

1 SB51
2 125701-1
3 By Senator Brewbaker
4 RFD: Education
5 First Read: 01-MAR-11
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8 SYNOPSIS: Under existing law, to receive the maximum
9 benefits from the Foundation Program Fund, local
10 boards of education are required to provide a
11 minimum school term of at least 180 days.

12 This bill would, for the 2012-2013 and
13 2013-2014 school years, decrease the length of the
14 required minimum school term by five days and
15 subsequently establish a 175 full instructional day
16 school term as the required minimum school term for
17 the computation of Foundation Program Fund benefits
18 for those school years.

19 Amendment 621 of the Constitution of Alabama
20 of 1901, now appearing as Section 111.05 of the
21 Official Recompilation of the Constitution of
22 Alabama of 1901, as amended, prohibits a general
23 law whose purpose or effect would be to require a
24 new or increased expenditure of local funds from
25 becoming effective with regard to a local
26 governmental entity without enactment by a 2/3 vote
27 unless: it comes within one of a number of

1 specified exceptions; it is approved by the
2 affected entity; or the Legislature appropriates
3 funds, or provides a local source of revenue, to
4 the entity for the purpose.

5 The purpose or effect of this bill would be
6 to require a new or increased expenditure of local
7 funds within the meaning of the amendment. However,
8 the bill does not require approval of a local
9 governmental entity or enactment by a 2/3 vote to
10 become effective because it comes within one of the
11 specified exceptions contained in the amendment.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 To amend Section 16-13-231, Code of Alabama 1975,
18 relating to the public education Foundation Program Fund; to
19 decrease the required school term from 180 to 175 full
20 instructional days for use in the computation of Foundation
21 Program allowances to local boards of education for the
22 2012-2013 and 2013-2014 school years; and in connection
23 therewith would have as its purpose or effect the requirement
24 of a new or increased expenditure of local funds within the
25 meaning of Amendment 621 of the Constitution of Alabama of
26 1901, now appearing as Section 111.05 of the Official

1 Recompilation of the Constitution of Alabama of 1901, as
2 amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 16-13-231 of the Code of Alabama
5 1975, is amended to read as follows:

6 "§16-13-231.

7 "(a) In addition to all other appropriations and
8 apportionments of public school money now provided by law and
9 made available for public schools there shall be apportioned
10 and paid to local boards of education from the Foundation
11 Program Fund, the amounts to be determined as hereinafter
12 provided and in accordance with regulations of the State Board
13 of Education. This Foundation Program Fund shall be used
14 principally:

15 "(1) To aid in providing at least a 180 full
16 instructional day minimum school term, except as otherwise
17 provided in paragraph c. of subdivision (1); and,

18 "(2) To assist in the promotion of educational
19 opportunity for all children in the public schools.

20 "(b) The following requirements and procedures,
21 supplemented when necessary by regulations of the State Board
22 of Education, shall govern the apportionment of the fund:

23 "(1) REQUIREMENTS FOR PARTICIPATING IN FUND. In
24 order for a local board of education to share in the
25 apportionment of the Foundation Program Fund and to receive
26 the maximum benefits therefrom, the board shall meet the
27 following conditions:

1 "a. The appropriate local governing body must insure
2 that the local board of education within its jurisdiction is
3 receiving an amount of local tax receipts equivalent to ten
4 mills of school tax as computed from the most current assessed
5 valuation of property which comprises the school tax district
6 or districts of the local board of education. The State
7 Superintendent of Education shall determine compliance with
8 this provision of the law in accordance with rules or
9 procedures adopted by the State Board of Education. In
10 determining compliance for a county board of education, tax
11 revenues provided to the county board of education from the
12 county, from whatever tax source derived, shall be considered.
13 In determining compliance for a city board of education, tax
14 revenues provided to the city board of education by the county
15 and the city, from whatever tax source derived, shall be
16 considered.

17 "b. In the expenditure of all funds available for
18 the Foundation Program as herein defined, the local board of
19 education shall as nearly as practicable provide the same
20 length of term in all schools.

21 " ~~c. The~~ Except as otherwise provided in this
22 paragraph, the local board of education shall provide a school
23 term of at least 180 full instructional days beginning with
24 school year 2006-2007, or such part of that school term as can
25 be maintained by using funds available and as defined by
26 regulations of the State Board of Education. In case the local
27 board of education fails to operate any schools the minimum

1 180 full instructional day term, or the minimum term as
2 defined by the State Board of Education, the Foundation
3 Program allowances of the local board of education shall be
4 computed only for the actual period the schools are in session
5 that school year. For the 2012-2013 school year and 2013-2014
6 school year, the local board of education shall provide a
7 school term of at least 175 full instructional days, or such
8 part of that school term as can be maintained by using funds
9 available and as defined by regulations of the State Board of
10 Education. In case the local board of education fails to
11 operate any schools the minimum 175 full instructional day
12 term during the 2012-2013 school year and 2013-2014 school
13 year, or the minimum term as defined by the State Board of
14 Education, the Foundation Program allowances of the local
15 board of education shall be computed only for the actual
16 period the schools are in session that school year.

17 "d. The local board of education shall expend funds
18 for teachers' salaries in accordance with a salary schedule
19 adopted by the local board of education and approved by the
20 State Superintendent of Education. The salary schedule shall
21 be at least 100 percent of those salary amounts specified in
22 the State Minimum Salary Schedule by cell.

23 "The local board of education shall allocate state
24 and local Foundation Program funds to each school in an
25 equitable manner, based on the needs of the students and the
26 schools, as reflected in the current year's actual student
27 populations, including at-risk students, students receiving

1 special education services, and students enrolled in
2 vocational/technical educational programs. The local board of
3 education shall report annually to the State Board of
4 Education on how all state and local funds for public
5 education, including Foundation Program funds and capital
6 outlay funds, have been allocated to each of its schools or
7 area vocational centers.

8 "e. The local board of education shall submit to the
9 State Superintendent of Education, under the regulations of
10 the State Board of Education, the following:

11 "1. A proposed building program which sets out in
12 detail the location of all present and proposed buildings;
13 which indicates proposed educational centers and grades to be
14 taught at these centers and which provides schools for all
15 children of the local board of education.

16 "2. Except for those city boards of education not
17 maintaining a transportation system, a proposed transportation
18 program showing the proposed routing of buses and the
19 condition of all roads to be used for transportation.

20 "3. A proposed professional development program
21 which sets out in detail the professional development needs of
22 employees of the local board of education.

23 "4. A proposed technology program which sets out in
24 detail the proposed expenditures of technology funds.

25 "5. A proposed program for the provision of services
26 to students with disabilities and gifted students in
27 compliance with applicable state and federal laws.

1 "6. A proposed program for the provision of
2 vocational educational services in compliance with applicable
3 state and federal laws.

4 "7. A proposed program for the provision of
5 educational services to at-risk students in compliance with
6 applicable state and federal laws. The proposed program for
7 at-risk students shall include the provision that all funds
8 allocated shall be spent for at-risk students.

9 "f. The local board of education shall meet such
10 other standards as may be set up by the State Board of
11 Education to promote improved educational opportunity and
12 provide better schools.

13 "(2) DETERMINING COST OF FOUNDATION PROGRAM. In
14 determining the cost of the Foundation Program, the
15 Legislature, based on the recommendation of the State Board of
16 Education, shall proceed to find the following allowable costs
17 for each local board of education: Teachers' salaries, fringe
18 benefits, classroom instructional support, and other current
19 expense. The rate per employee set by the Legislature for
20 teachers' retirement and employees' health insurance shall be
21 in effect for the entire fiscal year and shall not be
22 increased by the Teachers' Retirement System or the Public
23 Education Employees' Health Insurance Board, except by further
24 action of the Legislature.

25 "a. The Foundation Program allowance for salaries of
26 teachers shall be determined as follows: The number of teacher
27 units allowed in Section 16-13-232 for each local board of

1 education shall be multiplied by the amount or amounts per
2 teacher unit, which amounts shall be based on the average
3 salaries for each major classification required by the
4 operation of the State Minimum Salary Schedule established by
5 the Legislature in the Education Trust Fund appropriation bill
6 and adopted by the State Board of Education. In recommending
7 to the Governor and the Legislature the State Minimum Salary
8 Schedule the State Board of Education shall give due
9 consideration to degree level, certification, and public
10 education experience. Any teacher, including, but not limited
11 to, a vocational education teacher, currently under contract
12 in excess of ~~187~~ 180 days shall not have the term or salary of
13 his or her contract reduced as a result of this article.

14 "b. The Foundation Program allowance for fringe
15 benefits shall be determined by multiplying a uniform
16 percentage times the amount of teachers' salaries allowed in
17 paragraph a. above or by multiplying a fixed rate depending on
18 the type of fringe benefit. The fringe benefits allowances
19 shall include amounts for the employer's contribution for
20 teachers' retirement, health insurance, Social Security,
21 Medicare, unemployment compensation, personal leave, and sick
22 leave. The fringe benefits allowance may include allowances
23 for other fringe benefits as may be approved by the State
24 Legislature. The State Legislature shall seek the input and
25 advice of appropriate agencies and individuals in setting
26 allowances. The Teachers' Retirement System and the Public
27 Education Employees' Health Insurance Board shall recommend to

1 the Legislature, on or before the first legislative day of
2 each regular session of the Legislature, the rate for the
3 following fiscal year. The Legislature shall set the rate in
4 the annual appropriation bill.

5 "c. The Foundation Program allowance for classroom
6 instructional support shall be determined by multiplying a
7 uniform amount times the number of teacher units allowed in
8 Section 16-13-232. The uniform amount shall include allowances
9 for library enhancement, classroom materials and supplies,
10 professional development, and technology. The library
11 enhancement appropriation shall be for K-12 Public School
12 Library/Media Centers and is an absolute appropriation. Other
13 expenditures may include book binding, repair, CD Roms,
14 computer software, computer equipment, cataloging,
15 audio-visual materials, newspapers, magazines, recordings, and
16 video tapes. The uniform amount may include allowances for
17 other classroom instructional support as may be approved by
18 the State Board of Education. The Foundation Program allowance
19 for classroom instructional support shall also include an
20 allowance for textbooks which shall be determined on a per
21 pupil basis. The number of pupils shall be determined by the
22 number of pupils in average daily membership during the first
23 20 scholastic days after Labor Day of the preceding school
24 year. The State Board of Education shall recommend to the
25 Governor the amount for each cost factor included in classroom
26 instructional support on or before December 1 of the current
27 fiscal year for the ensuing fiscal year.

1 "d. The Foundation Program allowance for other
2 current expense shall be determined by multiplying a uniform
3 amount by the number of earned units. The uniform amount shall
4 be recommended by the State Board of Education to the Governor
5 on or before December 1 of the current fiscal year for the
6 ensuing fiscal year.

7 "e. The State Board of Education may cause, from
8 time to time, a study of allowances for teachers' salaries,
9 fringe benefits, classroom instructional support, and other
10 current expense of local boards of education to be conducted
11 and, based on the results of the study, may propose any
12 necessary changes to the Governor and Legislature.

13 "f. The total cost of the Foundation Program for any
14 local board of education shall be the total allowed for
15 teachers' salaries, for fringe benefits, for classroom
16 instructional support, and for other current expense. The
17 allowances herein to the local boards of education shall be
18 expended subject to all applicable laws, rules, and
19 regulations; however, the total funds calculated in the total
20 cost of the Foundation Program for teachers' salaries shall be
21 expended for salaries within the instructional program.

22 "(3) DETERMINING FUNDS AVAILABLE TO PROVIDE
23 FOUNDATION PROGRAM.

24 "a. The funds available to meet the cost of the
25 Foundation Program shall be appropriated by the Legislature
26 taking into consideration an amount of local effort required
27 on the part of each local board of education. The required

1 local effort charged against each local board of education for
2 its share of the cost of the Foundation Program shall be as
3 follows:

4 "1. For the 1995-96 fiscal year, the equivalent of
5 five mills of local school tax district ad valorem tax as
6 reported pursuant to subsection (b)(1)a.

7 "2. For the 1996-97 fiscal year, the equivalent of
8 seven and one-half mills of local school tax district ad
9 valorem tax as reported pursuant to subsection (b)(1)a.

10 "3. For the 1997-98 fiscal year, the equivalent of
11 ten mills of local school tax district ad valorem tax as
12 reported pursuant to subsection (b)(1)a.

13 "4. For each fiscal year thereafter, the equivalent
14 of ten mills of local school tax district ad valorem tax as
15 reported pursuant to subsection (b)(1)a.

16 "b. After calculating the total cost of the
17 Foundation Program for each local board of education, the
18 state allocation from the Education Trust Fund is calculated
19 by subtracting the local effort required by this section from
20 the total cost. Although the cost of the Foundation Program is
21 calculated for each school, the one sum allocation for each
22 local board of education shall flow monthly to the local board
23 of education. The state funds for the Foundation Program shall
24 be allotted by the State Board of Education consistent with
25 State Board of Education rules and regulations."

26 Section 2. Although this bill would have as its
27 purpose or effect the requirement of a new or increased

1 expenditure of local funds, the bill is excluded from further
2 requirements and application under Amendment 621, now
3 appearing as Section 111.05 of the Official Recompilation of
4 the Constitution of Alabama of 1901, as amended, because the
5 bill requires expenditures only by a school board.

6 Section 3. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.