending measure the “65% solution.”<sup>3</sup> At first, the Governor was not interested in enacting a 65% classroom expenditure requirement.<sup>4</sup> But Perdue’s former education adviser, an economics professor at Georgia State University, found that Georgia school systems already meeting the 65% spending goal enjoyed better student performance on standardized tests.<sup>5</sup> Specifically, he found that school systems meeting the 65% spending level averaged 73 points higher on the SAT Reasoning Test (the “SAT”) and 6 to 14 points higher on the Criterion Referenced Competency Test (the “CRCT”).<sup>6</sup> Governor Perdue found this data persuasive.<sup>7</sup> Convinced that the 65% measure would produce positive gains in Georgia classrooms, Governor Perdue incorporated the spending goals into his overall education plan.<sup>8</sup>

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1. See 2006 Ga. Laws 56, § 3, at 59.

2. O.C.G.A. § 20-2-171 (Supp. 2006).

3. See Interview with Jennifer Rippner, Education Policy Advisor, Office of Governor Sonny Perdue (Apr. 12, 2006) [hereinafter Rippner Interview].

4. *Id.* (discussing findings of former education advisor, Ben Scafidi); see also Shannon McCaffrey, *Perdue Signs Classroom Spending Legislation*, MACON TELEGRAPH, Apr. 6, 2006, available at [www.macon.com/mold/macon/news/politics/14273799.htm](http://www.macon.com/mold/macon/news/politics/14273799.htm).

5. McCaffrey, *supra* note 4; Rippner Interview, *supra* note 3.

6. Rippner Interview, *supra* note 3.

7. McCaffrey, *supra* note 4.

8. Rippner Interview, *supra* note 3.

*Bill Tracking of SB 390**Consideration and Passage by the Senate*

SB 390 was introduced in the Senate by Senator Ronnie Chance of the 16th District.<sup>9</sup> The bill was first read on January 10, 2006 and was assigned to the Education and Youth Committee.<sup>10</sup> The Committee favorably reported the bill on January 25, 2006.<sup>11</sup> The bill was read for the second time on the Senate floor on January 26, 2006.<sup>12</sup> The bill was read for the third time and the Senate approved the measure without alteration on January 31, 2006, by a vote of 32 to 18.<sup>13</sup>

Prior to Senate approval, Democratic Senators introduced five amendments to the bill, all of which failed.<sup>14</sup> Senator Steve Thompson of the 33rd district proposed the first two unsuccessful amendments.<sup>15</sup> The first amendment sought to amend Code section 20-2-182 by removing the term “system average.”<sup>16</sup> Under current law, school systems are allowed to average class sizes to comply with maximum class size restrictions.<sup>17</sup> Senator Thompson insisted that such leniency undermines the purpose of mandatory maximum class sizes and disproportionately harms poorer schools.<sup>18</sup> The amendment would have prevented system class size averaging that could result in a disparity where poor schools have higher student-teacher ratios than affluent schools.<sup>19</sup> The amendment failed with 17 senators in favor and 32 opposed.<sup>20</sup> Senator Thompson’s second amendment sought to

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9. See Audio Recording of Senate Proceedings, Jan. 31, 2006 (remarks by Sen. Ronnie Chance), [http://www.georgia.gov/00/article/0,2086,4802\\_6107103\\_47120055,00.html](http://www.georgia.gov/00/article/0,2086,4802_6107103_47120055,00.html), [hereinafter Senate Audio].

10. See State of Georgia Final Composite Status Sheet, SB 390, Jan. 10, 2006 (Mar. 30, 2006).

11. See State of Georgia Final Composite Status Sheet, SB 390, Jan. 25, 2006 (Mar. 30, 2006).

12. See State of Georgia Final Composite Status Sheet, SB 390, Jan. 26, 2006 (Mar. 30, 2006).

13. See State of Georgia Final Composite Status Sheet, SB 390, Jan. 31, 2006 (Mar. 30, 2006); see also Georgia Senate Voting Record, SB 390 (Jan. 31, 2006).

14. See Senate Audio, *supra* note 9; see also *infra*, notes 15, 24, 29.

15. See Failed Senate Floor Amendments to SB 390, introduced by Sen. Steve Thompson, Jan. 31, 2006 [hereinafter Thompson Proposals].

16. *Id.*

17. See O.C.G.A. § 20-2-182 (2006); see also Telephone Interview with Sen. Steve Thompson, Senate Dist. No. 33 (Apr. 17, 2006) [hereinafter Thompson Interview].

18. Thompson Interview, *supra* note 17.

19. *Id.*

20. Georgia Senate Voting Record, SB 390 (Jan. 31, 2006).

remove from the bill a provision that, for fiscal years 2007 and 2008, relieved Georgia school systems of the requirement that they spend specific educational program funds at the site where the funds were earned.<sup>21</sup> Like Senator Thompson's first proposed amendment, the purpose behind this amendment was to ensure fair allocation of system resources.<sup>22</sup> The amendment failed with 17 senators in favor and 33 senators opposed.<sup>23</sup>

Senator Steve Henson of the 41st district proposed an amendment to include salaries and benefits for media specialists and counselors as direct classroom expenditures in the 65% requirement.<sup>24</sup> Senator Henson argued that, without the amendment, direct classroom expenditures included footballs, as part of physical education costs, but not media specialists and librarians.<sup>25</sup> Further, he argued that higher drop-out rates and health problems in certain communities require counselors and nurses to make the educational programs effective, so the legislature should allow schools to spend money accordingly.<sup>26</sup> Democratic Senators emphasized that technology and media investment are important to prepare Georgia students for work and education.<sup>27</sup> The amendment failed by a vote of 18 to 32.<sup>28</sup>

Democratic Senator Sam Zamarippa of the 36th district proposed two additional amendments.<sup>29</sup> The first proposal, which Senator Zamarippa withdrew prior to voting, sought to limit the applicability of the 65% spending requirement to school systems with fewer than 50,000 students.<sup>30</sup> The second proposed amendment sought to supplant the bill's definition of direct classroom expenditures by giving the State Board of Education the authority to define the term for purposes of the Act.<sup>31</sup> Senator Zamarippa emphasized the

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21. See Thompson Proposals, *supra* note 15.

22. Thompson Interview, *supra* note 17.

23. Georgia Senate Voting Record, SB 390 (Jan. 31, 2006).

24. See Failed Senate Floor Amendment to SB 390, introduced by Sen. Steven Henson, Jan. 31, 2006.

25. See Senate Audio, *supra* note 9 (remarks by Sen. Steve Henson); see also Telephone Interview with Sen. Steve Henson, Senate Dist. No. 41, April 3, 2006 [hereinafter Henson Interview].

26. See Senate Audio, *supra* note 9 (remarks by Sen. Henson).

27. See Senate Audio, *supra* note 9 (remarks by Sen. Sam Zamarippa).

28. See Georgia General Assembly, SB 390 Bill Tracking, [http://www.legis.state.ga.us/legis/2005\\_06/sum/sb390.htm](http://www.legis.state.ga.us/legis/2005_06/sum/sb390.htm).

29. See Failed Senate Floor Amendments to SB 390, introduced by Sen. Zamarippa, Jan. 31, 2006.

30. *Id.*

31. *Id.*

importance of preventing the Senate from micromanaging education.<sup>32</sup> He argued that permitting the State Board of Education to define direct classroom expenditures would ensure flexibility in the Act's implementation, but the amendment failed by a vote of 15 to 34.<sup>33</sup>

On January 31, 2006, after none of the five proposed amendments was accepted, the Senate approved SB 390 with no changes.<sup>34</sup>

### *Consideration and Passage by the House*

SB 390 was read in the House for the first time on February 1, 2006 and was assigned to the Education Committee.<sup>35</sup> The bill was read for the second time on the House floor on February 2, 2006.<sup>36</sup> The House Education Committee favorably reported the bill by substitute on February 15, 2006.<sup>37</sup>

The House substitute contained a provision, proposed by Representative David Casas, for a one-year renewable hardship waiver.<sup>38</sup> The provision allows a local school system unable to meet the bill's requirements to apply to the State Board of Education for a one-year renewable hardship waiver, which should be granted only in "extreme situations in which such situation is solely responsible for the local school system's inability to meet the expenditure requirements. Such situations may include, but are not limited to, Acts of God and inordinate unexpected increases in energy and fuel costs."<sup>39</sup>

On February 16, 2006, the House approved the substitute by a vote of 102 to 70.<sup>40</sup> The Senate accepted the House substitute on February

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32. See Senate Audio, *supra* note 9 (remarks by Sen. Zamarripa).

33. *Id.*; see also Georgia Senate Voting Record, SB 390 (Jan. 31, 2006).

34. See State of Georgia Final Composite Status Sheet, SB 390, Jan. 31, 2006 (Mar. 30, 2006).

35. See State of Georgia Final Composite Status Sheet, SB 390, Feb. 1, 2006 (Mar. 30, 2006).

36. See State of Georgia Final Composite Status Sheet, SB 390, Feb. 2, 2006 (Mar. 30, 2006).

37. See State of Georgia Final Composite Status Sheet, SB 390, Feb. 15, 2006 (Mar. 30, 2006).

38. See SB 390 (HCS), 2006 Ga. Gen. Assem.

39. See *id.*

40. See State of Georgia Final Composite Status Sheet, SB 390, Feb. 16, 2006 (Mar. 30, 2006); Georgia House of Representatives Voting Record, SB 390 (Feb. 16, 2006).

23, 2006 by a vote of 33 to 19.<sup>41</sup> On April 5, 2006, Governor Perdue signed the Act into law.<sup>42</sup>

### *The Act*

The Act amends Title 20 relating to education by adding Code section 20-2-171, which requires every Georgia public school system to spend a minimum of 65% of its “total operating expenditures” on direct classroom expenditures.<sup>43</sup> The Act defines direct classroom expenditures as all expenses directly related to teacher-student interaction including, but not limited to, “salaries and benefits for teachers and paraprofessionals; costs for instructional materials and supplies; costs associated with classroom-related activities, such as field trips, physical education, music, and arts; and tuition paid to out-of-state school districts and private institutions for special needs students.”<sup>44</sup> Total operating expenditures includes “expenditures from federal, state, and local funds and from any other funds received by a local school system, such as student activity fees” but not including “capital outlay expenditures, debt or bond payments, interest on debt or bonds, facility leases, or rental payments.”<sup>45</sup> The Act excludes from total operating expenditures any costs incurred to comply with any new Department of Education requirements to add specific staff positions.<sup>46</sup>

School districts not meeting the 65% requirement must increase their direct classroom expenditures by a minimum of 2% per fiscal year as a percentage of total operating expenditures until they reach the 65% level.<sup>47</sup> Fiscal year 2007 will serve as the baseline year from which required increases for fiscal year 2008 will be calculated.<sup>48</sup> The Act provides for one-year renewable achievement waivers for school systems which are unable to meet the 65% requirement yet

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41. See Georgia Senate Voting Record, SB 390 (Feb. 23, 2006).

42. See Georgia General Assembly, SB 390 Bill Tracking, [http://www.legis.state.ga.us/legis/2005\\_06/sum/sb390.htm](http://www.legis.state.ga.us/legis/2005_06/sum/sb390.htm).

43. O.C.G.A. § 20-2-171 (Supp. 2006).

44. O.C.G.A. § 20-2-171(a)(1) (Supp. 2006).

45. O.C.G.A. § 20-2-171 (a)(2) (Supp. 2006).

46. *Id.*

47. O.C.G.A. § 20-2-171(b)(2) (Supp. 2006).

48. *Id.*



exceed state averages on student performance measures.<sup>49</sup> The Act also provides for one-year renewable hardship waivers for school districts unable to meet the spending threshold due to extraordinary circumstances.<sup>50</sup> The Act gives the State Board of Education the authority to implement and enforce the Act, including authority to promulgate rules and regulations, demand financial information from school systems, and sanction school systems for non-compliance.<sup>51</sup> The Act provides that such sanctions may include requiring the local school system to devise and implement a plan to meet the expenditure requirements in the subsequent fiscal year or withholding all or any portion of state funds.”<sup>52</sup>

### *Analysis*

#### *Overview*

Proponents of the Act insist that requiring school districts to spend 65% of their funds on direct classroom expenditures will improve measurable educational outputs in the form of improved standardized test scores.<sup>53</sup> Governor Perdue and Georgia Republicans cite statistics showing that, on average, Georgia school districts that spend at least 65% of their revenue on direct classroom costs enjoy better student performance on standardized tests than districts that spend less than 65%.<sup>54</sup> Critics insist that this correlation does not mean that the Act will provide any measurable benefit, that the Act unwisely diminishes local school board budget control, and that the definition of direct classroom expenditures does not make sense because it includes athletics costs while excluding media and technology expenditures.<sup>55</sup> Further, critics emphasize that if Georgia Republicans truly wanted to increase the amount of money going directly to students in the classrooms, they should not have approved sweeping tax cuts that

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49. O.C.G.A. § 20-2-171 (b)(3) (Supp. 2006).

50. O.C.G.A. § 20-2-171 (b)(4) (Supp. 2006).

51. O.C.G.A. § 20-2-171 (c)-(e) (Supp. 2006).

52. O.C.G.A. § 20-2-171(c) (Supp.2006).

53. See Senate Audio, *supra* note 9 (remarks by Sen. Chance); Rippner Interview, *supra* note 3.

54. Senate Audio, *supra* note 9 (remarks by Sen. Chance).

55. See Senate Audio, *supra* note 9 (remarks by Sen. Henson); Henson Interview, *supra* note 25.

reduced the total funds available for education.<sup>56</sup> One additional consideration is that it will be difficult to measure the Act's impact or effectiveness because the Act itself does not control the absolute dollar amount of state or district education funding.<sup>57</sup> If overall funding drops, 65% of that lower amount of funding will meet the Act's requirements, but might still result in lower student performance on standardized tests.<sup>58</sup>

### *Discussion*

Republicans and Democrats strongly disagreed about whether the 65% measure would improve Georgia's education system.<sup>59</sup> Republicans emphasized the Governor's statistics that school districts that already meet the 65% benchmark enjoy greater student performance on standardized test scores than school systems not spending accordingly.<sup>60</sup> By contrast, Democrats insisted that the Act would produce no meaningful educational gains because it did not address the bottom line dollar amount appropriated to education.<sup>61</sup> In response to Republicans' reliance on the Governor's correlation-based statistics, Democrats referred to a Standard & Poor's study that found no measurable benefits in ten different states that enacted similar 65% measures.<sup>62</sup> The shortcomings of the Governor's plans, they emphasized, were made evident by the fact that the Georgia Parent Teacher Association and school superintendents opposed the Act.<sup>63</sup> Critics argued that the Act misleads the public by creating the appearance of purposeful education reform without actually achieving positive educational gains.<sup>64</sup> Specifically, opponents noted that the Act neither increases teacher salaries nor reduces classroom sizes, both of which Democrats contend are important for meaningful

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56. Thompson Interview, *supra* note 17.

57. See e.g., O.C.G.A. §§ 20-2-171 to -172 (Supp. 2006).

58. See e.g., *id.*

59. See *supra*, text accompanying notes 53-58; *infra*, text accompanying notes 60-70.

60. See Senate Audio, *supra* note 9 (remarks by Sen. Chance); Rippner Interview, *supra* note 3.

61. Henson Interview, *supra* note 25; Thompson Interview, *supra* note 17.

62. Senate Audio, *supra* note 9 (remarks by Sen. Henson); Henson Interview, *supra* note 25.

63. See Senate Audio, *supra* note 9 (remarks by Sens. Regina Thomas and J.B. Powell).

64. See Senate Audio, *supra* note 9 (remarks by Sens. Thompson and Henson).

educational improvement.<sup>65</sup> Republicans countered with studies showing that increasing the percentage of spending in classrooms has a positive effect.<sup>66</sup> Democrats also criticized the Act as a restriction of school district spending flexibility.<sup>67</sup> In response, the Governor's Office maintains that schools need a push to ensure they are spending funds in the areas that will improve education.<sup>68</sup> In addition, the Governor's office has insisted that the law's achievement waiver provision ensures that no well-performing district will be subject to unnecessary restrictions on spending discretion.<sup>69</sup>

The Act's Democratic critics disapproved of the definition of direct classroom expenditures, which excludes media centers and specialists, technology, and transportation.<sup>70</sup> One Senator argued that the Act would hurt rural school districts because they endure higher transportation costs due to poor quality roads and the added expense of transporting students with special needs to receive mandatory services.<sup>71</sup> Democrats also criticized as illogical the Act's inclusion of physical education expenses as direct classroom expenditures while excluding media and technology costs.<sup>72</sup> The definition was not arbitrary, however, but comes from the National Center for Educational Statistics, which will allow Georgia to compare its performance to established national benchmarks.<sup>73</sup>

Future arguments about the Act's effectiveness will likely revolve around statistical correlations, which have limited usefulness and validity. The Act does not control the bottom-line amount of money that Georgia puts into its schools.<sup>74</sup> To the extent, therefore, that standardized test scores may reflect actual student achievement, it will be difficult to separate the impact of the Act from the impact of variations in the statewide education budget. Supporters of the Act will likely say that the Act's purpose is not overall funding, but to

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65. *See id.*; Thompson Interview, *supra* note 17.

66. *See* Senate Audio, *supra* note 9 (remarks by Sen. Chance).

67. *See* Senate Audio, *supra* note 9 (remarks by Sens. Thompson, Henson, and Thomas); Henson Interview, *supra* note 25; Thompson Interview, *supra* note 17.

68. *See* Rippner Interview, *supra* note 3.

69. *See id.*

70. *See* Senate Audio, *supra* note 9 (remarks by Sens. Henson, Zamarripa, and Thomas).

71. *See* Senate Audio, *supra* note 9 (remarks by Sen. Michael Meyer von Bremen).

72. *See supra* note 70 and accompanying text.

73. *See* Rippner Interview, *supra* note 3.

74. *See e.g.*, O.C.G.A. §§ 20-2-171 to -172 (Supp. 2006).

ensure that at least 65% of funding is directed to student-teacher classroom interactions, rather than to support functions.<sup>75</sup> Governor Perdue's office insists that the disparity in test performance between school districts prior to the Act allows the inference that an allocation requirement would improve test performance in underperforming school districts.<sup>76</sup>

If the debate surrounding the Act is predictive of future debate about the Act's effectiveness, politicians may continue to rely on statistical correlations between the Act and student performance in the absence of proof about a causal link between the two.<sup>77</sup>

*Douglas S. Rosenbloom*

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75. See Senate Audio, *supra* note 9 (remarks by Sen. Chance).

76. See *supra* note 60 and accompanying text.

77. See *supra* notes 59-62 and accompanying text.